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	:	SUPREME COURT OF NEW JERSEY
	:	
ANTHONY PETRO, YOSEF GLASSMAN, M.D. and MANISH PUJARA, R.PH.,	:	DOCKET NO. A-003837-19T1
Plaintiffs-Petitioner,	:	CIVIL ACTION
v.	:	
MATTHEW J. PLATKIN, Acting Attorney General of the State of New Jersey,	:	
Defendant-Respondent.	:	

PETITION FOR CERTIFICATION

By the Grace of G-d Al-mighty

What have you done?!

Your brother's blood screams out to Me from the earth.

Genesis 4:10

Man was created alone to teach you that whoever causes the loss of a single life, is considered to have destroyed an entire world, and whoever causes to continue the life of a single person is considered to have saved an entire world.

Talmud Sanhendrin 37a in the Mishna.

Quoted in Schindler's List as "He who saves one life, saves the world entire."

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Other Authorities

PRELIMINARY STATEMENT

This Petition seeks to overturn the Medical Aid in Dying for the Terminally Ill Act (the "Act") as unconstitutional and a violation of the rights of Petitioners. In a major regression of humanity, the Act purports to 'legalize' acts of murder, suicide, assisted suicide, physician-assisted suicide, voluntary euthanasia and euthanasia, all crimes for thousands of years. The Act falsely relabels these as 'medical aid in dying' and allows them voluntarily and involuntarily. Instead of reaffirming the Infinite value of every human breath, the Act hastens the elimination of the weak and despairing.

QUESTIONS PRESENTED

1. Whether the Act must be overturned as unconstitutional, pursuant to the object in title rule of the New Jersey Constitution?

2. Whether Petitioners, who reside in New Jersey and who are therefore subject to the Act have standing to bring this action?

3. Whether the court can overturn precedent that prohibited murder, suicide, physician assisted suicide, voluntary euthanasia, and euthanasia by redefining those prohibited acts as not being called the thing that they actually are?

4. Whether the State can set up an incremental regime of euthanasia?

5. Whether the court can ignore historical and contemporary evidence of the current and present murderous danger of the Act?

6. Whether the court violates its *raison d'etre* by ratifying murder and suicide?

7. Whether the legislature exceeds its authority by violating the common law in general and particularly by a game of definitions?

8. Whether the State failed to comply with the Act by not promulgating regulations as required by the Act?

ERRORS COMPLAINED OF

The Appellate Division failed to uphold its duty to prevent euthanasia and murder in New Jersey, failed to give proper weight to evidence of the dangers of the euthanasia scheme, improperly deferred to the Legislature, failed to properly interpret and uphold the Constitution and applied the wrong rules.

REASONS WHY CERTIFICATION SHOULD BE ALLOWED

To uphold the Constitution and protect New Jersey residents from murder, suicide, physical and mental harm, and involuntary death, and from the suggestion of the acceptability of the voluntary termination of human life.

COMMENTS WITH RESPECT TO THE APPELLATE DIVISION OPINION

Reversible error on all grounds.

PROCEDURAL HISTORY

A. The Trial Court

On August 9, 2019, plaintiff-petitioner Rabbi and Doctor Yosef Glassman, M.D., initiated the instant action to overturn the Act. He was joined

by Manish Pujara, a pharmacist, and Anthony Petro, a patient. As residents of New Jersey, the Act applies to them as a matter of law. A TRO against the Act was entered in August 2019, but tragically later dissolved by the higher courts. The complaint was dismissed on April 1, 2020.

B. The Appellate Division and this Court

On June 10, 2022, the Appellate Division upheld the dismissal of this action, published as *Petro v. Platkin*, 472 N.J.Super. 536, 277 A.3d 480 (2022). On August 15, 2022, a Notice of Petition for Certification was filed.

This appeal also qualifies as an appeal as a matter of right because of constitutional issues not addressed below or addressed in error. Should this Court deny certification, Petitioner respectfully requests that the Court deem this as an appeal under Rule 2:2-1(a).

This Petition is an abbreviated version of Petitioners' arguments due to page limitations under Rule 2:12-7. Petitioners prays that the Court grants the Petition and allows fuller briefing.

STATEMENT OF FACTS

A. DEFINITIONS

The general term **euthanasia** includes physician assisted suicide a/k/a medical aid in dying. When the victim does the final act of suicide the euthanasia movement code word is **voluntary euthanasia**, now repackaged as

'medical aid in dying.' **Aid in dying** has been a euphemism for active euthanasia since at least 1989[1] and for physician-assisted suicide, since at least 1992.[2] More recently, proponents of these practices have added the word, "medical" to "aid in dying," thereby creating a new euphemism – "**medical aid in dying**" – meaning both active euthanasia and physician assisted suicide.

Assisted suicide is murder in the common law and under New Jersey statute. N.J.S.A 2C:11-6. Per the American Medical Association, "physician-assisted suicide" occurs when a physician facilitates a patient's death by providing the means or information to enable the patient to commit suicide. For example, "[T]he physician provides sleeping pills and information about the lethal dose, while aware that the patient may commit suicide."[3] Under the Act, the physician provides a prescription for lethal poison and a pharmacist provides the poison, both knowing that the patient-victim is intending to commit suicide. Yet, deceptively, the Act defines the assisted suicide permitted by the Act as 'not' assisted suicide. It is not less murder-suicide by re-definition, nor by having the murdering physician write a prescription rather

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[1] Craig A. Brandt, "Model Aid-in-Dying Act," Iowa Law Review, 1989 Oct; 75(1): 125-215, ("Subject: Active Euthanasia ...").
[2] Maria T. CeloCruz, "Aid-in-Dying: Should We Decriminalize Physician-Assisted Suicide and Physician-Committed Euthanasia?," American Journal of Law and Medicine. 1992; 18(4): 369-394.
[3] AMA Code of Medical Ethics Opinion 5.7, p. 278.

than handing the poison directly to the victim.

B. 'TERMINAL ILLNESS' IS SPECULATION THAT PRECIPITATES CALAMITOUS DESPAIR

Despite the Act's title, "Medical Aid in Dying for the Terminally Ill," the Act is not limited to dying people. The Act instead has a 'six-months to live' criteria.[4] Persons subject to the Act may, in fact, have years to live due to recovery, healing, treatment, misdiagnosis, miscalculation and bias. The record below is replete with examples. (Appellate Division Appendix ('ADA) Pa234, Pa244, Pa250, Pa304 - 308)

C. THE ACT PRETENDS TO BE LIMITED TO 'VOLUNTARY'

Per the Act, patient deaths are allowed to occur in private without a witness or even a doctor present. Deaths are not required to be voluntary. Involuntary death is allowed. Interested relatives can inject the poisons while the victim is sleeping: "Once the prescription is filled, there is no supervision over administration. Even if the patient struggled, "who would know?"[5]

D. THE ACT IS THE PERFECT COVER FOR THE SLAYER

Deaths are certified as natural as a matter of law, thereby allowing the patient's heirs to inherit from the patient. This scenario was not allowed under

[4] The Act, C. 26:16-3, ADA Pa 264

[5] Alex Schadenberg, Letter to the Editor, "Elder abuse a growing problem," The Advocate, Official Publication of the Idaho State Bar, October 2010

prior law in which New Jersey's slayer statute, N.J.S.A. § 3B:7-1.1, protected New Jersey residents from harm. Anyone with assets or insurance is a target.

E. OTHER STATES

The Act is based on similar acts in Oregon and Washington State, enacted in 1997 and 2008, respectively. Six other states and the District of Columbia enacted similar legislation. Forty-one states have declined to do so.

ARGUMENT

Exterminating the fringes of society, the terminally ill, the elderly, the unproductive, even while claiming that these despairing and confused people are doing it voluntarily, makes us into a society that will progressively exterminate the next level of 'fringe,' as the prior outmost fringe is eliminated. What is originally sold to people as compassion to allow the death of those who suffer and in despair claim they want to die, becomes compassion to hasten the death of those who suffer but do not say they want to die with the 'compassionate murderer' judging that they have no quality of life, and then impatience to eliminate those who say they don't want to die but cause everyone else to suffer through their costly disabilities and illnesses, to a campaign to eradicate those who hamper and retard progress of society, namely those are measured as unproductive and problematic. This is the intended outcome of the philosophy of the death lobby and just as they have

convinced a large percentage of New Jersyians that the first step is a good idea through marketing and mis-portraying the problem and the solution embodied in this 'First Step Euthanasia' Act, so too they will procure public support for the following steps. The only way to stop this progression is to reject it now.

I. THE PURPOSE OF THE COURT IS INSEPERABLY BOUND WITH BANNING MURDER, SUICIDE IN ALL FORMS.

From the earliest human awareness, man has been aware, both by Divine Revelation and human inquiry, of his Divine Creator, G-d Al-mighty, and realized that human life is an extension of the Divine. Divine Laws that apply to all men in all times were universally accepted men.[6] (Talmud Sanhedrin 56a, Chulin 92a) Murder is forbidden because a man is created in G-d Al-mighty's Divine Image and suicide is the most heinous form of murder.[7] (Genesis 9:5-6; Chovos HaLevavos Ch. 14) The first of the Divine Laws is justice, both educating about the Divine Laws and establishing courts of justice to enforce them. While each man is Divinely gifted with free choice,

[6] The Divine laws which are grouped into seven general categories and of which there are at least thirty, and actually infinite details, are often referred to as the Sheva Mitzvos Bnai Noach (The Seven Laws of the Children of Noah). Even in the midst of personally violating a Divine law, men knew that it was wrong.

[7] Suicide and murder-suicide is forbidden even to an already mortally wounded man surrounded by enemies who will kill him anyways — an apparently imminent death he has no perceivable chance of surviving. (II Samuel 1:1-16. Equally impermissible for a commoner victim, the cited status of the victim there provided the opportunity for King David to execute without warning, witnesses or trial.)

and is responsible for his choices, the outcome of those choices fall squarely on the shoulders of the judges — it is they who are responsible to guide the people to the proper conduct. (Deuteronomy 21:1-9) A court that executes once in seventy years is called a destructive court because it is the court's responsibility that the underlying crime was committed. (Talmud Makkos 7a)

The judges are reproached for failing to teach and failing to enforce. But even graver is if the judges redefine murder as permitted thereby plunging the society into a deep darkness. The State here seeks the participation of this Court in doing just that.[8]

Doing so is not an advancement of human understanding but rather a regression revealaing the code meaning of the word 'Enlightenment' — to darken the spirit of man while imagining he is more 'enlightened.'

