

## CHAPTER 3

OFFICE OF THE OMBUDSPERSON FOR  
THE INSTITUTIONALIZED ELDERLY  
PRACTICE AND PROCEDURE RULES

## Authority

N.J.S.A. 26:2H-53 et seq., 52:27EE-1 et seq., specifically  
52:27EE-5(d) and 52:27EE-65, and 52:27G-1 et seq.;  
and Reorganization Plan 001-1996.

## Source and Effective Date

R.2007 d.366, effective October 29, 2007.  
See: 39 N.J.R. 2219(a), 39 N.J.R. 5101(a).

## Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 3, Office of the  
Ombudsman for the Institutionalized Elderly Practice and Procedure  
Rules, expires on October 29, 2014. See: 43 N.J.R. 1203(a).

## Chapter Historical Note

Chapter 90, Office of the Ombudsman for the Institutionalized Elderly  
Practice and Procedure Rules, was originally codified in Title 5 as  
Chapter 100, Office of the Ombudsman for the Institutionalized Elderly  
Practice and Procedure Rules. Chapter 100, Ombudsman Practice and  
Procedure and Public Notice Requirements, was adopted as R.1979  
d.166, effective May 1, 1979. See: 11 N.J.R. 164(b), 11 N.J.R. 274(a).

Pursuant to Executive Order No. 66(1978), Chapter 100, Ombudsman  
Practice and Procedure and Public Notice Requirements, was readopted  
as R.1989 d.295, effective May 5, 1989. See: 21 N.J.R. 368(a), 21  
N.J.R. 1516(b).

Chapter 100, Ombudsman Practice and Procedure and Public Notice  
Requirements, was repealed, and Chapter 100, Office of the Ombuds-  
man for the Institutionalized Elderly Practice and Procedure Rules, was  
adopted as new rules by R.1990 d.316, effective June 18, 1990. See: 22  
N.J.R. 1016(c), 22 N.J.R. 1926(a).

Pursuant to Executive Order No. 66(1978), Chapter 100, Office of the  
Ombudsman for the Institutionalized Elderly Practice and Procedure  
Rules, was readopted as R.1995 d.336, effective May 26, 1995. See: 27  
N.J.R. 1348(a), 27 N.J.R. 2388(a).

Pursuant to Reorganization Plan No. 001-1996, Chapter 100, Office of  
the Ombudsman for the Institutionalized Elderly Practice and Procedure  
Rules, was recodified as N.J.A.C. 8:90, effective October 15, 1997. See:  
29 N.J.R. 4679(a). Pursuant to Executive Order No. 66(1978), Chapter  
90, Office of the Ombudsman for the Institutionalized Elderly Practice  
and Procedure Rules, expired on May 26, 2000.

Chapter 90, Office of the Ombudsman for the Institutionalized Elderly  
Practice and Procedure Rules, was adopted as new rules by R.2002 d.35,  
effective February 4, 2002. See: 33 N.J.R. 2762(b), 33 N.J.R. 3280(a),  
34 N.J.R. 735(a).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of  
Chapter 90, Office of the Ombudsman for the Institutionalized Elderly  
Practice and Procedure Rules, was extended by gubernatorial directive  
from February 4, 2007 to May 4, 2007. See: 39 N.J.R. 772(a).

Chapter 3, Office of the Ombudsman for the Institutionalized Elderly  
Practice and Procedure Rules, was recodified from N.J.A.C. 8:90 by  
R.2007 d.366, and was renamed Office of the Ombudsman for the In-  
stitutionalized Elderly Practice and Procedure Rules, effective December  
3, 2007. See: Source and Effective Date. See, also, section annotations.

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## SUBCHAPTER 1. GENERAL PROVISIONS

## 15A:3-1.1 Scope

The basic objective of the Office of the Ombudsman for the  
Institutionalized Elderly is of promoting, advocating and  
ensuring, as a whole and in particular cases, the adequacy of  
the care received, and the quality of life experienced, by  
elderly patients, residents and clients of facilities offering  
health or health-related services for the institutionalized  
elderly within New Jersey. The Office of the Ombudsman  
advocates for the health, safety and welfare, and the civil and  
human rights of the institutionalized elderly, age 60 or over,  
and takes such actions as are necessary, and within its juris-  
diction, to secure same.

Recodified from N.J.A.C. 8:90-1.1 and amended by R.2007 d.366,  
effective December 3, 2007.

See: 39 N.J.R. 2219(a), 39 N.J.R. 5101(a).

Substituted "Ombudsman" for "Ombudsman" two times.

