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February 16, 2007

Joseph Komosinski
State Registrar of Vital Statistics
Health and Agriculture Building
P.O. Box 360
Trenton, New Jersey 08625-0360

Formal Opinion No. 3-2007

Re: Recognition in New Jersey of Same-Sex
Marriages, Civil Unions, Domestic Partnerships
and Other Government-Sanctioned, Same-Sex
Relationships Established Pursuant to the Laws
of Other States and Foreign Nations.

Dear Mr. Komosinski:

Questions have been raised whether, once L. 2006, c. 103, the statute authorizing civil unions in our State, becomes effective, New Jersey will recognize as valid same-sex relationships formed under the laws of other States and foreign nations. You are advised that government-sanctioned, same-sex relationships validly established under the laws of other States and foreign nations will be valid in New Jersey beginning on February 19, 2007, either as civil unions or domestic partnerships. The name of the relationship selected by other jurisdictions, however, will not control its treatment under New Jersey law. Rather, it is the nature of the rights conferred by another jurisdiction that will determine how a relationship will be treated under New Jersey law. This requires both a comparison of the rights granted by the other jurisdiction to those afforded under New Jersey's civil union statute and domestic partnership law, as well as fidelity to the intent of the New Jersey Legislature.



As a result, those same-sex relationships from other jurisdictions that most closely approximate a New Jersey civil union - that is, relationships that provide substantially all of the rights and benefits of marriage - will be treated as civil unions under our law. Those same-sex relationships from other jurisdictions that most closely approximate New Jersey domestic partnerships - that is, relationships that provide some, but not all of the rights and obligations of marriage - will be treated as domestic partnerships under our law. Treatment of government-sanctioned, same-sex relationships from other jurisdictions in this fashion is consistent with the Legislature's decision to provide all of the rights and obligations of marriage, to same-sex couples through civil unions rather than marriage and to maintain domestic partnerships as a distinct government-sanctioned relationship after civil unions become effective.

Under this analysis, same-sex civil unions established under the current laws of Vermont and Connecticut, as well as same-sex domestic partnerships established under the laws of California, which provide rights that closely approximate those of New Jersey civil unions, will be valid in New Jersey and treated as civil unions in our State. In addition, same-sex marriages established under the current laws of Massachusetts, Canada, the Netherlands, Belgium, South Africa and Spain will be valid in New Jersey and treated as civil unions in our State. Great Britain, New Zealand, Iceland, and Sweden provide government-sanctioned, same-sex relationships that provide rights and obligations that closely approximate those offered to married couples. These relationships, which have a variety of names, will also be valid in New Jersey and treated as civil unions in New Jersey.

Couples in these relationships need not secure a New Jersey civil union license or solemnize their relationships in this State in order to enjoy all of the rights and obligations of a New Jersey civil union. However, pursuant to N.J.S.A. 37:1-7, a same-sex couple in a civil union or comparable relationship as noted above established under the laws of another jurisdiction may reaffirm their relationship under New Jersey law. Couples who reaffirm their relationships under this provision will receive a New Jersey civil union license and certificate of reaffirmation of civil union and will be registered as being in a civil union in this State. Ibid.

Same-sex couples in other government-sanctioned, same-sex relationships, such as the domestic partnerships recognized by