It is not new to promote eliminating those who are unproductive or going to die anyway. The "Hippocratic Oath" did its utmost to thwart this evil and rather fulfill the Divine Command by making it a condition of learning the medical arts that the student swear in advance that, "Neither will I administer a

[8] While it to the eternal merit of the original Superior Court Judge in this matter that he entered a temporary restraining order against the Act, thereby, verifiably saving lives (ADA Pa250), it is not sufficient to overturn the Act merely on a technical ground such as failure to implement regulations. Rather the role of the Court is to overturn it on substantive grounds, namely that the Act permits what can never be permitted.

poison to anybody when asked to do so, nor will I suggest such a course."

The court below erred in failing to serve its purpose and, instead, participating in the redefinition of murder as permissible.

II. THE COMMON LAW PROHIBITS ASSISTED SUICIDE AND THE LEGISLATURE EXCEEDED ITS AUTHORITY IN RE-DEFINING MURDER AS NOT MURDER

The Divine Command against murder, suicide and murder suicide is enshrined in the Common Law, (*See*, e.g., Sir William Blackstone, "Homicide," Book IV, chapter XIV, section III, of Commentaries on the Laws of England[9]) including in New Jersey. The codification of the criminal law in New Jersey was undertaken to make more accessible the Common Law. However, the Legislature does not have the authority to redefine murder as permissible. Murder is not up to a popular vote! Woe to New Jersey if it will allow the Common Law of murder to become a mere technical detail modifiable at whim like the speed limit, under cover of the excuse that it now printed in a legislated code. The Court below erred in upholding an Act which

[9] Blackstone's suggested punishment for suicide expose the betrayal that the rest of humanity suffers at the hands of the person who murders himself. Not only in suicide does he eliminate the Divine Image, a crime against the Source of his Divine Image, but he violently disrupts the Divine connection, the Infinite Unity, that binds all human beings to each other, and even unifies all Creation. Suicide is no mere act of personal choice – it is a strike against all of us. No one has that permission. And, State approval and licensing of the participants, as in the Act, deepens that strike.

redefines an act of murder as permissible.

III. THE NEW JERSEY SUPREME COURT ALREADY SAID NO

In *In re Quinlan*, 70 N.J. 10, 355 A.2d 647 (1976), this Court ruled that euthanasia (in all its forms including the physician assisted suicide of the Act) would not be allowed in New Jersey, writing, "we would see, however, a real distinction between the self-infliction of deadly harm and a self-determination against artificial life support." *Id*. at 43 The Act includes 'self-infliction of deadly harm.' The Supreme Court had the prescience to draw a red line and it must be upheld by this Court.

Failure to uphold Quinlan would render the words of this Court mere empty words to calm the public. Just like the Quinlan Court promised that the unthinkable would not happen in New Jersey, should this Court sideline the Quinlan Court while claiming to draw new 'red lines,' we can be expect that those current 'unthinkables' will themselves be approved by this Court in years to come.[10]

Notably, the Quinlan Court gave decisive weight to the opinions of religious leaders, including Christian and Jewish religious scholars. Not so today. The courts below completely ignored the Divine wisdom of the ages

[10] The likelihood is of this is compounded by the ruling that the Petitioners lack standing which puts out of reach of a potential challenge all future crossings of 'red lines.'

and even rejected, without inquiry, the complaint that the Act infringes on the religious beliefs and rights of the Petitioners.[11] The Courts below erred in permitting what the Quinlan Court ruled is forbidden.[12]

IV. THE NAZIS WERE THE DOCTORS AND STORM TROOPERS OF THE EUTHANASIA MOVEMENT

The Holocaust is the predictable result of the removal of the Divine Source from law and daily life. (Letter of the Lubavitcher Rebbe to General Draizen dated Erev Shabbos Kodesh Bereishis, 5747, and in other yet unpublished letters.) The students of Hitler seek to accomplish the same result

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[11] Talmud Chulin 92b states that even those non-Jews who themselves violate the Divine Commandments that apply to every human being *at least respect* the Torah, a respect shown by the Quinlan Court (hopefully, but see next footnote) which informed their strong stance against the murder-suicide promoted by the Act. Tragically, a mere forty years later, the courts below showed respect neither for the teachings of the Torah nor its adherents. (ADA at Pa206, Pa223, Pa226) But, the courts below went further and ignored the warnings from disability organizations that universally protest that the Act's purported safety measures are ephemeral (ADA at Pa134) — instead the courts below repeated the wording of the Act as if the warnings did not exist. Lack of spiritual attunement leads to deafness to hard historical and current physical evidence.

[12] Petitioners cite Quinlan as drawing a red line that the Act crosses. In drafting this Petition, Petitioners discovered that the death lobby heralds Quinlan as a major milestone in their campaign to recognize the right to die and to implement euthanasia in America. Does the death lobby know something Petitioners don't know? Was the Quinlan Court knowingly removing a hurdle to 'right-to-die' and euthanasia, all the while saying mere platitudes to assuage the public? Does this explain why the lower courts waived off the reference Quinlan as if the Quinlan Court "was just saying that" and it has no precedential value in stopping euthanasia, because, as only judicial insiders would know, the fix was in on the multi-century regression to euthanasia and Quinlan was not a road-block to euthanasia but rather a milestone in the euthanasia campaign?

in America by removing G-d from education. (Various talks of the Lubavitcher Rebbe.) Spiritually rudderless, the people will endorse the elimination of those who are "going to die anyway" initially by their own choice, and then by virtue of their high and wasted cost to the health system. 'Compassion' is the trick by which the people are persuaded to swallow the poison pill and excuse murder.[13] (See 'compassionate' Nazi propaganda film *Ich klage an* promoting the need for the Act.).

To make the Nazi euthanasia campaign palatable it was medicalized, just as in the Act, whereby the participation of a white-coated doctor made it possible to describe it as a medical procedure (viz. "*Medical* Aid in Dying) and the murder poison a 'medicine.' The participation in murder, even though relabeled as 'not murder,' buries the soul of the State licensed murdering doctor, and not surprisingly those doctors went on to run the death camps, a large-scale medical euthanasia program.[14] (*See*, *The Nazi Doctors: Medical Killing and the Psychology of Genocide*, Robert Jay Lifton, 1986). Small scale

[13] Without an anchor in a non-negotiable Divine law beyond human reason, the human mind will accept the logic of eliminating the unproductive and suffering.

[14] Just for now, the patient must feebly indicate his consent/request — a patient beaten down by the death sentence issued by the same or another state licensed doctor in the form of a "terminal diagnosis" (speculation), urged on by fear and feelings of despair, and a family (and society) eager to be relieved of the burden of care. That consent requirement soon disappears.

becomes large scale with normalization.

Precisely as in the German euthanasia campaign, in New Jersey by instruction of the Attorney General, death certificates of the victims are sanitized to falsify the cause of death as 'natural causes.'

It is hubris to ignore recent history, especially well-documented recent history with living witnesses, and pretend the outcome today will magically be different. A court that will not stop the first stage, this Act, will not stop later stages.[15]

The Court below erred in refusing to consider this evidence of the goals, plans and aspirations of the euthanasia campaign and instead ratifying this first step of the euthanasia campaign in New Jersey.

V. THE ACT IS THE GATEWAY TO RAPIDLY EXPANDING LIVING HELL

Just as the courts below closed their eyes to the historical context, they closed its eyes to the current reality of euthanasia around the world and in the United States. Failure to see context enables the court to recite the Act as if it is a mere isolated innocuous, 'voluntary' and 'safe' technical procedure. Nothing could be further from the truth.

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[15] Many express umbrage at the inconvenient references to the precedence of the Nazis and the Holocaust as it spoils the packaging of the Act as rational, compassionate and safe. The lower court expressed such umbrage. (Appellate Decision, page 43, responded to in Petitioner's Motion for Reconsideration.)

Since the introduction of euthanasia, as in this Act, in Europe and Canada it has rapidly expanded both in the number of victims and the scope of who can become a victim. Once it makes sense to murder patients by facilitating their suicide, it then makes sense to murder them at their request without their assistance, and then to murder them without their request because they are unable or afraid to make the request, and then to murder them against their stated will, simultaneously expanding the dragnet by increasing qualifying amount of time allegedly to live, and shortening the waiting periods, then expanding to mental illness, to youth and then to children. The allegedly 'voluntary' becomes passive, active and involuntary with or without legislative participation. These are all facts that the court ignored. There is no way to uphold this Act if the context, both historical and current, is heeded.

The states in the United States that have adopted the state licensed physician murder-suicide system of the Act and the creation of cadres of licensed murdering doctors in their state, as does the Act, follow the same pattern with expansions of number and type of victims and the eradication of the purported safety measures step by step. The narrow range of terminally ill patients with 'only' six months to live is expanded to one year to live, the long waiting periods in the initial legislation inserted to mollify opponents are

reduced, and the serious deliberation implied by a visit to a doctor is replaced by phone prescriptions by nurses.

The court below erred in ignoring that the Act is a narrow entry piece of a campaign of euthanasia for which the follow-on expansions are already designed and ready to be introduced. Exhibit A being…

VI. THE EXPANSION OF EUTHANASIA IS ALREADY UNDERWAY IN NEW JERSEY

In the few others states to create a euthanasia scheme, the expansion typically starts after the resolution of court challenges. But, not so in New Jersey — the expansion proceeds as the Court reads this Petition. Legislation is pending to reduce the waiting period to 48 hours. (A4921 (22R)).[16]

While the lower courts cited with gravitas the 15-day waiting period as 'evidence' of the safety the Act, the death lobby has already introduced amending legislation to reduce the waiting period to 48 hours. So eager is the

[16] This legislation is written with malice aforethought, both by the originators of physician-assisted suicide and the originators of the amendment, creating slight "logical" expansions. If a murder-suicide scheme by physicians is already agreeable and logical then it is logical that those will die of natural causes sooner than the existing law allows the murder-suicide, should not be deprived of the murder-suicide. And, behold, but the first expansion of euthanasia in New Jersey. "Malice aforethought" because this was intended by the death lobby from the outset, to be expanded once the dust had settled from the Act, and there are many more incremental expansions planned. Further, the lower courts finding of no standing for the Petitioners closes the door on challenges to these pre-planned expansions.

death lobby to expand its reach and so certain is it of its success in the New Jersey court system, that it is already mockingly eviscerating the purported safety measures even while the courts are citing those purported safety measures as proof that New Jerseyians have nothing to worry about. The Act contains very temporary safety measures meant to assuage the public and build the euthanasia system piecemeal.[17]

The court below erred by failing to consider, ignoring and outright rejecting all the relevant facts discussed above and thereby failed in their duty to the residents of New Jersey by not overturning the Act.

