

# Triaging Professional Ethical Dilemmas

## Featuring

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# A Review of the Definition and Application of Professional Ethics

**Presented by Eileen Parenti, RNC, BSN**


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## Purpose of Triage Ethics

Increase awareness in Ethical dilemmas such as:

- Cultural
- Past experiences
- Peer pressure
- Education and Resources

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- **Definition of Ethics** - Professional health care ethics at its simplest, is a set of moral principles, beliefs and values that guide us in making choices about medical care, balancing business and patients' needs.

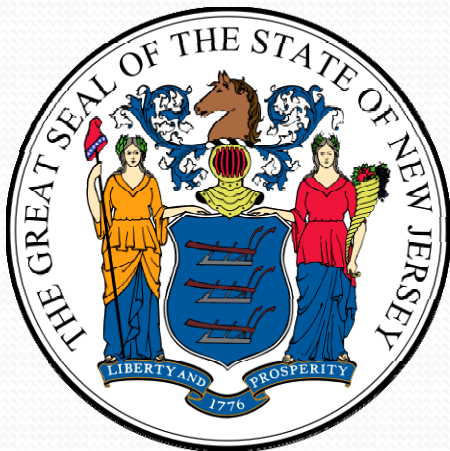
At the core of professional health care ethics is our sense of right and wrong and our beliefs about rights we possess and duties we owe others.

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- Nearly every decision that's made has ethical implications – for patients, providers, and health care leaders. The ethics of an action could have such a potentially devastating effect on healthcare in the future. But ethical issues in healthcare are common.

# The Professional Understands Ethical Principles to Protect their Licensure

**Presented by Barbara Goldman, RN, JD**

*Assistant Director Office of Certificate of Need &  
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## **What is The Statutory and Regulatory Authority for the Nursing Home Administrators Licensing Board?**

- FEDERAL AUTHORITY...42 CFR Section 431.700
- STATE STATUTORY AUTHORITY.... N.J.S.A.  
30:11-20 ...The Commissioner of the Department of Health, subject to the approval of the Governor, shall appoint a Nursing Home Administrators Licensing Board....
- STATE REGULATORY AUTHORITY...N.J.A.C.  
8:34...



## **Scope of Purpose and Responsibilities of the Nursing Home Administrators Licensing Board**

- Develop and promulgate regulations determining licensing process
- Issues licenses and recommends to the Commissioner of Health the denial, suspension and revocation of license where it is determined the individual has failed to meet the applicable regulations





## Continue...

- Establish and carry out procedures designed to ensure that individuals licensed as nursing home administrators will perform in compliance with all applicable regulations
- Receive, investigate and take appropriate action with respect to any charge or complaint filed with the Board for non-compliant behavior
- Maintain a registry of all licensed NHAs and a registry of applicants for licensure



## **Composition of the Nursing Home Administrators Licensing Board**

- The Nursing Home Administrators Licensing Board shall consist of the Commissioners of Health and Human Services, and 7 nursing home administrators of recognized ability, 2 of whom shall be registered nurses, 1 of whom shall be a fellow of the American College of NHAs, 1 of whom shall be a member of the American College of Nursing Home Administrators,



## Continue...

- 1 of whom shall be an administrator of a governmentally operated nursing home, 1 of whom shall be an administrator of a non-profit home and 2 of whom shall be an administrator of a proprietary nursing home
- Additionally, there shall be 6 members who shall be representative of the professions and institutions concerned with the care of the elderly, other than nursing home administrators
- One of the 6 shall be a physician



## **How often Does the Nursing Home Administrators Licensing Board Meet?**

- The Nursing Home Administrators Licensing Board meets every other month, starting in January; 6 times a year; generally the 2<sup>nd</sup> Thursday of the month in Trenton
- Two parts to every meeting; an open and a closed session
- Public Notice is sent to the Secretary of State and several newspapers throughout NJ
- All our invited to open session



## **Regulatory Jurisdictional Scope of the NHALB and the Department**

- Applies to all individuals who hold an active NHA License, an inactive NHA License and all those in the active process of obtaining a NJ NHA License (N.J.A.C. 8:34-1.1 )



## **Licensure Requirements for the Nursing Home Administrator**

- Be at least 21 years of age
- Be a citizen of the US or have declared intent to become same
- Have, at a minimum, a baccalaureate degree
- May serve as an administrative intern while actively enrolled in obtaining baccalaureate degree

