

To: New Jersey Law Revision Commission
From: Joseph Pistrutto, Legislative Fellow
Re: Duplicative Definitions Sections of the Public Health Statute
Date: November 5, 2018

MEMORANDUM

Executive Summary

In July 2017, the Commission authorized work on a project to consolidate two potentially duplicative definition sections contained in Title 26, a group of New Jersey Statutes which address issues of public health and vital statistics. N.J.S. 26:1-1, the first provision of Title 26, defines how various terms will be used throughout the entire title. Immediately following that provision is N.J.S. 26: 1A-1, which defines how terms are defined in the act establishing the Department of Health. During the course of research to address those two definitions sections, Staff noted that as more statutory provisions were added to Title 26, some of those provisions included definitions sections that also duplicate some of the definitions contained in N.J.S. 26:1-1.

Background

New Jersey established the State Board of Health in 1877 to “take cognizance of the interest of health and life among the citizens of this state.”¹ In 1915, the Board was reorganized and its operations were transferred to the newly formed Department of Health.² The Legislature’s 1915 Session Laws explain that this Department’s primary purpose would be to enact and enforce a sanitary code designed to “promote health and prevent disease.”³ The Department’s enabling act became part of Title 26 of the New Jersey Statutes which address issues of public health and vital statistics.⁴ Later, in 1937, the Legislature would add 26:1-1 to Title 26 which defined how certain terms would be used in the entire title itself.

In 1947, after enactment of a revised New Jersey Constitution, the Legislature amended the enabling statute and introduced N.J.S. 26:1A-1 which defined many of the terms used within the act establishing the Department of Health.⁵ The Legislature also amended 26:1-1.⁶ By including definitions sections for both Title 26 as a whole, and for the Department of Health’s enabling statute, the Legislature created two nearly identical definitions sections. 26:1A-1 was again amended in 1950 “to change the terminology of the Department of Health”⁷ and in 1951 both 26:1-1 and 26A:1-1 were modified without substantive changes.⁸

¹ N.J. Dept. of State, <https://nj.gov/state/archives/cathealth.html> (last visited Sept. 25, 2018).

² *Id.*

³ 1915 N.J. Laws 517

⁴ N.J.S. 26A

⁵ 1947 N.J. Laws 792 (See also N.J.S.A. 26:1A-1).

⁶ *Id.* at 815.

⁷ 1950 N.J. Laws 59.

⁸ *Id.*; 1951 N.J. Laws 456

Presently, the two provisions include the following definitions, and it was Staff’s original expectation that these would be consolidated:

Statutory Definitions

N.J.S. 26:1-1.	N.J.S. 26:1A-1
"State department," "department of health" and "department" mean the State Department of Health;	“State Department,” “Department of Health” and “department” mean the State Department of Health;
"Commissioner" or "Director" means the State Commissioner of Health, who is the chief administrative officer of the State Department of Health;	“Commissioner” means the State Commissioner of Health who is the chief administrative officer of the State Department of Health;
"Council" means the Public Health Council in the State Department of Health;	“Council” means the Public Health Council in the State Department of Health;
"Division" means one of the divisions in the State Department of Health;	“Division” means one of the divisions in the State Department of Health;
"Division director" means the director of one of the divisions in the State Department of Health;	“Division director” means the director of one of the divisions in the State Department of Health;
“Local board” or “local board of health” means the board of health of any municipality or the boards, body, or officers in such municipality lawfully exercising any of the powers of a local board of health under the laws governing such municipality and when, pursuant to law any local board of health is superseded by a consolidated local board of health or a county local board of health, and the functions, powers and duties conferred and imposed by this Title upon such local board of health shall thereupon be transferred to, and exercised and performed by, such consolidated local board of health or county local board of health, as the case may be, the term “local board of health” or “local board” as used in this Title shall thereafter be deemed to mean and include such consolidated local board of health, or county local board of health so far as relates to the exercise of such functions, powers and duties.	“Local board” or “local board of health” means the board of health of any municipality or the boards, bodies or officers in such municipality lawfully exercising any of the powers of a local board of health under the laws governing such municipality, and includes any consolidated local board of health or county local board of health created and established pursuant to law.