VII. STANDING

Equally chilling as the approval of murder, is the lack of standing ruling.

Chilling because murder can be legalized, yet no one in the state can challenge the State licensed murder-suicide, except a theoretical person who decides at the last minute not to be murder-suicided. But what are his damages, after all, he chose to live! The victim of the murder suicide can't sue because, besides being dead, he 'volunteered' to die! No wrongdoing here! No one wronged at all! And Petitioners, all New Jersey residents, and a doctor, a pharmacist and a patient, to boot, all lack standing! Tragic jurisprudence!

[17] As already noted, the courts below ignored the evidence that the Act's 'safety' measures provide no safety at all. (ADA Pa134)

If the lower court goes to the great lengths to uphold this First Stage Euthanasia Act, why does it need to also find no standing? Because a finding of no standing in this challenge to the Act will bar all state residents from challenging further expansions of euthanasia in New Jersey.

If there is no standing, why does the lower court go to lengths to address most of the plaintiffs' arguments against the law? To look reasonable while endorsing the First Stage Euthanasia Act, without inquiry and actively ignoring evidence, repeating the very talking points of the death lobby, and at the same time telling the citizenry that this law is beyond reproach in the courts because no one, not a potentially qualified patient, not a doctor and not a pharmacist, have standing to challenge the law.[18]

The court below erred in finding no standing leaving Petitioners unable to challenge the Act and the residents of New Jersey powerless to challenge future incremental expansions of euthanasia in New Jersey.

VIII. THE ACT VIOLATES THE OBJECT IN TITLE RULE AND IS UNCONSTITUTIONAL

Given the background and context of the Act in advancing the

[18] The courts dismissiveness of standing is so extreme that even as to the Petitioners' objections to the way in which the law affects their religious beliefs, the court finds, without inquiry, that their religious rights objections are *de minimus* as to not even warrant standing. But is that determined without even affording standing needed for a day in court?

incrementally the euthanasia agenda, it not accidental that the Act violates the Object in Title safeguards of the New Jersey Constitution.

The Constitution of New Jersey has two rules to determine the constitutionality of a legislative enactment: (1) the "single object" rule; and (2) the "object in title" rule. The purpose of these rules is to uphold the constitutional integrity of the legislative process. The Act does not comply with the object in title rule. For this reason alone, the Act is unconstitutional.

The Constitution of New Jersey, Article IV, Section VII, ¶ 4, states:

> To avoid improper influences which may result from intermixing in one and the same act such things as have no proper relation to each other, every law shall embrace but one object, and that shall be expressed in the title.

Grover v. Trustees of Ocean Grove Camp-Meeting Association, 45 N.J.L. 399, 402-403, 16 Vroom 399 (1883), explained that,

> The purpose [of the object in title rule] was to prevent the passage by the legislature of bills containing provisions of which the title prefixed to the bill gave no intimation, and which, therefore, might be overlooked, and carelessly and unintentionally adopted…
>
> to secure [the object in title rule], it requires the legislature to express in the title of every act the subject to which it relates.

The failure to do so renders the Act unconstitutional. *Id.,* 402-404.

The Act fails the Object in Title requirement because:

1) The Act's title, "Medical Aid in Dying for the Terminally Ill," is false and deceptive due to its implication that the Act is limited to dying

people. The Act instead has a criterion of six months to live, with some people living far longer as already shown.

2) The Act's title is a euphemism for direct killing but gives no hint to the 'ordinary reader' that the term, 'medical aid in dying,' is a long standing euphemism for direct killing, better known as euthanasia, and that active euthanasia as traditionally defined, is allowed.

3) The Act's title gives no hint as to the required falsification of death certificates since by definition of the Act the only option to record for cause on the death certificate is 'natural.'

4) The Act's title gives no hint as to the Act's overriding of New Jersey's previously existing slayer statute and that participants in the victim's death, who are also the victim's heirs, are allowed to inherit.

The Act's Title plainly fails to disclose its object. The court below was itself mislead by the Act's deceptive title, implying that the Act is limited to aiding persons in the process of dying, when the Act allows straight up involuntary euthanasia, albeit renamed 'medical aid in dying.' The court below was similarly misled by the title's failure to disclose the required falsification of death certificates. The Act must be set aside as a matter of law.

IX. OTHER GROUNDS FOR CERTIFICATION

- The Superior Court found that the "total lack of regulation" especially

for such a "C [sea] change" in "how doctors conduct their practice." justified overturning the Act in entering the temporary restraining order (Appendix at Pa7). This Court should so conclude.

- The Act forces physicians' participation by way of N.J.A.C. 13:35-6.2214 and §17(c) and forces owner-operator pharmacists' participation by way of N.J.S.A. 45:14-67.1 in violation of religious rights under the federal and state constitutions, and the right to practice their professions, meet their fiduciary obligations, and defend their patients, and not trivially so as the courts below tried to characterize the violations.
- By creating a class of citizens who are no longer protected by the laws against assisted suicide and the States' obligation to defend their lives, Petitioners are in mortal danger as a result of the Act in violation of their Rights under the United States and New Jersey constitutions and are deprived of the preservation of, and the right to enjoy and defend, life.

CONCLUSION

The Act must be overturned. This Petition merits certification. Per Rule 2:12-4 it is question of general public importance which has not been but should be settled by this Court, the decision under review is in conflict with other decisions of this Court and in the interest of justice. Alternatively, the Petition should be deemed an appeal as of right under Rule 2:2-1(a).

This 17th day of January, 2023.

Respectfully submitted,

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Counsel for Plaintiffs-Petitioners

CERTIFICATION

I certify that the petition presents a substantial question and is filed in good faith and not for purposes of delay

/s/ E. David Smith
E. David Smith, Esq.

CERTIFICATE OF SERVICE

I, E. David Smith, Esq., hereby certify on this January 17, 2023, the foregoing Plaintiffs-Petitioners' Petition for Certification has been served upon counsel of record through this Court's electronic filing system.

/s/ E. David Smith
E. David Smith, Esq.

APPENDIX

A. Notice of Petition for Certification

B. Opinion of the Appellate Division.

BELOW IS A SUMMARY OF THE CASE YOU ARE FILING WITH THE **SUPREME COURT.**
REVIEW ALL INFORMATION AND DOCUMENTS FOR ACCURACY PRIOR TO HITTING THE **SUBMIT** BUTTON IN THE NEXT PAGE.

FILING ID #	1037278	**APPELLATE #**	A-003837-19
SUPREME #		**TRIAL COURT COUNTY**	MERCER
CASE TITLE	ANTHONY PETRO, YOSEF GLASSMAN, M.D., AND MANISH PUJARA, R.PH., PLAINTIFFS, V. GURBIR SINGH GREWAL, ATTORNEY GENERAL OF THE STATE OF NEW JERSEY,		
CASE TYPE	CIVIL	**DISPOSITION DATE**	07/12/2022
CATEGORY	CHANCERY-GENERAL EQUITY		
TRIAL COURT JUDGE			

PARTY/ATTORNEY

PARTY NAME	PARTY TYPE	FIRM NAME – ATTORNEY NAME	ADDRESS
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DOCUMENTS

DOCUMENT / FILE NAME	FILING PARTY	FIRM NAME/ATTORNEY NAME	SOURCE	DATE POSTED	DOCUMENT STATUS	SUPREME MODE
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SUPREME COURT OF NEW JERSEY
APP. DIV. # **A-003837-19**
SUPREME COURT #

ANTHONY PETRO, YOSEF GLASSMAN, M.D., AND MANISH PUJARA, R.PH.

FILING TIME EXCEPTION

V.

GURBIR SINGH GREWAL, ATTORNEY GENERAL OF THE STATE OF NEW JERSEY

I hereby certify that I have read the entirety of R. 2:4, Time for Appeal, R. 2:5-6, Appeals from Interlocutory Orders, Decisions and Actions, or R. 2:12-3 Certification of Final Judgments of the Appellate Division, as applicable. Pursuant to R. 2:4-3, Tolling of Time for Appeal and Certification, the following exception applies in my case:
Timely filing and service of an application for reconsideration made to the Appellate Division.

Attorney for YOSEF GLASSMAN, M.D.

S/ EDWARD DAVID SMITH, Esq.

Dated: 08/15/2022

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SUPREME COURT OF NEW JERSEY

App. Div. # A-003837-19
Supreme Court #

CIVIL ACTION

ANTHONY PETRO, YOSEF GLASSMAN, M.D., AND MANISH PUJARA, R.PH.

V.

GURBIR SINGH GREWAL, ATTORNEY GENERAL OF THE STATE OF NEW JERSEY

NOTICE OF PETITION FOR CERTIFICATION

TAKE NOTICE that Plaintiffs-Petitioners shall petition the Supreme Court for an Order certifying the entire judgment entered by the Appellate Division in the above matter on June 10, 2022. The filing fee of $250 is enclosed herewith.

Dated: 08/15/2022

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SUPREME COURT OF NEW JERSEY
APP. DIV. # A-003837-19
SUPREME COURT #

CRIMINAL ACTION

ANTHONY PETRO, YOSEF GLASSMAN, M.D., AND MANISH PUJARA, R.PH.

V.

GURBIR SINGH GREWAL, ATTORNEY GENERAL OF THE STATE OF NEW JERSEY

CERTIFICATION OF SERVICE

I hereby certify that the following documents, NOTICE OF PETITION FOR CERTIFICATION, FILING TIME EXEMPTION were submitted and transmitted to the parties listed below in the following format:

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I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Attorney for Filing Party
YOSEF GLASSMAN, M.D.

S/ EDWARD DAVID SMITH, Esq.

Dated: 08/15/2022

NOT FOR PUBLICATION WITHOUT THE
APPROVAL OF THE APPELLATE DIVISION

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-3837-19

ANTHONY PETRO,
YOSEF GLASSMAN, M.D., and
MANISH PUJARA, R.PH.,

Plaintiffs-Appellants,

v.

