



AANHR

Arkansas Advocates for Nursing Home Residents

PROTECTING NURSING HOME RESIDENTS
April 2013

Conway (501) 450-9619

AANHR's Mission Statement:
"To protect and improve the quality of care and life for residents in Arkansas nursing homes."



At the AANHR meeting on April 8th, Rev. Edna Morgan will tell us how her organization helps elderly victims of crime and their families heal, assists them to exercise their legal rights, and advocates on their behalf when needed. She will also discuss how Healing Place Ministries is reaching out to crime victims in long-term care facilities with education about the issues involved in prosecuting offenders and obtaining restitution.

The Healing Place Ministries in Pine Bluff, founded by Revs. David and Edna Morgan in 2003, is a non-profit retreat center that provides services to the community to enhance the mental, physical, and emotional health and well being of its citizens. Their Crime Victims' Advocacy Program, funded by the Department of Justice, serves victims consumer fraud, financial exploitation, identity theft, and domestic violence. "Elderly crime victims need emotional, spiritual and psychological support from their community's clergy and other volunteers to diminish the power of victimization," says Rev. Morgan, Crime Victims' Chaplain. Elderly crime victims are referred to Central Arkansas Legal Services, the Little Rock Police Department, the Prosecuting Attorney's Office, and the Attorney General's Reparations and Consumer Fraud Divisions. Further, the program educates victims about the VINES information system, helps them write impact statements, provides pastoral counseling when requested, and trains victim advocacy volunteers

Please join us at 11:00 A.M. on April 8 and then afterwards stay for our complimentary lunch. Hope to see you there.

Complimentary Lunch
The Wilkes McHugh Law Firm has graciously offered those who attend AANHR monthly meetings a complimentary catered lunch at noon following the meetings. Please feel free to stay for this time of fellowship after our meetings. AANHR thanks Wilkes McHugh for their many years of support for our organization.

"Speak up for those who cannot speak for themselves, for the rights of all who are destitute. Speak up and judge fairly; defend the rights of the poor and needy."
Proverbs 31:8 NIV

Next Meeting April 8 Meeting Place:

First Assembly of God Church
4501 Burrow Road
North Little Rock
Directions to church
On back of Newsletter.

10:00 A.M.
Meeting for members, family and friends of residents. (Closed to persons representing the nursing home industry.)

11:00 A.M.
Public meeting (See article at right.)



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From the President's Desk Martha Deaver

I'm sure readers have all heard the news reports of the latest happenings re the January 15th death of a resident in the Fayetteville Veterans Home. This death from suspected neglect was not reported to the OLTC for **three weeks** after the fact, which is a blatant violation of state law which requires a report be filed with the OLTC by 11:00 A.M. the day following any such occurrence. Compliance with this law is required to ensure the safety of other residents of the nursing home. State law also requires an in-house investigation of neglect be completed within **five** working days of the incident.

The problem might derive from the fact there are two oversight agencies: OLTC plus the VA. According to news reports, staff members discussed the death with peers at the home and with Veterans Affairs superiors in Little Rock before reporting it to OLTC on February 5th. By February 8th, AR state OLTC inspectors declared residents at the home in "immediate jeopardy", the highest level of violation. Federal health administrators have evaluated the findings and agree with the AR report. This facility stands to lose its Medicaid/Medicare funding by May 8th unless its administration and staff fix the problems.

Readers may remember the state veterans administration has been plagued with problems related to its two nursing homes. Last October, the VA closed the Little Rock Veterans home after an audit revealed years of mismanagement including charging some residents fees that were illegally assessed. Veterans were uprooted and separated from the home and their peers they had known and loved for several years. It is well known that the aged, infirm do not cope well with change in their lives. Only time will reveal the full ramifications of the VA's mismanagement of the two homes and the hardships that it brings on the residents.

If it were not for our honored Veterans who fought, died, and suffered for their country, the VA administration would not have a job! This situation has to do with the VA repeatedly hiring administrators who are clearly unqualified! More importantly, these administrators have shown a blatant disregard for the laws set forth to protect nursing home residents. These are the same laws all 232 nursing homes in AR are also required to follow. There is no worse violation than an Immediate Jeopardy for Administration! In 2012 there were only thirty-one violations cited in this category. Our honorable Veterans certainly deserve and have earned the right to be treated with respect and dignity during their entire life, but especially in their final days on earth.

"The willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional to how they perceive veterans of early wars were treated and appreciated by our nation."