After the Legislature established the State Department of Health, statutory provisions addressing an array of public health topics were added to Title 26 over a period of years, and definitions now contained in various chapters include many of the same definitions from 26:1-1 and 26A:1-1 (See Appendix 1).

In addition, although “Department” and “Commissioner” generally refer to the State Department of Health and the head of that Department, there are instances where these terms are assigned a different meaning because a different agency is referenced (See Appendix 2).

Conclusion

Although Staff was authorized to conduct research and outreach regarding consolidation of N.J.S. 26:1-1 and 26:1-1A, Staff now seeks authorization to expand the scope of its outreach and work to examine whether it would be beneficial to consolidate additional definitions sections contained within Title 26.

Appendix 1

Definitions Sections in Title 26 Consistent with 26:1-1 & 26:1A-1

Provision	Subject Area	Enacted	Definitions Included
26:2-96	Treatment of terminally ill juveniles	1972	“Commissioner” & “Department”
26:2-103.2	Infant hearing screenings	2001	“Commissioner” & “Department”
26:2-120	Poison control/ drug information programs	1982	“Commissioner”
26:2-125	Hypertension control	1985	“Commissioner” & “Department”
26:2-137.3	Lead abatement programs	1995	“Commissioner” & “Department”
26:2-139	Diabetes control initiatives	1987	“Commissioner” & “Department”
26:2a-3	Regulates human biological materials (i.e. storage of blood)	1963	“Commissioner” & “Department”
26:2a-17	Breast milk bank	2017	“Commissioner” & “Department”
26:2aa-3	Education and research program for reflex sympathetic dystrophy	2007	“Commissioner”
26:2b-8	Alcohol rehab programs	1975	“Commissioner” & “Department”
26:2f-3	Funding to municipalities for public health initiatives	1966	“Commissioner”
26:2i-3	Health Care Facilities Financing Authority established	1972	“Commissioner”
26:2j-2	Licensing of health maintenance organizations	1973	“Commissioner”
26:2l-3	Established controlled dangerous substances therapeutic research program	1981	“Commissioner”
26:2q-2	Certification program for lead abaters	1993	“Commissioner” & “Department”
26:2rr-3	Parkinson’s disease public awareness and	2014	“Commissioner” & “Department”

	education program		
26:2t-6	Hepatitis C disease control	2001	“Commissioner”
26:2y-3	Licensing of adult family care homes	2001	“Commissioner” & “Department”
26:5c-5	AIDS Assistance	1989	“Commissioner” & “Department”
26:5c-15	HIV/AIDS testing	1995	“Commissioner” & “Department”
26:6b-3	Powers and duties of the State Medical Examiner	2018	“Commissioner” & “Department”
26:8a-3	Domestic partnerships	2003	“Commissioner”
26:12-3	Regulation of youth camps	1973	“Commissioner”
26:12-19	Epinephrine administration at summer camps	2015	“Commissioner”
26:13-2	Public health emergencies	2015	“Commissioner,” “Department,” “Local health agency”

Appendix 2

Different Uses of “Department” and “Commission” in Supplemental Legislation

Provision	Subject Matter	Definition	Enacted
26:2-149	Relief fund for children with catastrophic illness	“Commission” means the Catastrophic Illness in Children Relief Fund Commission	1987
26:2j-31	Regulatory scheme for supplemental Medicare plans	“Commissioner” means the Commissioner of Insurance “Department” means the Department of Insurance	1992
26:2m-10	Training programs for long-term care providers who have Alzheimer’s patients	“Commissioner” means the Commissioner of Human Services “Department” means the Department of Human Services	1988
26:2mm-2	Elderly suicide prevention	“Department” means the Department of Human Services	2005
26:2r-2	Osteoporosis education and awareness campaign	“Commissioner” means the Commissioner of Human Services “Department” means the Department of Human Services	1997
26:2s-2	Moves the Office of Managed Care from the Department of Health and Senior Services to the Department of Banking and Insurance	“Commissioner” means the Commissioner of Banking and Insurance “Department” means the Department of Banking and Insurance	1997
26:2s-20	Regulation of Managed Care Entities	“Department” means the Department of Banking and Insurance	2001
26:2ss-3	Required disclosures for in and out of network facilities	“Commissioner” means the Commissioner of Banking and Insurance “Department” means the Department of Banking and Insurance	2018