MATTHEW J. PLATKIN[1],
Acting Attorney General of
the State of New Jersey,

Defendant-Respondent.

APPROVED FOR PUBLICATION

June 10, 2022

APPELLATE DIVISION

Argued May 2, 2022 – Decided June 10, 2022

Before Judges Sabatino, Rothstadt and Natali.

On appeal from the Superior Court of New Jersey, Chancery Division, Mercer County, Docket No. C-000053-19.

Smith & Associates, attorneys for appellants (E. David Smith, on the brief).

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[1] The party's name was updated to reflect the current official in office pursuant to R. 4:34-4.

Francis X. Baker, Deputy Attorney General, argued the cause for respondent (Matthew J. Platkin, Acting Attorney General, attorney; Melissa H. Raksa, Assistant Attorney General, of counsel; Francis X. Baker, on the brief).

Emily B. Cooper (Perkins Coie LLP) of the New York bar, admitted pro hac vice, argued the cause for amici curiae Compassion & Choices, Lynne Lieberman and Dr. Paul Bryman (Emily B. Cooper, Alan Howard (Perkins & Coie LLP) of the New York bar, Kevin Diaz (Compassion & Choices) of the Oregon bar, and Jessica Pezley (Compassion & Choices) of the Oregon and District of Columbia bars, admitted pro hac vice, and Dennis Hopkins (Perkins Coie LLP), attorneys; Alan Howard, Kevin Diaz, Jessica Pezley and Dennis Hopkins, on the brief).

Margaret Dore, amicus curiae, argued the cause pro se.

Post Polak, PA, attorneys for Dawn Parkot, join in the brief of amicus curiae Margaret Dore.

The opinion of the court was delivered by

NATALI, J.A.D.

After nearly a decade of deliberations among "policy makers, religious organizations, experts in the medical community, advocates for persons with disabilities, and patients," our Legislature passed the Medical Aid in Dying for the Terminally Ill Act (the Act), N.J.S.A. 26:16-1 to -20, which Governor Philip D. Murphy later signed into law. Governor's Statement upon Signing A. 1504 (Apr. 12, 2019). As defendant represented to us at oral argument, since

its enactment, ninety-five New Jersey residents have invoked the Act and ended their lives, without, to our knowledge, a single family member or interested party objecting to those unquestionably difficult end of life decisions. Nor has any report surfaced that any person utilized the Act for an improper or illegal purpose.

Despite the considered decision of our legislative and executive branches, plaintiffs, Anthony Petro, a terminally ill New Jersey resident, Yosef Glassman, M.D., a licensed New Jersey physician, and Manish Pujara, R.Ph., a pharmacist, filed a complaint that sought to enjoin and invalidate the Act. On April 1, 2020, Judge Robert T. Lougy issued an order and accompanying thirty-seven-page written opinion in which he dismissed plaintiffs' complaint based on their lack of standing and failure to state a cognizable cause of action under New Jersey law. In a May 22, 2020 order, the judge denied amicus curiae Margaret Dore's motion for reconsideration.

In this appeal, plaintiffs challenge both orders contending the judge erred in concluding they did not have standing to challenge the Act. They argue they are sufficiently affected by the Act such that they possess standing to challenge it. As to the merits, plaintiffs and Dore further argue the Act violates the New Jersey Constitution and presents a danger to all New Jersey citizens.

We reject all of these arguments and affirm substantially for the reasons expressed by Judge Lougy in his comprehensive and well-reasoned written opinion. We agree with the judge that plaintiffs lack standing and their constitutional and other challenges are meritless in any event. We provide the following extensive amplification of Judge Lougy's opinion because of the significant issues raised related to the treatment of terminally ill patients as permitted under the Act.

I.

A. The Act

We begin our opinion with a discussion of the legislative history of the Act and its operative terms. As to its intent and purpose, the Legislature expressly found and declared that:

> a. Recognizing New Jersey's long-standing commitment to individual dignity, informed consent, and the fundamental right of competent adults to make health care decisions about whether to have life-prolonging medical or surgical means or procedures provided, withheld, or withdrawn, this State affirms the right of a qualified terminally ill patient, protected by appropriate safeguards, to obtain medication that the patient may choose to self-administer in order to bring about the patient's humane and dignified death.
>
> b. Statistics from other states that have enacted laws to provide compassionate medical aid in dying for terminally ill patients indicate that the great majority of patients who requested medication under the laws of those states, including more than 90 percent of

> patients in Oregon since 1998 and between 72 percent and 86 percent of patients in Washington in each year since 2009, were enrolled in hospice care at the time of death, suggesting that those patients had availed themselves of available treatment and comfort care options available to them at the time they requested compassionate medical aid in dying.
>
> c. The public welfare requires a defined and safeguarded process in order to effectuate the purposes of this act, which will:
>
> (1) guide health care providers and patient advocates who provide support to dying patients;
>
> (2) assist capable, terminally ill patients who request compassionate medical aid in dying;
>
> (3) protect vulnerable adults from abuse; and
>
> (4) ensure that the process is entirely voluntary on the part of all participants, including patients and those health care providers that are providing care to dying patients.
>
> d. This act is in the public interest and is necessary for the welfare of the State and its residents.
>
> [N.J.S.A. 26:16-2.]

When he signed the Act into law, Governor Murphy similarly described it as:

> the product of a near-decade long debate among policy makers, religious organizations, experts in the medical community, advocates for persons with disabilities, and patients, among many others. Without question, reasonable and well-meaning individuals can, and very often do, hold different moral views on this topic.

> Through years of legislative hearings, countless witnesses, many of whom shared deeply personal and heart-wrenching testimony, offered compelling arguments both in favor of and against this legislation.

He also recognized the difficult personal choices attendant to end of life decisions, stating:

> [a]s a lifelong, practicing Catholic, I acknowledge that I have personally grappled with my position on this issue. My faith has informed and enhanced many of my most deeply held progressive values. Indeed, it has influenced my perspectives on issues involving social justice, social welfare, and even those topics traditionally regarded as strictly economic, such as the minimum wage. On this issue, I am torn between certain principles of my faith and my compassion for those who suffer unnecessary, and often intolerable, pain at the end of their lives.
>
> It is undeniable that there are people with terminal illnesses whose lives are reduced to agony and pain. Some of these individuals may thoughtfully and rationally wish to bring an end to their own suffering but cannot do so because the law prevents it and compels them to suffer, unnecessarily and against their will. I have seen such debilitating suffering firsthand in my own family, and I deeply empathize with all individuals and their families who have struggled with end-of-life medical decisions. As things now stand, it is the law, rather than one's own moral and personal beliefs, that governs such decisions. That is not as it should be. After careful consideration, internal reflection, and prayer, I have concluded that, while my faith may lead me to a particular decision for myself, as a public official I cannot deny this alternative to those who may reach a different conclusion. I believe this choice is a personal one and, therefore, signing this legislation is

> the decision that best respects the freedom and humanity of all New Jersey residents.
>
> [Governor's Statement upon Signing A. 1504 (Apr. 12, 2019).]

At its core, the Act permits an adult New Jersey resident with a terminal illness and whose physician has determined that he or she has a life expectancy of six months or less to be considered a "qualified terminally ill patient." N.J.S.A. 26:16-3. Once so qualified, a terminally ill patient may request and obtain from his or her physician a prescription for medication that the patient can choose to self-administer to end his or her life in a "humane and dignified manner." N.J.S.A. 26:16-3; N.J.S.A. 26:16-4. In prescribing the medication, the physician must inform the patient of the patient's medical diagnosis and prognosis and the potential risks associated with taking the medication. N.J.S.A. 26:16-6.

The physician is obligated to explain to the patient the probable result of taking the medication and discuss feasible alternatives, including, "additional treatment opportunities, palliative care, comfort care, hospice care, and pain control." N.J.S.A. 26:16-6. In order to request the medication, a terminally ill patient must have capacity "to make health care decisions and to communicate them to a health care provider, including communication through persons

familiar with the patient's manner of communicating if those persons are available." N.J.S.A. 26:16-3.

The Act provides multiple safeguards for patients requesting end of life medication (EOLM).[2] As a threshold matter, a terminally ill patient must be an adult resident of New Jersey who is capable and has been determined by his or her physician to be terminally ill and has voluntarily expressed a wish to receive EOLM. N.J.S.A. 26:16-4.

In addition, a patient must make two oral requests and one written request to his or her attending physician for EOLM and 1) at least fifteen days must elapse between the two oral requests; 2) when the patient makes the second oral request, the physician must offer the patient an opportunity to rescind the request; 3) the patient may submit the written request when the patient makes the initial oral request or at any time thereafter; 4) the written request must be made on a specific form; 5) fifteen days must elapse between the patient's initial oral request and the writing of the prescription; and 6) forty-eight hours must elapse between the patient's submission of the written request and the physician's writing of a prescription. N.J.S.A. 26:16-10(a). A

[2] It is also a criminal offense under the Act to alter or forge a request for EOLM, to conceal or destroy a rescission of that request, or to coerce or exert undue influence on a patient to request EOLM. N.J.S.A. 26:16-18.

patient may rescind the request at any time and in any manner without regard to his or her mental state. N.J.S.A. 26:16-10(b).

A terminally ill patient's written request for EOLM must be witnessed by at least two individuals who attest that the patient is capable and is acting voluntarily. N.J.S.A. 26:16-5. At least one witness must be a person not related to the terminally ill patient nor entitled to any portion of his or her estate and cannot be "an owner, operator, or employee of a health care facility, other than a long term care facility, where the patient is receiving medical treatment or is a resident." N.J.S.A. 26:16-5. The patient's physician shall not serve as a witness. N.J.S.A. 26:16-5(c).

After the terminally ill patient has made the requests for EOLM, the attending physician must refer the patient to a consulting physician for medical confirmation of the diagnosis, prognosis and for a determination that the patient is capable and acting voluntarily. N.J.S.A. 26:16-6(a)(4). If either the consulting or attending physician raises a concern about the terminally ill patient's capacity, the terminally ill patient must be evaluated by a mental health care professional and EOLM cannot be prescribed until the mental health professional determines that the terminally ill patient has the requisite capacity. N.J.S.A. 26:16-8. Capable is defined by the Act as "having the

capacity to make health care decisions and to communicate them to a health care provider." N.J.S.A. 26:16-3.