## Continue...

- Have served as an administrative intern in a nursing home with no fewer than 60 beds for at least 1750 hours at a rate of no more than 50 hours per week
- Can be part-time; but no more than 2 years to complete
- Successfully complete 100 seminar or course hours in areas relevant to long-term care administrators
- Be of good moral character as required in N.J.S.A. 30:11-13



## Continue...

- Have passed an examination approved by the Board for the licensing of nursing home administrators
- Have successfully completed a criminal background check with fingerprints in accordance with all current statutory and regulatory requirements





## **Definition of Licensed Nursing Home Administrator**

- An individual who holds a valid New Jersey nursing home administrator license, regardless of whether such individual has an ownership interest in such home or whether such functions and duties are shared with one or more other individuals



## Scope of Individual Practice

- Oversee the provision of physical and emotional health services for persons who require various therapeutic and protective measures in a supervised environment in which the persons resides (N.J.A.C. 8:34-1.3(a))



## Continue...

- Perform functions including, but not limited to, ensuring quality resident care management, personnel management, financial management, environmental management, regulatory management, organizational management, marketing and community and public relations. (N.J.A.C. 8:34-1.3(b))



## Scope of Administrative Responsibility

- The licensed nursing home administrator is responsible for the administrative functions of a nursing home to assure that the nursing home is operated at all times in compliance with N.J.A.C. 8:39 and all other applicable State and federal rules, regulations and laws



## **How are Administrative Practice Issues Brought to The NHALB?**

- When non-compliance is cited by the Survey and Assessment Program in one or more regulatory areas, the NHALB is notified. If the citation is at a scope and severity threshold level as predetermined by the NHALB, the matter is reviewed by the Committee for Administrative Practice of the NHALB for recommended action by the NHALB



## Continue...

- The matter is brought before the NHALB at the next regularly scheduled meeting for disposition



## How Should a LNHA Respond to The Board?

- Timely
- Cooperatively
- Completely
- Non-confrontational manner
- Claim ownership of the deficiency and “ownership” of your license?



## What does Ownership of my NHA Professional License Mean?

- A “license” bestows certain *legal ownership* rights, responsibilities and obligations on its holder
- Comes with the piece of paper
- Carries over to the title “administrator of record”
- “Own up” to an error





## Continue...

- Admit and acknowledge something went wrong
- Admit and acknowledge responsibility for the matter at hand
- Do not shift blame
- Be responsive to the NHALB inquiry in a manner documenting what you, as the administrator of record did



## Important “New” Regulation that Effects Your License

- N.J.A.C. 8:34-7.2 (f) requires as a condition of license renewal, each licensee shall complete four (4) CEU hours on the subject of professional ethics relevant to the practice of long-term care administration
- First license renewal period that administrators must comply with this regulation since promulgation in 2011



## Continue...

- By June 30, 2014, each NJ administrator must have complied
- Prior to 2011, there were few states with this requirements
- Subsequent to that date, and not due to anything NJ did, more and more LNHA Boards are requiring courses of this nature
- The importance of ethical issues in nursing homes cannot be overlooked.



## Continue...

- The NJ NHALB saw it in repeated deficiencies of both federal and state tags linked to ethical violations



## Understanding the Ethical Principles of Your License

- Ethics... *The rules governing the conduct, transactions and relationships within a profession*... inquiry into good and evil; right and wrong
- Ethical principles guide personal conduct in the practice of nursing home administration
- What is good behavior? What *ought* one to do? What is your moral obligation to do?



## Continue...

- Ethical considerations are impacted by many factors; culture, religion, individual values
- Dynamic situations, advancing technologies, fluctuating economic environment, increasing personal stresses on staff lead to ethical dilemmas requiring ethical decisions



## Continue...

- End of life decisions, quality versus quantity of life, competence and decision making capacity, resident abuse, chemical and mechanical restraints, autonomy and independence, privacy and protection, striving to treat all residents the same, fiduciary responsibilities, the impaired healthcare professional, all push the ethical behavior button
- Respect for individuals reflected in day to day relationships is the ethical behavior and the ethical thread that ties it all together



**NJ Office of the Ombudsman for the Institutionalized Elderly**

**1-877-582-6995**

**Guidance. Support. Advocacy.**

Chris Christie, Governor



Kim Guadagno, Lt. Governor

James W. McCracken, Ombudsman

[www.state.nj.us/ooie](http://www.state.nj.us/ooie)



# New Jersey's Office of the Ombudsman

Presented by James W. McCracken, M.H.A.