-Quoted by George Washington-

Choice of long-term care setting and day-to-day decisions

Accountability of facilities and regulators to residents

Rights respected and care directed by residents

Empowered residents, families, advocates, and staff

Reprinted from CARE Matters to Residents, A Collection of Essays and Poems (compiled by NCCNHR, 2006 in honor of Residents' Rights Week).



March 11 AANHR Meeting Topic: Options Counseling Services Speaker: Bernie Quell, Program Mgr for Alternatives Plus (A+) Team

Bernie Quell, Program Manager for the A+ Team shared statistics showing that in Arkansas nursing homes there is a seventeen percent low-care population that would do well being served in the community. It is known that state dollars can serve three individuals through long term support services for every one person served in a nursing home. The A+ Team is an initiative within the Medicaid

Expansion Program that serves residents of nursing homes and assisted living facilities, and is part of the Division of Aging and Adult Services. He points out that the A+ team serves at the request of the resident. They receive referrals from the ombudsman and the facility.

In 2008 an Options Counseling Law was passed requiring that a person entering a nursing home be asked if they would like to talk to someone about the possibility of leaving the facility and returning to live and receive services in the community. Options counseling must be offered to an individual or their representative. Often families are unaware that other options are available. The A+ team will meet with those residents and families to explain the options available and set up a realistic transition plan. Can the individual do well with 7-8 hours help (meals, bathing, meds) as opposed to 24 hour care? They will also make families aware of the Money Follows the Person program that can assist with rent, furniture, clothing, etc. for up to one year.

The A+ team has transitioned twenty-eight residents back to home through this Options Counseling program. They are looking at the possibility of eighty this year. The A+ team cannot solicit, but try to make the information available. If you know a resident in a nursing home that you feel could possibly live outside the facility with some assistance please tell them about Choices in Living. For information about this program call the Choices in Living Resource center toll free at 1-866-801-3435 or www.choicesinliving.ar.gov

Volunteer Ombudsmen Needed

Regardless of whether or not you end up becoming a volunteer ombudsman, your knowledge will increase greatly by attending an ombudsman training session. Volunteer Ombudsman training takes only one day and can make an incredible difference in the life of a nursing home resident. A volunteer ombudsman is authorized to help the residents with any concerns. Protecting the resident's rights is a priority. The volunteer ombudsman is authorized to take complaints and report things they see that are questionable to their regional ombudsman, who can take steps to remedy the situation. A volunteer ombudsman can make a big difference brightening the life of a nursing home resident. After the day of training and a short orientation period one can become a Certified Ombudsman and can choose to be assigned to a specific nursing home where just two hours service per week is expected. If interested, please contact Martha Deaver at 501-450-9619; she will put you in touch with your regional ombudsman.

An uphill battle: Keeping watch on the nursing homes

By Jack Whitsett (*Reprinted from Mature Arkansas, Dec. 2012*)

In late July, 2011, a new resident was admitted to The Pines Nursing and Rehabilitation Center in Hot Springs. She did not want to be there. On July 31, she decided to do something about it. Waiting until a group of visitors exited the front door, the resident, who was wearing a device designed to sound an alarm if the wearer left the premises, followed the visitors out into the parking lot. No alarm sounded. She then proceeded to cross a four-lane interstate highway and began to walk on the highway access ramp, apparently attempting to go home. A relative called the facility and notified a nurse, who managed, with some help, to retrieve the wandering resident.

The nursing home was cited for several violations relating to the incident by the Department of Health and Human Services Centers for Medicare and Medicaid Services (CMS.) “The facility failed to ensure that (the resident) received adequate supervision to prevent elopement ... (and) to ensure that the ... wander guard bracelet was functioning. The failed practice resulted in Immediate Jeopardy which likely caused or could have caused serious harm, injury or death for (the resident) and was likely to affect 7 residents at risk for elopement who had wander guard bracelets,” the CMS report said.

Pines staff noted, upon initially admitting her, that the woman was “at risk for elopement,” an industry term for escaping. “Resident is very confused and continues to voice that she wants to go home ... Resident does wander but does not intrude on the privacy of others.” Before being admitted, the woman, according to the citation, had a history of “agitation (with) family, leaving home on foot, hitchhiking.” In addition, the alarm device did not work and was not properly checked or set up.

Buried among the bureaucratic language and charges is a sad woman and a worried family, neither of which was properly served that day. At least eight incidents have occurred in Arkansas nursing homes since April 2011 in which residents improperly left the facility or were endangered by a lack of controls to prevent such an occurrence.