Pursuant to N.J.S.A. 26:16-6, before writing any prescription, a physician must ensure that all "appropriate steps are carried out." For example, the physician must:

> (1) make the initial determination of whether a patient is terminally ill, is capable, and has voluntarily made the request for medication pursuant to [the Act];
>
> (2) require that the patient demonstrate New Jersey residency pursuant to [the Act];
>
> (3) inform the patient of: the patient's medical diagnosis and prognosis; the potential risks associated with taking the medication to be prescribed; the probable result of taking the medication to be prescribed; and the feasible alternatives to taking the medication, including, but not limited to, concurrent or additional treatment opportunities, palliative care, comfort care, hospice care, and pain control;
>
> (4) refer the patient to a consulting physician for medical confirmation of the diagnosis and prognosis, and for a determination that the patient is capable and acting voluntarily;
>
> (5) refer the patient to a mental health care professional, if appropriate, pursuant to [the Act];
>
> (6) recommend that the patient participate in a consultation concerning concurrent or additional treatment opportunities, palliative care, comfort care, hospice care, and pain control options for the patient, and provide the patient with a referral to a health care

> professional qualified to discuss these options with the patient;
>
> (7) advise the patient about the importance of having another person present if and when the patient chooses to self-administer medication prescribed under [the Act] and of not taking the medication in a public place;
>
> (8) inform the patient of the patient's opportunity to rescind the request at any time and in any manner, and offer the patient an opportunity to rescind the request at the time the patient makes a second oral request as provided in [the Act]; and
>
> (9) fulfill the medical record documentation requirements of [the Act].
>
> [N.J.S.A. 26:16-6(a).]

N.J.S.A. 26:16-6(b) further requires the attending physician to:

> (1) dispense medication directly, including ancillary medication intended to facilitate the desired effect to minimize the patient's discomfort, if the attending physician is authorized under law to dispense and has a current federal Drug Enforcement Administration certificate of registration; or
>
> (2) contact a pharmacist to inform the latter of the prescription, and transmit the written prescription personally, by mail, or by permissible electronic communication to the pharmacist, who shall dispense the medication directly to either the patient, the attending physician, or an expressly identified agent of the patient.

Nothing in the Act authorizes a physician or any other person to end a patient's life by lethal injection, active euthanasia, mercy killing, or assisted

suicide. N.J.S.A. 26:16-15. Further, a guardian, conservator, or health care representative may not take any action on behalf of a patient pursuant to the Act with the exception of "communicating the patient's health care decisions to a health care provider if the patient so requests." N.J.S.A. 26:16-16.

The aforementioned provisions in the Act are intended to be entirely voluntary on the part of health care professionals. N.J.S.A. 26:16-17(c). If a health care professional is unable or unwilling to carry out the patient's request, the patient may transfer his or her care to a new health care professional. Ibid. Upon request, the prior health care professional shall transfer the patient's records to the new health care professional. Ibid.

B. The First Litigation

On August 9, 2019, Dr. Glassman filed an eleven-count complaint and order to show cause (OTSC) seeking to enjoin defendant from enforcing the Act. On August 14, 2019, a motion judge found Dr. Glassman had no standing to bring a cause of action on behalf of others and that the majority of his legal arguments were premised on constitutional violations that did not affect him. Nevertheless, the judge found Dr. Glassman had standing to challenge the Act because as a physician he would be "controlled by any duties imposed by the statute." He specifically found merit in Dr. Glassman's eighth cause of action, which alleged the Act violated the Administrative Procedure Act by failing to

promulgate rulemaking and thereby leaving the process unregulated and the statutory language ambiguous and contradictory, given that State agencies had not yet enacted regulations, despite the Legislature's instruction to the Division of Consumer Affairs, and the boards of medical examiners, pharmacy, psychological examiners and social work examiners to do so. Because of the significant change in the law regarding treatment of the terminally ill, the judge believed Dr. Glassman could suffer "immediate and irreparable injury" if forced to act pursuant to the new legislation without the benefit of those regulations. On that basis, the judge issued a preliminary injunction.

On August 20, 2019, the Attorney General sought emergent relief from both our court and the Supreme Court seeking to dissolve the trial court's injunction. The Supreme Court declined to rule on the matter, pending the outcome of our expedited hearing. During this period, Dr. Glassman amended his complaint to add Pujara as a plaintiff.

In an August 27, 2019 order and supplemental written decision, we found the trial court abused its discretion by granting injunctive relief because plaintiff had not met the criteria set forth in Crowe v. DeGioia, 90 N.J. 126, 132-34 (1982). Glassman v. Grewal, No. AM-0707-18 (App. Div. Aug. 27, 2019). In our decision, we discussed the safeguards in the Act and found Dr. Glassman failed to show the likelihood of irreparable harm because regulations

had not been enacted. Id. at 2, 4. We found no provision of the Act lacked clarity such that Dr. Glassman would not know his responsibilities. Id. at 4-5. Also, we deemed significant that the Act was entirely voluntary for a physician and the agencies charged with rulemaking were permitted, but not required, to promulgate applicable rules. Id. at 5-6. Moreover, we determined the Act's requirement that a physician should transfer a patient's records if the physician declined to participate in the Act was an obligation that already existed pursuant to N.J.A.C. 13:35-6.5. Id. at 5. The Supreme Court declined plaintiff's application for emergent relief.

Plaintiffs filed a second amended complaint adding Petro as a plaintiff. Defendant moved to dismiss the second amended complaint and on November 18, 2019, the parties appeared again before the same motion judge that granted the OTSC. On December 20, 2019, plaintiffs filed a third amended complaint adding an additional cause of action for violations of the New Jersey Advance Directives for Health Care Act, N.J.S.A. 26:2H-53 to -81 (Advance Directives Act), and later a fourth amended complaint restating eleven causes of action, that the Act violated: 1) the New Jersey constitutional right to defend life; 2) equal protection; 3) the rights of health care providers under the Advance Directives Act; 4) the Free Exercise Clause of the United States Constitution; 5) the common law; 6) federal statutes regulating disposal of controlled

substances; 7) the physicians' right to practice medicine; 8) the duty to warn pursuant to N.J.S.A. 2A:62A-16; 9) the Administrative Procedures Act because of a total lack of agency regulation; 10) the Contracts Clause of the United States Constitution; and 11) the requirement to not falsify vital records.

C. Judge Lougy's Decision

After Judge Lougy granted Dore's application to appear as amicus curiae, the judge considered the parties' written submissions and oral arguments, and granted defendant's motion to dismiss plaintiffs' fourth amended complaint in the aforementioned April 1, 2020 order and accompanying written decision. In his decision, Judge Lougy first concluded plaintiffs lacked standing because enforcement of the Act did not harm them in any "cognizable way" given that participation was entirely voluntary. Even considering New Jersey's liberal standard for establishing standing, Judge Lougy found plaintiffs had no standing, despite their "deeply felt religious, ethical, or professional objections to the Act."

As to plaintiffs' substantive claims, Judge Lougy found them to lack merit. He rejected their argument that the Act violated their constitutional right to enjoy and defend life, explaining that the Constitution did not give citizens the right to enjoy and defend the lives of others. Judge Lougy next addressed and rejected plaintiffs' equal protection and due process arguments.

He found that a rational basis test applied, stressing again that plaintiffs had no fundamental right to defend the lives of others and noting they were not members of a protected class. The judge concluded the Legislature had a legitimate interest in establishing a safe and effective procedure for a terminally ill patient to experience a humane and dignified death.

Judge Lougy also rejected plaintiffs' Advance Directives Act claim, finding no private right of action existed under that legislation. Plaintiffs' free exercise of religion claim failed, according to the judge, as the Act's requirement that a physician transfer medical records to another health care provider if he or she opted not to participate in the Act placed only an incidental burden on the physician's free exercise of religion.

Judge Lougy also found no merit in plaintiffs' argument that the Act violated the common law, which sought to prevent suicide and mercy killing, relying on Farmers Mutual Fire Insurance Co. of Salem v. New Jersey Property-Liability Insurance Guaranty Ass'n, 215 N.J. 522, 545 (2013) for the proposition that "[l]egislation has primacy over areas formerly within the domain of the common law." The judge next rejected plaintiffs' claim that the Act violated federal law pertaining to the disposal of medication reasoning that the Act explicitly requires the disposal of EOLM to conform to federal guidelines.

Judge Lougy also rejected plaintiffs' argument that the Act impinged on Dr. Glassman's and Pujara's right to practice medicine and pharmacy. He reiterated that plaintiffs were not obligated to participate in the Act and reasoned that their ability to practice is not a fundamental right and is subject to regulation including the Act.

Judge Lougy found plaintiffs' argument that the Act abrogated the statutory duty to warn lacking in merit because the plain language of the Act provides that the duty to warn is not incurred when a qualified terminally ill patient requests EOLM. The judge explained that "the Legislature does not violate the Constitution by enacting legislation that modifies, qualifies, or nullifies another statutory enactment."

Judge Lougy next rejected plaintiffs' argument that the lack of administrative rulemaking violated the Administrative Procedure Act and Constitution concluding the Act permitted, rather than required, agency rulemaking and that such regulation was not necessary prior to the Act's implementation. The judge also found plaintiffs' arguments regarding the United States Constitution's Contract Clause failed as a matter of law because they failed to establish that the Act lacked a legitimate public purpose or that its conditions were unreasonable. Next, Judge Lougy found no merit in

plaintiffs' argument that the Act required falsification of records because their contention related to Department of Health guidance rather than the Act itself.

Finally, Judge Lougy determined plaintiffs failed to satisfy the Crowe standard for granting injunctive relief because: there was no danger that plaintiffs would suffer irreparable harm if an injunction was denied; plaintiffs did not establish a settled legal right; they did not have a reasonable probability of success on the merits; and the balancing of the relative hardships weighed in favor of the public interest. He also found no merit in Dore's argument that the Act violated the single object requirement of the New Jersey Constitution, concluding that the Act's title is sufficiently related to its components.