Ombudsman

New Jersey Ombudsman for the Institutionalized  
Elderly



# Mission

The New Jersey Office of the Ombudsman for the Institutionalized Elderly is part of a national **resident-focused advocacy program** that seeks to protect the health, safety, welfare, and civil and human rights of individuals over 60 in institutions. Staff and volunteers work with individual residents to help them address challenges they face; in addition, OOIE seeks opportunities to bring about systems change on local, state, and federal levels.



# Roles & Responsibilities of Ombudsman

## Federal Law, Older Americans Act

- Investigate and resolve complaints made by or on behalf of residents of LTCF
- Provide services to help residents protect their health, safety, welfare, and rights and to inform residents of how to obtain such services
- Represent residents' interests before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;
- Conduct legislative and policy advocacy on federal, state, and local levels



# Roles & Responsibilities of Ombudsman

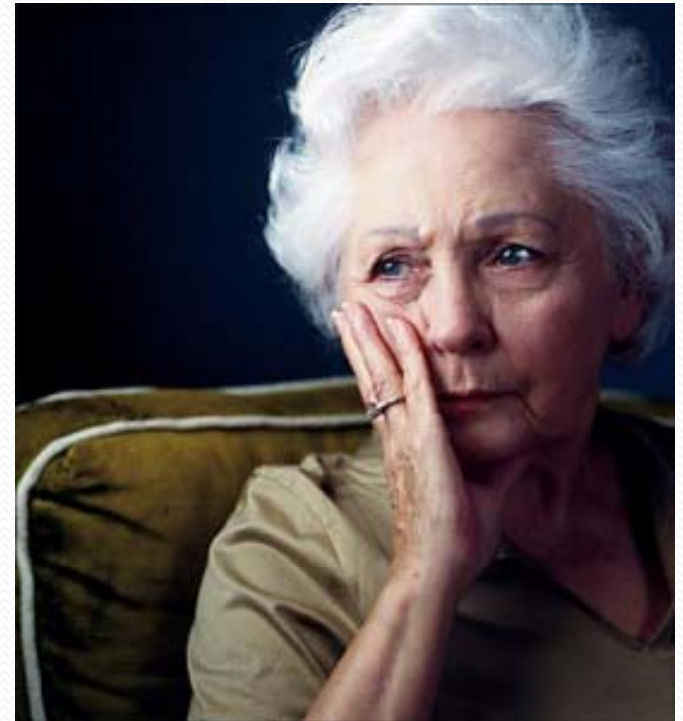
## State Law

- Receive and investigate reports of abuse and exploitation of institutionalized elderly from “mandated reporters”
- Receive reports from residents and any other concerned people regarding the health, safety, welfare, and civil and human rights of residents
- Refer cases to appropriate regulatory and law enforcement agencies where OOIE findings require referral
- Review certain decisions regarding withholding or withdrawing life-sustaining medical treatment

# Complaints

Most common complaints:

- Physical Abuse
- Verbal Abuse
- Financial Exploitation
- Care/Neglect
- Discharge Issues
- Resident Rights Violations



# Reports Accepted

Any person may (but is not required by law) report to OOIE any concern regarding the health, safety, welfare, or rights of a resident.





# Mandatory Reports: New Jersey Law

## What Must Be Reported?

### ABUSE

Willful infliction of physical pain, injury, or mental anguish;

Unreasonable confinement;

Willful deprivation of services necessary to maintain a person's physical and mental health

### EXPLOITATION

Using a person or his resources for another person's profit or advantage

Without legal entitlement (permission) to do so





# Mandatory Reports

Who Must Report?

Caretakers

Social Workers

Physicians

Registered or licensed practical nurses

or

Other Professionals

Who have a **reasonable suspicion** of abuse or exploitation  
based on information obtained through employment.





## What happens if you fail to report

- Referral to Nursing Home Licensing Board
- OOIE shall issue fines
- DOH can issue deficiency



## When would we act on a failure to report?

- When we become aware from third parties other than the mandated reporter (resident, family member, staff, outside provider)
- When the abuse or exploitation is not disputed based on the information gathered during OOIE's investigation

OOIE exercises discretion in these situations and may opt for in-servicing of staff regarding mandatory reporting



## Policies and procedures are important

- Written policies and procedures governing all types of ethical situations protect both the facility, staff and, most importantly, the resident.