About inspections

Every nursing home receiving federal funds must submit to regular inspections. CMS contracts with the state to perform the inspections. The results are public information, but until recently were difficult for consumers to find. Now, largely as a result of pressure from advocacy groups such as Arkansas Advocates for Nursing Home Residents (AANHR), inspection results are readily available online through several web sites. One of the best, due to a comprehensive search feature, is <http://propublica.org/nursing-home-inspect>, sponsored by journalism organization ProPublica.

In order to be certified initially, a facility must have a survey (inspection) to verify compliance with all regulatory requirements. States are then required to survey the home annually, no less often than every 15 months. Surveys are also required when substantial changes occur in a facility’s organization or management. In addition, surveys may be conducted when a complaint alleges substandard care. Any deficiencies found are reviewed, and nursing homes may challenge and appeal decisions through administrative review.

However, neither state inspectors nor the nursing home is required by federal regulations to notify patients and their families that the patient’s care has been the subject of a survey violation. Notification is not even required following a finding of substandard care or actual harm. Therefore, family members cannot be assured that they are aware of problems with the care given their relatives who live in nursing homes unless they proactively seek the truth. Family members should ask the nursing home administrator and the attending physician about their notification policy. In addition, facilities are required to make available on the premises a copy of the latest compliance review conducted on the nursing home.

Shell games?

Those homes owned by corporate chains are now engaging in “a dangerous trend” designed to shirk regulatory responsibility, some resident advocates charge. Recent regulations designed by the federal government to ensure safe, responsible operation of nursing homes were mostly aimed at licensees, at a time when these entities were

Continued from page 4

generally the operators and owners of facilities. Now, many corporations are splitting the licensee off from the rest of the corporation, “splintering” the companies that run nursing homes, said Little Rock attorney David Couch, who advises lawyers around the country on taking action to protect nursing home residents.

“This realignment renders this regulatory framework virtually obsolete,” Couch wrote. “In the new model, the licensee does not provide the actual care. A different corporation or series of corporations provides the care. *Those duties are transferred to entities that are not directly answerable to regulatory authorities or to the courts* (italics added)... further, the actual ownership of the nursing home is transferred away from the licensee, thereby leaving it with few assets.” Presumably, an entity with few assets is a poor target for a lawsuit on behalf of residents.

In addition, Couch said, some companies are taking steps to hide the true nature of their setup and ownership. Publicly traded corporations must file reports disclosing many details of their ownership and finances with the U.S. Securities and Exchange Administration. Now many are becoming privately-financed, enabling them to hide such details.

“Private venture capital firms have taken them over,” Couch said. But he holds out hope that President Obama’s health care reform package will block some of the effects of such moves. “One of the sections of ‘Obamacare’ is called the Nursing Home Transparency Act,” he said. “It requires that all these companies that get money from the federal government ... have to disclose the true ownership of the company.”

Financing liability

Martha Deaver, president of residents rights group AANHR, finds the system by which facilities protect themselves against professional liability unfair as well. “We’re one of only a few states that allow (nursing homes to include liability premiums) on their cost reports for reimbursement,” Deaver said.

Facilities report their annual costs to the state. The amount they may charge per resident is approved based on this report. Allowing homes to include the cost of liability insurance in the reimbursement report requires the government to pay the nursing homes’ cost of failing to care for residents, Deaver, a nationally-recognized patient advocate, contends.

The largest liability insurance reimbursement claimed on a cost report for the fiscal year ending in June 2011 totaled \$977,475, submitted by Searcy Healthcare Center. The next-highest reimbursement total claimed for liability insurance was \$635,850 from Magnolia Health and Rehabilitation, followed by Broadway Healthcare Center in West Memphis with \$540,473.

The cost of politics

If the deck seems somewhat stacked against the residents of these nursing homes, or at least those residents who have experienced less than stellar care, then the reason may lie in the traditional direction: money. Any change in the political situation is unlikely to occur soon, Couch said. “The chances of getting any substantial reforms passed at the state level are not very good because people who live in nursing homes don’t have paid lobbyists,” he said. “Anytime they are threatening to do something that (the industry) perceives is not good for nursing homes they’ll call the (nursing home operators to put pressure on politicians).