D. The Appeal

After Judge Lougy denied Dore's motion for reconsideration, this appeal followed. We permitted Compassion & Choices, Lynne Lieberman, and Paul Bryman, M.D. (collectively Compassion) to submit an amicus curiae brief. Compassion & Choices is a nonprofit organization dedicated to expanding end of life choices. Lieberman, aged seventy-six, was a New Jersey resident with a terminal illness who passed away during the course of this litigation, and Bryman is a New Jersey physician who cares for approximately two hundred terminally ill patients.

On appeal, plaintiffs argue that Judge Lougy erred in concluding they lacked standing to challenge the Act, because they "are personally subject to and at risk of either killing or being killed pursuant to the Act." In support, they claim it "violates the very fundaments of [their] religious beliefs to be even remotely and tangentially involved with this murder/suicide regime."

Plaintiffs also raise two arguments claiming the Act is unconstitutional. First, they assert that the word "dying" in the Act's title is misleading and fails the "object in title rule." Second, they argue the Act violates their constitutional rights to enjoy and defend life. Finally, plaintiffs raise several policy-based arguments, including that the Act "permits the non-voluntary murder of [New Jersey] residents" and its "safeguards are illusory."

Similar to plaintiffs, Dore argues that the Act violates the "object in title rule" and that all plaintiffs have standing. She also raises several policy-based arguments regarding the structure and operation of the Act.

Defendant argues Judge Lougy properly concluded plaintiffs lack standing based on the voluntary nature of the Act, and their failure to demonstrate "a sufficient stake or sufficient adverseness with respect to the subject matter of the litigation." Defendant also argues that many of plaintiffs' arguments are policy-based contentions rather than legal arguments, which are insufficient to invalidate the Act.

Defendant further opposes plaintiffs' constitutional challenges. First, it argues that there is no constitutional right to defend the life of a third party, and that even if there was, the Act would not infringe on that right because it is voluntary. Second, it asserts that the Act "does not impose a constitutionally significant burden on their rights under the Free Exercise Clause of the [United States] Constitution." Finally, defendant argues that plaintiffs' arguments regarding the Act's title are procedurally deficient and, in any event, the "title is not deceptive or misleading."

Compassion initially argues that plaintiffs' contentions are entirely policy-based, which "must be made through the legislative process, not through the courts." Second, Compassion argues that "[t]o the extent examination of policy is appropriate on this appeal, it favors affirming the trial court's judgement," based on the Act's voluntary nature and procedural safeguards, as well as "New Jersey courts' long-established recognition of an individual's right to make their own end-of-life choices."

II.

We address first plaintiffs' contention that Judge Lougy erred in determining they lack standing to challenge the Act. They argue that "the Act allows physicians, and at times coerces physicians and/or pharmacists to impose a non-voluntary death upon [New Jersey] residents such that all the

[plaintiffs] are personally subject to and at risk of either killing or being killed pursuant to the Act," which they claim satisfies "New Jersey's broad definition of standing."

In support, they assert participation in the Act is not truly voluntary. As to physicians, plaintiffs contend N.J.A.C.13:35-6.22 may operate in conjunction with the Act to require participation against their will. Specifically, they claim N.J.A.C. 13:35-6.22(c)(1) could compel participation because it requires physicians to provide thirty-days' notice before terminating a relationship with a patient, whereas the Act requires they process a patient's request for EOLM within fifteen days. They also claim that "should participation in the Act be deemed emergent," N.J.A.C. 13:35-6.22(c)(2) could obligate participation in the Act because that regulation requires physicians to provide "all necessary emergency care or services[] including the provision of necessary prescriptions" during the thirty-day notice period.

Next, plaintiffs argue that even if a patient terminates the relationship, physicians still may be required to participate under N.J.A.C. 13:35-6.22(f), which, upon a patient's request, mandates that a physician "make reasonable efforts to assist the patient in obtaining medical services from another licensee qualified to meet the patient's medical needs" including "providing referrals to the patient." Finally, they maintain the Act itself mandates physicians'

participation by requiring they transfer the patient's medical records in the event they choose not to prescribe EOLM.

Plaintiffs and Dore also claim participation in the Act is not voluntary for pharmacists. They argue N.J.S.A. 45:14-67.1 requires that if pharmacists do not carry a prescribed drug, they must either obtain it or locate a pharmacy that does.

As to qualified terminally ill patients, plaintiffs claim the Act may result in "non-voluntary death." Their argument in support of that claim, however, is not entirely clear from their brief and, as best as we can discern, is premised solely on the proposition that once EOLM is dispensed to the patient "the Act affords no oversight as to how it is administered - potentially anyone can administer it to anyone, even by coercion."

Further, plaintiffs claim "the Act violates their religious beliefs" and they contend that Judge Lougy improperly "minimize[ed] the significance of the burden the Act places on [them]" in determining they lacked standing. Dore also argues "all of the [plaintiffs] . . . have standing . . . because as residents of New Jersey, the Act, which allows involuntary death, applies to them." Finally, plaintiffs claim under Judge Lougy's interpretation, "no one has standing to challenge" the Act.

Defendant disagrees arguing, as it did before Judge Lougy, that plaintiffs lack standing because "participation in the Act is entirely voluntary" and they "fail to demonstrate that they have a sufficient stake or sufficient adverseness with respect to the subject matter of the litigation" or that "there is a sufficient likelihood that any harm will be visited upon them in the event of an unfavorable decision."

Specifically, defendant claims Petro lacks standing because plaintiffs failed to "plead factual allegations sufficient to establish that Petro is [or is likely to become] a qualified terminally-ill patient . . . under the Act." Further, defendant stresses because "there is no allegation that Petro has . . . requested or intends to request medication under the Act" he lacks "a sufficient stake in the outcome of this litigation or a real adverseness with respect to the subject matter" and has not established that he "will suffer any harm if the Act remains in effect."

Dr. Glassman and Pujara also do not possess standing according to defendant because the Act "does not require that they participate." Rather, defendant asserts that the Act requires non-participating physicians only to transfer a patient's medical records, which "they are already required to do under separate authority." Further, defendant argues that the Act does not require a pharmacist to "assist an attending physician in locating a pharmacy

able to participate in the Act." Having considered these arguments against the record and applicable legal principles we conclude Judge Lougy appropriately dismissed plaintiffs' complaint for lack of standing.

A court's decision regarding standing is a question of law subject to de novo review. Cherokee LCP Land, LLC v. City of Linden Plan. Bd., 234 N.J. 403, 414-15 (2018). "The concept of standing in a legal proceeding refers to a litigant's 'ability or entitlement to maintain an action before the court.'" N.J. Dep't of Env't Prot. v. Exxon Mobil Corp., 453 N.J. Super. 272, 291 (App. Div. 2018) (quoting People for Open Gov't v. Roberts, 397 N.J. Super. 502, 508-09 (App. Div. 2008)). "Whether a party has standing is 'a threshold justiciability determination.'" Ibid. (quoting In re Six Month Extension of N.J.A.C. 5:91-1 et seq., 372 N.J. Super. 61, 85 (App. Div. 2004)). The standing requirement cannot be waived, nor may standing be conferred by consent. Ibid.

> [S]tanding refers to a party's "ability or entitlement to maintain an action before the court." [N.J. Citizen Action v. Riviera Motel Corp., 296 N.J. Super. 402, 409 (App. Div. 1997)]. To be entitled to sue, a party must have "a sufficient stake and real adverseness with respect to the subject matter of the litigation." In re Adoption of Baby T., [160 N.J. 332, 340 (1999)]. Additionally, "[a] substantial likelihood of some harm visited upon the plaintiff in the event of an unfavorable decision is needed for the purposes of standing." Ibid. Standing has been broadly construed in New Jersey as "our courts have considered the threshold for standing to be fairly low." Reaves v.

> Egg Harbor [Twp.], 277 N.J. Super. 360, 366 (Ch. Div. 1994).
>
> [Triffin v. Somerset Valley Bank, 343 N.J. Super. 73, 80-81 (App. Div. 2001).]

In light of the voluntary nature of the Act as established by its express terms and operation, we find plaintiffs' standing arguments without merit. As to Dr. Glassman, we perceive no conflict between the Act's voluntary nature and the duties imposed on a physician by N.J.A.C. 13:35-6.22.

First, "[s]tatutes, when they deal with a specific issue or matter, are the controlling authority as to the proper disposition of that issue or matter. Thus, any regulation or rule which contravenes a statute is of no force, and the statute will control." Parsons ex rel. Parsons v. Mullica Twp. Bd. of Educ., 226 N.J. 297, 314 (2016) (quoting Terry v. Harris, 175 N.J. Super. 482, 496 (Law. Div. 1980)); see also Flinn v. Amboy Nat. Bank, 436 N.J. Super. 274, 293 (App. Div. 2014) ("It is well settled that 'when the provisions of the statute are clear and unambiguous, a regulation cannot amend, alter, enlarge or limit the terms of the legislative enactment.'" (quoting L. Feriozzo Concrete Co. v. Casino Reinvestment Dev. Auth., 342 N.J. Super. 237, 250-51 (App. Div. 2001))). As such, the operation of N.J.A.C. 13:35-6.22 cannot overcome the express terms of the Act specifying that "[a]ny action taken by a health care

professional to participate in [the Act] shall be voluntary on the part of that individual." N.J.S.A. 26:16-17(c).

Further, even if that were not the case, the Act provides that when a physician chooses not to participate, the patient should request that his or her records be transferred to a health care provider that is willing to participate. N.J.S.A. 26:16-17(c). Thus, pursuant to the Act, a physician is not required to initiate the termination of the physician-patient relationship. Rather, it is the patient's prerogative to do so. Under those circumstances, there is no conflict with N.J.A.C. 13:35-6.22.

Finally, that the Act requires non-participating physicians to transfer a patient's records upon request does not confer standing because physicians are already required to transfer patient records under separate authority. See N.J.A.C. 13:35-6.5(c); N.J.A.C. 8:43G-15.3(d). In addition, we note that plaintiffs do not argue before us that Dr. Glassman has standing based on a duty to advise patients regarding any provision of the Act, including the availability of EOLM.

We also conclude Pujara lacked standing. First, as noted, the Act expressly provides that participation by health care professionals, which includes pharmacists, "shall be voluntary." N.J.S.A. 26:16-17; see N.J.S.A. 26:16-3; N.J.S.A. 45:1-28.