Specific areas include:

- Gifting
- Technology/Electronic Monitoring



# Gifting

- Everything from families distributing cookies during the holidays to administrators accepting gifts from residents.
- Written policies and procedures
- The unequal power dynamic between and administrator and a vulnerable elderly person in their care



# CASE STUDY: (Disclaimer and Confidentiality)

- One: Administrative staffer and resident established a close relationship. No concerns regarding the resident's cognition. As a result of this relationship the two engage in private activities
- Clear ethical violation by the staffer
- Dilemma for OOIE because residents clearly articulated wishes and desires to establish and maintain a relationship with staffer



# Technology

- Hot topic today is the use of “Nanny Cams” and other audio and video recording devices/cameras
- Staff utilizing smart phones to videotape residents

Challenges during advocacy for residents :

- Privacy
- Confidentiality
- Consent
- Safety



# Technology

- Legislation in New Jersey would have required full disclosure of videotaping devices

## Case Study: (Disclaimer and Confidentiality)

- Two: A family installs video recorder device in the resident's room. The activity captured on the video recording purports to show neglect of the resident



# Office of the Ombudsman for the Institutionalized Elderly

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# Addiction in the Long Term and Assisted Living Facilities

**Presented by Kathy Bogajevski, RN, LNHA**  
*Member of the NJ Nursing Home Administrator  
Licensing Board*



## Addiction in the Long Term and Assisted Living Facilities

- Resources used: CDC, NIH, NHS, Medical News Today, Christian Nordquist



## Addiction-

- What is it, and why are we talking about it?
- How is a facility impacted?
- Administrator, department heads, hourly employees, contracted workers



# Habits and Addiction

- Control
- Taking risks
- Law issues
- Relationships
- Dealing with problems
- Financial issues



# Signs and Symptoms

- Cannot stop
- Withdrawal
- Supply
- Financial issues
- Relationships with employees, residents, and resident families
- Risks
- Stealing
- Other Unlawful acts
- Physical signs
- Alcohol breathe
- Bizarre behavior
- Absenteeism
- Rages



# Risk factors

- Genetics (family)
  - Alcohol, Cigarettes
  - Gender
  - Males vs. females
- Mental illness
  - ADHD
  - Depression



## Continue...

- Several others
- Peer pressure (especially youth)
- No or poor family relationships
- Loneliness
- The nature of the substance
- Age and age at the beginning use of product
- Stress
- Body metabolism



# Causes of Addiction

- Repeated use
- Brain's pleasure index
- Changes
- Tolerance





# Addiction diagnosis

- Blood test
- Urine test
- Family, co-workers will notice difference in behavior
- Family practitioner will either treat or recommend specialists, psychologists or psychiatrists



# Treatment Options

- Self help
- Programs
- AA
- NA
- GA
- Psychologists, psychotherapy
- Inpatient or Out-patient programs
- **All Programs Must Address Withdrawal**



# COMPLICATIONS!!

- Health
- Disease
- Accidents
- Suicide
- Child/adult abuse
- Trouble with the law
- Unemployment, poverty, homelessness

# Addiction in the Long Term and Assisted Living Facilities

- *For Help: 24/7 Addiction Treatment Hot Line  
1-877-200-4357*
- *Many web sites dedicated to each individual addiction*



# **Understand How Ethical Decisions Impact Safety Related to Quality of Care and Quality of Life for The Residents**

**Presented by Joe Sharp, LNHA**

*Administrator, McAuley Hall Health Care Center*



# Resources

- Ethical Decision Making
- New Jersey Office of the Ombudsman
- New Jersey's Long Term Care Regional Ethics Committees (REC's)
- Hospital Medical Bioethics Committees



# Resources

- Research
- Alzheimer's Association, [www.alz.org](http://www.alz.org)
- American Health Care Association, [www.ahcancal.org](http://www.ahcancal.org)
- Center for Disease Control, Ethics Home Page, [www.cdc.gov/about/ethics/](http://www.cdc.gov/about/ethics/)
- MedlinePlus, National Library of Medicine, NIMH, [www.medlineplus.gov](http://www.medlineplus.gov)
- National Long Term Care Ombudsman Resource Center, [www.ltcombudsman.org](http://www.ltcombudsman.org)



## Continue...

- US Department of Veteran Affairs, National Center for Ethics in Health Care, Publications in Health Care Ethics Domain, [www.va.gov](http://www.va.gov)
- World Health Organization, Ethical Choices in Long-Term Care: What Does Justice Require?, [www.who.int/ncd/long-care/index.htm](http://www.who.int/ncd/long-care/index.htm)





# Resources

- Personal Growth and Insight
- Applying Ethical Principles to Individual Advocacy, Joan McGiver Gibson, Center for Health Law and Ethics, University of New Mexico
- Five Wishes, a publication of Aging with Dignity, [www.agingwithdignity.org](http://www.agingwithdignity.org)