## 15A:3-1.2 Definitions

The following words and terms, when used in this chapter,  
shall have the following meanings, unless the context clearly  
indicates otherwise:

"Abuse" means the willful infliction of physical pain, in-  
jury or mental anguish; unreasonable confinement; or the

willful deprivation of services which are necessary to maintain a resident's physical and mental health. "Abuse" shall also mean imposing treatment upon a resident who has the capacity to make healthcare decisions, after the resident has made a voluntary and informed choice regarding such treatment. "Abuse" shall also mean providing to a resident treatment that is not medically indicated. However, no resident shall be deemed to be abused for the sole reason that he or she is being furnished non-medical remedial treatment by spiritual means through prayer alone, in accordance with a recognized religious method of healing, in lieu of medical treatment, if it is shown through the Office's review that the resident subscribes to such religious method of healing. "Abuse" also shall not mean the withholding or withdrawal of life-sustaining treatment in accordance with the provisions of N.J.A.C. 15A:3-2.

An "act" of any facility or government agency shall be deemed to include any failure or refusal to act by such facility or government agency.

"Administrator" means any person who is charged with the general administration or supervision of a facility, whether or not such person has an ownership interest in such facility, and whether or not such person's functions and duties are shared with one or more other persons.

"Caregiver" or "caretaker" means a person employed or contracted to provide care or services to an elderly person, and includes, but is not limited to, the administrator of a facility.

"Exploitation" means the act or process of using a person or his or her resources for another person's profit or advantage without legal entitlement to do so.

"Facility" means any facility or institution, whether public or private, offering health or health-related services for the institutionalized elderly, and which is subject to regulation, visitation, inspection, or supervision by any government agency. Facilities include, but are not limited to, nursing homes, skilled nursing homes, intermediate care facilities, extended care facilities, convalescent homes, rehabilitation centers, assisted living facilities, residences and programs, residential healthcare facilities, comprehensive personal care homes, special hospitals, veterans' hospitals, chronic disease hospitals, psychiatric hospitals, mental hospitals, mental retardation centers or facilities, day care facilities for the elderly, medical day care centers, and adult family care homes. "Facility" shall not mean a correctional facility or an acute care medical center but shall include a rehabilitation facility housed within an acute care medical center.

"Government agency" means any department, division, office, bureau, board, commission, authority, or any other agency or instrumentality created by the State or to which the State is a party, or by any county or municipality, which is responsible for the regulation, visitation, inspection or supervision of facilities, or which provides services to patients, residents or clients of facilities.

"Institutionalized elderly," "elderly" or "elderly person" means any person 60 years of age or older, who is a patient, resident or client of any facility.

"Neglect" means failure to perform one's duties according to an accepted professional standard.

"Office" means the Office of the Ombudsman for the Institutionalized Elderly.

"Ombudsperson" means the administrator and chief executive officer of the Office of the Ombudsperson for the Institutionalized Elderly.

"Regional Volunteer Coordinator" means an individual trained and qualified to administer and supervise the Volunteer Advocate Program, and who is capable and willing to promote the Program's philosophy throughout the community being served.

"Resident" means any elderly person who is receiving treatment or care in any facility in all its aspects, including, but not limited to, admission, retention, confinement, commitment, period of residence, transfer, discharge and any instances directly related to such status. For purposes of this chapter, the term "resident" shall also include an elderly patient or client who is receiving treatment or care in any facility, including outpatient services.

"State Program Coordinator" means an individual trained and qualified to administer and supervise the Volunteer Advocate Program throughout the entire State of New Jersey, and who is capable and willing to promote the Program's philosophy throughout the community being served.

"Volunteer Advocate" means an individual trained and certified by the Office to make regular weekly visits to assigned long-term care facilities. A Volunteer Advocate may exercise, but need not be limited to, such functions as visitation, consultation, problem solving, eliciting complaints and generally serving as an advocate on behalf of the institutionalized elderly.

Recodified from N.J.A.C. 8:90-1.2 and amended by R.2007 d.366, effective December 3, 2007.

See: 39 N.J.R. 2219(a), 39 N.J.R. 5101(a).

In definition "Abuse", updated the N.J.A.C. reference, in definition "Caregiver", inserted "or contracted"; in definition "Facility", deleted "class 'C' and 'D' boarding homes," following "care homes," deleted "and" preceding "medical day care" and inserted ", and adult family care homes"; substituted definition "Ombudsperson" for definition "Ombudsman"; in definition "Ombudsperson", substituted "Ombudsperson" for "Ombudsman"; in definition "Resident", substituted "this chapter" for "these Regulations" and "resident" for "Resident", and inserted ", including outpatient services"; and added definition "State Program Coordinator".

### **15A:3-1.3 Contact with the Office; information about rights and entitlements; communications**

(a) Any person may contact the Office to report any complaints concerning the health, safety and welfare, and the civil and human rights of institutionalized elderly persons.