Further, no conflict exists between N.J.S.A. 45:14-67.1 and the Act's voluntary nature. Indeed N.J.S.A. 45:14-67.1(b)'s requirement that "pharmacy practice site[s]" obtain an out-of-stock drug or locate a pharmacy that has the drug in stock is triggered only when "a patient presents a prescription for that drug." The Act, on the other hand, requires that the "attending physician . . . transmit the written prescription . . . to the pharmacist." N.J.S.A. 26:16-6(b). Because the Act requires a physician to transmit the prescription to the pharmacist and has no provision under which "a patient [would] present a prescription" for EOLM to a pharmacist, N.J.S.A. 26:16-6(b) does not operate to compel a pharmacist's participation in the Act.

With respect to Petro, he is a terminally ill patient who has chosen not to request EOLM. Nothing in the Act compels Petro to request or ingest the medication. Thus, no judicial decision regarding the Act will affect him.

As far as the Act's effect on all New Jersey residents, only those individuals who voluntarily elect to participate in the Act are bound by its terms. Other states that have addressed this issue have found no standing for health professionals to challenge similar types of legislation. See, e.g., People ex rel. Becerra v. Superior Ct., 29 Cal. App. 5th 486, 499 (Cal. Ct. App. 2018); Lee v. Oregon, 107 F.3d 1382, 1388 (9th Cir. 1997). In sum, plaintiffs failed

to establish "a sufficient stake and real adverseness with respect to the subject matter of the litigation" to challenge the Act. In re Baby T., 160 N.J. at 340.

We also reject plaintiff's claim that under Judge Lougy's analysis, no one would possess standing to challenge the Act. Such a proposition has no support in the law or the facts. Further, even if it were true that no one has standing to challenge the Act, that fact would be insufficient to establish plaintiffs' standing.

This issue was addressed in Becerra, 29 Cal. App. 5th at 493, where the plaintiffs were individual physicians and a medical organization challenging California's "End of Life Option Act," Cal. Health & Safety Code 443-443.22 (Deering 2022), a statutory scheme similar to the Act. The Becerra court found that notwithstanding great public interest in an issue, an action cannot proceed if the plaintiff does not possess standing. Becerra, 29 Cal. App. 5th at 497-98. As the court explained:

> At oral argument, counsel for [the plaintiffs] argued that his clients must be deemed to have standing, because otherwise no one would have standing to seek a remedy for the asserted constitutional violation. They have not shown that this is so. While we need not exhaustively specify who would have standing to challenge the constitutionality of the Act, it would seem that a district attorney who believes the Act is unconstitutional and who wants to prosecute persons who participate in assisted suicide would have standing. Similarly, a hospital or professional association that seeks to penalize health care providers

> under its jurisdiction who participate in assisted suicide would seem to have standing.
>
> [Id. at 504.]

In Lee, 107 F.3d at 1388-89, the United States Court of Appeals for the Ninth Circuit addressed a similar question under Oregon's "Death with Dignity Act." There, the Circuit Court cited Valley Forge Christian College v. Americans United for Separation of Church & State, Inc., 454 U.S. 464, 489 (1982) (quoting Schlesinger v. Reservists Committee to Stop the War, 418 U.S. 208, 227 (1974)) for the proposition that "[t]he assumption that if respondents have no standing to sue, no one would have standing, is not a reason to find standing." Lee, 107 F.3d at 1389-90. Similarly, in Schlesinger, the United States Supreme Court noted that "[o]ur system of government leaves many crucial decisions to the political processes," and therefore, it is not necessary for courts to find standing where none has been established. Schlesinger, 418 U.S. at 227. Here, it is apparent that none of the plaintiffs possess standing and we are not obligated to create such status for plaintiffs when it clearly does not exist.

Clearly, there are numerous individuals or entities, who under the proper circumstances, would have standing to challenge the Act. By way of example only, and as noted in Becerra, 29 Cal. App. 5th at 504, state or county prosecutors would conceivably have standing to bring an action against health

professionals who fail to comply with their responsibilities and who provide EOLM without ensuring compliance with the Act. Further, individuals accused by family members or a special medical guardian of unduly influencing or coercing an individual to obtain EOLM would also have the right to challenge the Act in court as would a guardian or family member who seeks to challenge by way of declaratory judgment action or otherwise, a finding that a patient has the capacity to request EOLM.

III.

As we have determined plaintiffs lacked standing to challenge the Act, we could conclude our appellate review is completed. See In re Baby T., 160 N.J. at 342 (declining to address substantive issues due to lack of standing). We elect not to proceed in that fashion in order to provide a thorough discussion of the issues in the event of further proceedings, and because plaintiffs' arguments are of a constitutional dimension that effectively challenge the care of terminally ill patients. See e.g., Loigman v. Twp. Comm., 297 N.J. Super. 287, 300 (App. Div. 1997) ("Although our disposition of the standing issue is in a sense determinative, because of the nature and course of the proceedings below some additional comment is warranted."). Under such circumstances, we deem it appropriate to address plaintiffs'

remaining challenges on the merits, beginning with their constitutional challenges to the Act, which we find unpersuasive.

We review a trial court's order to grant or deny a motion to dismiss pursuant to Rule 4:6-2(e) de novo. See Dimitrakopoulos v. Borrus, Goldin, Foley, Vignuolo, Hyman & Stahl, P.C., 237 N.J. 91, 108 (2019). Our review "is limited to examining the legal sufficiency of the facts alleged on the face of the complaint," and we do not consider plaintiffs' ability to prove their allegations. Wreden v. Twp. of Lafayette, 436 N.J. Super. 117, 124-125 (App. Div. 2014) (quoting Printing Mart-Morristown v. Sharp Elecs. Corp., 116 N.J. 739, 746 (1989)).

We afford plaintiffs "every reasonable inference of fact" and "search[] the complaint in depth and with liberality to ascertain whether the fundament of a cause of action may be gleaned even from an obscure statement of claim." Major v. Maguire, 224 N.J. 1, 26 (2016) (quoting Printing Mart-Morristown, 116 N.J. at 746). If we are able to do so, "the complaint should survive this preliminary stage." Wreden, 436 N.J. Super. at 125.

"[W]henever a challenge is raised to the constitutionality of a statute, there is a strong presumption that the statute is constitutional." State v. Muhammad, 145 N.J. 23, 41 (1996). "Even where a statute's constitutionality is 'fairly debatable, courts will uphold' the law." State v. Lenihan, 219 N.J.

251, 266 (2014) (quoting Newark Superior Officers Ass'n v. City of Newark, 98 N.J. 212, 227 (1985)).

A. Single Object Rule

Plaintiffs contend that the Act is unconstitutional because its title is "deceptive and misleading." Specifically, they argue that the Act's title "fails the object in title test" because an "ordinary reader" would not understand the term "dying" as used in the Act's title to refer to "people with a life expectancy of 'six months or less.'" Further, they claim "the Act contradicts itself" because it states it "shall not be construed to authorize . . . any act that constitutes assisted suicide" while "re-defining assisted suicide to not include the provision of poison."

Dore elaborates on the argument. She claims that the term "medical aid in dying" is misleading because it does not indicate to the "ordinary reader" that "euthanasia . . . is allowed." She also argues that the Act's title is deceptive because it "gives no hint as to the Act's required falsification of death certificates," in apparent reference to a section of the Department of Health website recommending that when a terminally ill patient dies after

ingesting EOLM, health care providers should record the underlying terminal disease as the cause of death and mark the manner of death as natural.[3]

Defendant argues that plaintiffs' contentions regarding the Act's title are procedurally and substantively without merit. Procedurally, defendant claims plaintiffs' arguments regarding the "single object rule" are improper because they never raised them in their complaints. Instead, defendant asserts that the point was raised below only by Dore, and that "[n]ormally an amicus is precluded from raising new issues."

Substantively, defendant argues the Act satisfies the "single object rule" because the Act's title "accurately recites the intended purpose for which [it] was passed" and the Act "embraces a single purpose." Further, defendant asserts the "Act does not contradict itself" arguing "the Legislature reasonably distinguished requests for medical aid in dying from the criminal offense of aiding a suicide."

As an initial matter, we agree with defendant that plaintiffs' arguments pertaining to the single object rule are procedurally deficient. Indeed, plaintiffs never presented to the trial court any argument regarding the single object rule, as that issue was raised by Dore only. See Bethlehem Twp. Bd. of

[3] New Jersey Medical Aid in Dying for the Terminally Ill Act Frequently Asked Questions, N.J. Dep't of Health, https://www.nj.gov/health/advancedirective/documents/maid/MAID_FAQ.pdf

Educ. v. Bethlehem Twp. Educ. Ass'n, 91 N.J. 38, 48-49 (1982) ("[A]s a general rule an amicus curiae . . . cannot raise issues not raised by the parties."). As such, we could decline to address it. See ibid. Again, in the interest of completeness and because of the significance of the issues raised by the parties, we address the argument on the merits.

The New Jersey Constitution, Article 4, Section 7, Paragraph 4, sets forth the "single object rule" as follows:

> To avoid improper influences which may result from intermixing in one and the same act such things as have no proper relation to each other, every law shall embrace but one object, and that shall be expressed in the title. This paragraph shall not invalidate any law adopting or enacting a compilation, consolidation, revision, or rearrangement of all or parts of the statutory law.

"[T]he purpose of the single object rule is to ensure relatedness among the components of legislative acts." Cambria v. Soaries, 169 N.J. 1, 11 (2001). It is intended to prevent """the intermixing in one and the same act [of] such things as have no proper relation to each other;" or matters which are "uncertain, misleading or deceptive."'" Ibid. (alteration in original) (quoting N.J. Ass'n on Corr. v. Lan, 80 N.J. 199, 212, (1979)).

> All that is required [by the single object rule] is that the act should not include legislation so incongruous that it could not, by any fair intendment, be considered germane to one general subject. The subject may be as comprehensive as the [L]egislature chooses to make

> it, provided it constitutes, in the constitutional sense, a single subject, and not several.
>
> [Ibid. (quoting N.J. Ass'n on Corr., 80 N.J. at 215).]

Nevertheless, "[t]he mere fact that the object of the legislation might have been expressed more specifically in its title affords no ground for declaring it void, so long as that title fairly points out the general purpose sought to be accomplished thereby." State v. Guida, 119 N.J.L. 464, 465-66 (1938) (quoting Pub. Serv. Elec. & Gas Co. v. City of Camden, 118 N.J.L. 245 (1937)). The title of the legislation should not be "deceptive," but rather, should be "intelligible to the ordinary reader." Ibid.