The largest political campaign contributor in Arkansas so far this year is the trade association representing nursing homes, the Arkansas Health Care Association (AHCA). The political action committee has given \$237,853 to candidates and parties, well ahead of the \$192,524 contributed by the second-place Stephens Group. When direct contributions from people in the industry and from individual facilities are added in, the 2012 state contribution figure balloons to \$429,211. This amount ranks nursing homes seventh among state industries. Removing categories for candidate self-finance, candidate and party committees and one labeled “retired” leaves nursing homes behind only “lawyers and lobbyists” and “health professionals” in 2012 Arkansas political contributions.

AHCA representatives, contacted several times by phone and email, elected not to comment on this article. “It takes a well-intentioned and a brave politician to take this on,” Couch said. “The last time there were substantial reforms... (former U.S.) Sen. David Pryor was behind it.” Pryor, a Democrat, retired in 1997.



Resident Trust Funds

Stormy Smith, Program Manager with the Office of Long Term Care (OLTC) recently explained resident trust funds to those attending an AANHR meeting. The standard monetary amount for personal needs is currently \$40.00 per month. If a resident's social security check is sent directly to the home to help pay for his/her care then the \$40.00 designated for the resident's personal needs should be set aside for the resident's personal needs in a trust fund account. If the resident's responsible party or some other "trustee" has oversight of the resident's social security funds then he/she (the responsible party) is obligated to see that the \$40.00 for personal needs is used for the resident's personal benefit. Certain parameters exist to govern these funds.

Resident Trust Fund Facts:

1. The management of resident trust funds, personal funds and reporting of violations are governed by federal and state regulations.
2. Upon written authorization of a resident, the facility must hold, safeguard, manage, & account for the personal funds of a resident deposited with the facility.
3. Individual account funds with a balance greater than \$50 (Medicaid) and \$100 (Medicare) must be placed in an interest bearing account.
4. The facility must provide that upon request of a resident/representative up to \$50 (Medicaid) and \$100 is available for the resident/representative the same day request is made. Amounts greater than those should be available within three banking days of the request. Residents should have access to petty cash on an ongoing basis.
5. Residents' funds are not to be co-mingled with facility funds or with another person's funds.
6. Quarterly statements should be provided to residents in writing within 30 days after the end of each quarter.
7. The facility must notify the resident/representative when an account balance reaches \$200 less than the resource limit to maintain eligibility for Medicaid/SSI. (This notice must include info that if the amount in the trust fund plus the value of the resident's non exempt resources reaches the SSI limit for one person, the resident may lose their eligibility for Medicaid/SSI).
8. Trust fund monies should not be used for any item/service for which Medicaid/Medicare pays.
9. Proper bookkeeping for trust funds requires an individual ledger card, ledger sheet or equivalent established for each resident on which only those transactions involving his/her personal funds are and maintained. (The record should have info on when transactions occurred, what they were, as well as maintain the ongoing balance for every resident).
10. Any allegation, suspicion or proof of the misuse or theft of resident trust funds must be reported to the OLTC. Report must be made, using the proper form by 11:00 AM the next business day after incident occurs. Also, the local law enforcement authority must be called!
11. Theft/misuse of resident trust funds is a criminal act; it is theft of property. \$500.00 or more is a Class C Felony. \$2,500 or more is Class B Felony. If \$70.00 is misused from 10 residents, it equals \$700.00 which, under the cumulative provision is a Class C Felony.
12. The facility must convey the resident's funds and provide a final accounting to the individual/probate jurisdiction for the resident's estate within 30 days of the resident's death.

Senior Moments.....

Two elderly ladies had been friends for many decades. Over the years they had shared all kinds of activities and adventures. Lately, their activities had been limited to meeting a few times a week to play cards. One day they were playing cards when one looked at the other and said, "Now don't get mad at me.....I know we've been friends for a long time.....but I just can't think of your name! I've thought and thought, but I can't remember it. Please tell me what your name is. Her friend glared at her. For at least three minutes she just stared and glared at her. Finally she said, "How soon do you need to know?"

AANHR Special Thanks

We extend our heartfelt thanks to the following people and groups who make our outreach possible:

- Bob Edwards** of Wilkes and McHugh for its financial assistance in the printing and mailing of AANHR's newsletter and other publications as well as financing the attendance of two board members to the annual NCCCHR conference.
- Paschall Strategic Communications** for their continued assistance with public relations needs.
- Joshua Mayhan** for managing the AANHR website and sending AANHR email alerts.
- First Assembly of God Church** in North Little Rock for providing AANHR a meeting room.
- David Couch** of The Law Offices of David A. Couch, PLLC, PA, for his support and assistance, and his providing POA documents pro bono.
- Gary Miller** of Prosmart Printing for assistance in newsletter and brochure publication.
- M. Darren O'Quinn, Attorney, Little Rock**, for his continued assistance to and support of AANHR.