A court "must infer the Legislature's intent from the statute's plain meaning" and cannot "rewrite a plainly-written enactment of the Legislature nor presume that the Legislature intended something other than that expressed by way of the plain language." O'Connell v. State, 171 N.J. 484, 488 (2002). It is not necessary to delve "deeper than the act's literal terms to divine the Legislature's intent." Ibid.

Here, nothing about the Act's title or structure violates the single object rule. It serves a single purpose to which each of its components are sufficiently related and the Act's title clearly expresses its purpose.

Plaintiffs' and Dore's arguments to the contrary are without merit. First, the Legislature's use of the word "dying" in the Act's title is not misleading and

certainly does not render the Act unconstitutional. The Merriam-Webster definition of dying, is "approaching death; gradually ceasing to be; having reached an advanced or ultimate stage of decay or disuse; or occurring at the time of death." Dying, Merriam-Webster.com, https://www.merriam-webster.com/dictionary/dying (last visited Mar. 8, 2022). Thus, approaching death, even if it is within six months, is a reasonable interpretation of the term "dying."

Second, we disagree that the Act's terms are in any way contradictory. Although N.J.S.A. 2C:11-6 makes it a criminal offense to purposely aid another to commit suicide, the Legislature specifically carved out an exception in that statute for actions taken pursuant to the Act. Thus, the Legislature has made a clear determination that while assisting in a suicide is a crime, the provision of EOLM shall not be considered as such a criminal offense.

Finally, that the Act's title does not reference the Department of Health's recommendation that the manner of death of patients who ingest EOLM should be marked as "natural" on death certificates does not violate the single object rule. First, that provision is not contained in the Act. As such, the single object rule, which pertains to the title and content of legislation, clearly does not support Dore's contention. Further, Dore cites to no authority, nor have we identified any, requiring that an Act's title reference each of its components.

See Guida, 119 N.J.L. at 465-66. Such a rule would be logistically implausible and serve no meaningful purpose.

B. The Right to Enjoy and Defend Life

Plaintiffs also argue that the Act violates their right to "enjoy[] and defend[] life" established by the New Jersey Constitution based on the possibility that patients may be coerced to obtain and ingest EOLM and physicians and pharmacists may be required to participate in the Act. Defendant disagrees, asserting the Constitution protects the right of each individual to enjoy and defend his or her own life, rather than the lives of other people. Further, defendant claims even if the Constitution does confer such a right, the Act would not violate it due to the Act's voluntary nature.

The New Jersey Constitution provides:

> All persons are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness.
>
> [N.J. Const. art. I, ¶ 1.]

Here, the Act does not violate the constitutional right to enjoy and defend life. Participation in the Act, as noted, is fully voluntary for terminally ill patients as well as health care providers. The Act, therefore, does not

interfere with patients' right to enjoy and defend their lives, nor does it interfere with health care providers' ability to defend the lives of their patients.

C. Free Exercise Clause

In various sections of their brief, plaintiffs reference that the Act violates their religious beliefs. Specifically, they contend that Judge Lougy found the Act to have an "insignificant impact" on their "religious rights" in concluding they lacked standing. Further, they claim the Act's requirements that physicians transfer a patient's records upon request and pharmacists refer patients to a pharmacy that will provide EOLM, "violates the very fundaments of [their] religious beliefs."

We first note that plaintiffs did not expressly argue that the Act violates their rights under the Free Exercise Clause of the United States Constitution or mention their religious rights in their point headings. As such, we could decline to address their arguments. See N.J. Dep't of Envtl. Prot. v. Alloway Twp., 438 N.J. Super. 501, 505 n.2 (App. Div. 2015) ("An issue that is not briefed is deemed waived upon appeal."); Almog v. Israel Travel Advisory Serv., Inc., 298 N.J. Super. 145 (App. Div. 1997) (addressing on appeal only "arguments properly made under appropriate point headings"). Again, due to the constitutional import of plaintiffs' contentions, and in the interest of completeness, we address and reject plaintiffs' arguments on the merits.

The Free Exercise Clause contained in the First Amendment of the United States Constitution secures "religious liberty in the individual by prohibiting any invasions thereof by civil authority." S. Jersey Catholic Sch. Teachers' Org. v. St. Teresa of the Infant Jesus Church Elementary Sch., 150 N.J. 575, 593 (1997) (quoting School Dist. v. Schempp, 374 U.S. 203, 223 (1963)). It protects both the "freedom to believe," which "is absolute," and the "freedom to act," which is "subject to regulation for the protection of society." Id. at 594 (quoting Cantwell v. Connecticut, 310 U.S. 296, 303-04 (1940)).

Thus, the Supreme Court has held that "the right of free exercise does not relieve an individual of the obligation to comply with a 'valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes).'" Emp. Div., Dep't of Hum. Res. v. Smith, 494 U.S. 872, 879 (1990) (quoting United States v. Lee, 455 U.S. 252, 263 n.3 (1982) (Stevens, J., concurring)). Therefore, the Free Exercise Clause does not require a law that is generally applicable, "not intended to regulate religious conduct or belief," and which "incidentally burdens the free exercise of religion" to satisfy a strict scrutiny analysis. S. Jersey Catholic Sch. Teachers Org., 150 N.J. at 597. Instead, under such circumstances rational basis analysis applies, which is satisfied when legislation is "rationally related to a legitimate government objective."

Tenafly Eruv Ass'n, Inc. v. Borough of Tenafly, 309 F.3d 144, 165 n.24 (3d Cir. 2002).

Here, the Act represents a neutral law of general applicability which imposes, at worst, an incidental burden on plaintiffs. Under such circumstances, the Act must only satisfy a rational basis analysis. We conclude the Act meets that standard as it is clearly rationally related to the legitimate purpose of promoting the safe and legal means for a terminally ill patient to choose to end his or her life.

Further, plaintiffs have not established that the Act burdens their religious beliefs. As noted, the only action required of a physician who decides to not voluntarily participate in the Act is the relatively administrative task of transferring the patient's records to another health care professional who is willing to comply with the Act. Dr. Glassman has not cited any religious tenet impacted by that requirement. Further, and as noted, nothing in the Act compels pharmacists to participate in any manner.

IV.

In the balance of their briefs, plaintiffs and Dore raise a series of policy-based arguments. They contend the Act's safeguards are illusory and plaintiffs claim "it actually permits the non-voluntary murder of [New Jersey] residents." In support, plaintiffs assert that once EOLM is provided to a patient "the Act

affords no oversight as to how it is administered" and "anyone can administer it to anyone, even by coercion," which they claim allows for elder abuse by opportunistic individuals.

Plaintiffs and Dore argue further that the Act's requirement that "the attending physician shall ensure that all appropriate steps are carried out" before prescribing EOLM leaves patients "subject to whatever safeguards the attending physician personally feels are appropriate." Plaintiffs also claim the Act allows for the "'white-coating' of murder/suicide," by allowing physicians to declare a patient terminally-ill and "assist in the suicide of the victim." Dore argues that N.J.S.A. 26:16-18, which criminalizes coercing a patient to request EOLM, is "too vague to be enforced."

Plaintiffs and Dore also contend that the Act permits euthanasia. Plaintiffs maintain the Act serves the "long sought objective of the euthanasia and eugenics movement in America" to "eliminat[e] . . . the unproductive, ill[,] and elderly" in much the same fashion used by Adolf Hitler in Nazi Germany. Dore further advances the argument that the Act permits euthanasia by asserting it does not require self-administration of EOLM and that the Americans with Disabilities Act, 42 U.S.C. §§ 12101 to 12213, could require health care providers to administer it under certain circumstances.

Plaintiffs also maintain that the Department of Health's recommendation that the death certificates of patients who ingest EOLM indicate a natural manner of death "makes it nearly impossible for a medical examiner or law enforcement to investigate" the circumstances surrounding a patient's death. Dore claims the handling of patients' death certificates "legally enable[s]" "[d]octors and other persons . . . to kill under mandatory legal cover" and would allow one who killed a terminally ill patient to inherit, contrary to the Slayer Statute, N.J.S.A. 3B:7-1.1. Finally, Dore asserts the Act prohibits legal guardians from protecting their wards from ingesting EOLM, and would subject those who do to civil or criminal penalties. We find plaintiffs' and Dore's arguments to be without legal merit.

Statutes are generally presumed valid. State v. Trump Hotels & Casino Resorts, Inc., 160 N.J. 505, 526 (1999). The Legislature, and not the court, is the proper place for policy arguments given that courts are not charged with passing judgment "on the wisdom of the legislative enactment, but only on its meaning." Cnty. of Bergen Emp. Benefit Plan v. Horizon Blue Cross Blue Shield of N.J., 412 N.J. Super. 126, 138-39 (App. Div. 2010). "[I]mprovident decisions will eventually be rectified by the democratic process" and "judicial intervention is generally unwarranted no matter how unwisely we may think a political branch has acted." Vance v. Bradley, 440 U.S. 93, 96-97 (1979).

We conclude that none of plaintiffs' and Dore's policy-based contentions provided a legal basis sufficient to overcome defendant's motion to dismiss or to invalidate the Act. Such arguments are properly directed to the political branches of our government, rather than the courts.

We also disagree with the merits of plaintiffs' and Dore's claims. As noted, the Act contains multiple safeguards to ensure that EOLM is provided only to patients who voluntarily choose to participate in the Act. Further, interfering with the lawful operation of the Act would constitute a serious criminal offense. Indeed, as noted, the Act provides that altering or forging a request for EOLM or concealing or destroying a rescission of such a request constitutes a second-degree crime. N.J.S.A. 26:16-18(a). It also provides that coercing or exerting undue influence over a patient to request EOLM or destroy a request for EOLM constitutes a third-degree crime. N.J.S.A. 26:16-18(b). Further, the Act specifies that it does not preclude the imposition of additional penalties under our Code of Criminal Justice nor civil liability resulting from "negligence or intentional misconduct." N.J.S.A. 26:16-18(d), (e).

We also reject plaintiffs' reference and analogy to the inhumane acts of Hitler and Nazi Germany as improper and insensitive. It is not worthy of being addressed at any level.

In sum, we conclude that Judge Lougy did not err in dismissing plaintiffs' amended complaint. To the extent we have not addressed any of the parties' remaining arguments it is because we conclude they are without sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E).

Affirmed.