AANHR Officers and Board Members

- President** - Martha Deaver, Conway (501-450-9619)
- Vice President** - Nancy Patterson, Searcy (501-305-4034)
- Secretary** - Betty Buckta, Batesville
- Treasurer** - Frances Walker, Benton (501-316-0260)
- Members of the Board:** Martha Blount, Searcy (501-278-9168); Linda Brimer, Searcy (501-268-4699); James Brooks, North Little Rock (501-454-6279); Kim Brown RN, Jonesboro (870-935-3737); Pat McGuire, Alexander (501-847-1016); Ann Pinney, Benton (501-249-1084) and Carolyn Pollett, Sherwood.
- Newsletter Editors:** Ernie and Martha Blount, Searcy.
- Honorary Board Members:** Faye Sandstrum, Searcy.

Helpful/Important Numbers

The Office of Long Term Care (OLTC)

has a toll-free number for information, assistance and complaints for residents and family members:
1 - 800 - LTC - 4887 between 8 a.m. and 4:30 p.m. on weekdays.

You may also write to: Office of Long Term Care (OLTC) P.O. Box 8059, Slot 400 Little Rock, AR
72203-8059

OLTC website:

[Http://humanservices.arkansas.gov/dms/Pages/oltcHome.aspx](http://humanservices.arkansas.gov/dms/Pages/oltcHome.aspx)

You should also report complaints to the Arkansas Attorney General

Toll Free: 1 - 866 - 810 - 0016

Little Rock Local: 682 - 7760

For additional assistance or a listening ear, call AANHR at

(501)450 - 9619 in Conway

Visit our website at www.aanhr.org or e-mail us at Info@aanhr.org

Your local Ombudsman's number should be posted in a prominent place in the nursing home, preferably near the front entrance. You may also call your local Area Agency on Aging to secure the name and phone number of the Ombudsman.

The UALR Senior Justice Center can be reached at: **501 - 683 - 7153.**

www.ualr.edu/senior_justice



Arkansas Advocates for Nursing Home Residents

AANHR

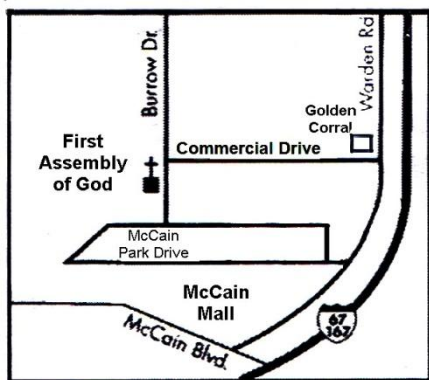
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Strength in Numbers! AANHR Needs You!!

AANHR is a nonprofit organization run by non-paid volunteers dedicated to protecting and improving the quality of care and life for Arkansas residents in long term care facilities.

Please lend your support to us by joining our organization? Your membership dues help to pay for our activities that support our mission statement. Memberships are available on a calendar year basis. Join now and you will be a member through **December 31, 2013.**

Today's Date _____

Name _____

Mailing address _____

City/State/Zip _____

Phone _____

Email _____

- I wish to receive the AANHR newsletter.
- \$15 per individual membership enclosed.
- \$20 per family or corporate membership.
- Waive dues because of financial hardship.

Please make checks payable to: AANHR and mail to 2336 Riverview Circle, Benton AR 72019

Driving directions to First Assembly of God Church, 4501 Burrow Road, North Little Rock

Coming from the North:

When driving South on Highway 67/167, take exit #1A onto Warden Road. As soon as you safely can, move into the right-hand lane, as you will be turning right at the Golden Corral Restaurant onto Commercial Drive.

Coming from East, West or South:

If you are on either I-30 or I-40, take Highway 67/167 North. Take exit #2 onto Landers Road. Stay in the left-hand lane, as you will be turning left and going under Highway 67/167 and enter Warden Road going southbound. As soon as you safely can, move into the right-hand lane, as you will be turning right at the Golden Corral Restaurant onto Commercial Drive.

Commercial Drive terminates at the church. Proceed straight across Burrow Road into the church's parking lot and turn right at the far side of the building into the narrow alley-like drive.

The entry door is located about half-way down this side of the church and the meeting room (#113) is immediately inside the entrance door.