



AANHR

Arkansas Advocates for Nursing Home Residents

PROTECTING NURSING
HOME RESIDENTS

July
2017

Next Meeting

July 10

Meeting

Place:

First Assembly of God
Church

4501 Burrow Road

North Little Rock

Directions to church

On back of

Newsletter.

10:00 - 11:00 A.M.

Open Forum

11:00 A.M.

Program Speaker:

(See article at right.)

PLEASE NOTE:

There will be **NO**

meeting **NOR**

newsletter in August.

Conway (501) 450-9619

AANHR's Mission Statement:

"To protect and improve the quality of care and life for residents in Arkansas nursing homes."

July 10th Meeting Topic: Abuse and Neglect

Speaker: Stormy Smith, OLTC Program Manager

Stormy Smith will talk about Abuse and Neglect issues in nursing facilities along with the differences in criteria applied in managing care in the different levels of facility parameters such as Assisted Living 1 and Assisted Living 2 as well as Residential Care Facilities. In order to match care provided with care needed we must familiarize ourselves with what is available at the various facilities in addition to gauging the quality of care provided. AANHR.org provides many links to knowledge about the quality of care such as nursinghomecompare.org.

AANHR is also in the process of updating its list of approved Alzheimers Special Care Units. Readers should be aware that simply having a locked door to keep Alzheimers patients safe does not qualify a facility as a Special Care Unit. Other responses to managing care for the frail residents must be evident.

Stormy Smith is a Program Manager with the Office of Long Term Care (OLTC) where he has been employed since 1991. Stormy received his Bachelor of Science in Business and Industry from Mississippi State University. He is a Certified Surveyor, Licensed Nursing Home Administrator and a Certified Public Manager. Stormy has forty-two years experience in health care, with thirty-eight of those years being in Arkansas.

Stormy currently reviews all of the Incident and Accident Reports from nursing facilities and he is on the committee that reviews all Abuse Investigation Reports from nursing facilities. He also conducts training programs on nursing home abuse and neglect as it pertains to the Adult and Long-Term Care Facility Resident Maltreatment Reporting Acts, and state and federal regulations.

Save the Date! Monday, October 9th

Residents' Right Rally

Capitol Rotunda



From the President's Desk . . . Martha Deaver

Here is a checklist for families contemplating the placement of a loved one in a nursing home:

- *Obtain a Durable Power Of Attorney with provision that does not allow the DPOA to sign an arbitration clause.
- *Determine how nursing home bill will be paid: Medicaid? private pay? Medicare usually pays only for a limited amount of time in a nursing home, usually for rehabilitation after a hospital stay.
- *Go to www.medicare.gov/nursinghomecompare to view past history of nursing home
- *Find out whether the prospective nursing home has liability insurance coverage.
- *Visit after hours & weekends
- *Are there smells of urine and other bad odors present?
- *Speak with other families in nursing home
- *Read latest survey required to be posted in the nursing home
- *Observe whether call lights are going unanswered.
- *Do residents look sedated or alert?
- *Are residents clean?
- *Are residents happy/content?
- *Check staffing posted log sheet...required to be posted within twenty feet from the front entrance
- *Visit during meal time to observe how food is presented and served.
- *Check to see if residents that need assistance with eating are being fed.
- *Check to see if rooms have fresh water in arm's reach in pitchers located in residents' rooms.
- *Are employees taking care of the residents needs? Are the employees relating to the residents?
- *Does the nursing home have an active Family Council?
- *Make sure you are NOT required to sign a arbitration agreement. Simply state during admission document signing process that you do not desire to sign. Request a copy of all admitting documents.
- *Remember, this nursing home will become your family member's next home, whether temporary or permanent. Stay involved. Visit often. Speak up when problems arise.
- *Always attend Care Plan meetings and follow up on plans for action.



Centers for Medicare & Medicaid Services FACT SHEET

FOR IMMEDIATE RELEASE

June 5, 2017

Contact: CMS Media Relations

(202) 690-6145 | [CMS Media Inquiries](#)**CMS Issues Proposed Revision Requirements for Long-Term Care Facilities' Arbitration Agreements**

The Centers for Medicare & Medicaid Services (CMS) issued proposed revisions to arbitration agreement requirements for long-term care facilities. These proposed revisions would help strengthen transparency in the arbitration process, reduce unnecessary provider burden and support residents' rights to make informed decisions about important aspects of their health care.

Background

The Reform of Requirements for Long-Term Care Facilities Final Rule published on October 4, 2016 listed the requirements facilities need to follow if they choose to ask residents to sign agreements for binding arbitration. The final rule also prohibited pre-dispute agreements for binding arbitration. The American Health Care Association and a group of nursing homes sued for preliminary and permanent injunction to stop CMS from enforcing that requirement. The court granted a preliminary injunction on November 7, 2016. After that decision, CMS reviewed and reconsidered the arbitration requirements in the 2016 Final Rule.

Proposed Revisions to Arbitration Requirements

This proposed rule focuses on the transparency surrounding the arbitration process and includes the following proposals:

- The prohibition on pre-dispute binding arbitration agreements is removed.
- All agreements for binding arbitration must be in plain language.
- If signing the agreement for binding arbitration is a condition of admission into the facility, the language of the agreement must be in plain writing and in the admissions contract.
- The agreement must be explained to the resident and his or her representative in a form and manner they understand, including that it must be in a language they understand.
- The resident must acknowledge that he or she understands the agreement.
- The agreement must not contain any language that prohibits or discourages the resident or anyone else from communicating with federal, state, or local officials, including federal and state surveyors, other federal or state health department employees, or representatives of the State Long-Term Care Ombudsman.
- If a facility resolves a dispute with a resident through arbitration, it must retain a copy of the signed agreement for binding arbitration and the arbitrator's final decision so it can be inspected by CMS or its designee.
- The facility must post a notice regarding its use of binding arbitration in an area that is visible to both residents and visitors.

For more information, the proposed regulation can be found here: <https://s3.amazonaws.com/public-inspection.federalregister.gov/2017-11883.pdf>

This proposed rule is scheduled to be published in the *Federal Register* on June 8, 2017 and comments are due by August 7, 2017.

Arkansas elderly care program's gaps drawing scrutiny

Some decertified homes remain open

Story by Hunter Field Monday, May 8, 2017

One of Arkansas' nursing-home alternative programs -- adult family homes -- finally took hold four years after its 2011 introduction, but it was short-lived. By 2015, five individuals had opened their homes to disabled or aging adults dependent upon Medicaid, but each home has lost its certification in the past year, documents show. Some expired; others were cut off by the state for noncompliance. Today, the program has only one certified home -- located in Earle, an east Arkansas city of about 2,400 -- but it is vacant.

While decertified, the homes didn't necessarily stop operating. Instead, some have remained functional on the fringes without oversight, creating an environment that puts some of Arkansas' most vulnerable residents at risk of abuse, officials and advocates said. As long as a facility houses fewer than three residents and doesn't accept Medicaid dollars, the state Department of Human Services doesn't have the power to monitor it unless the agency receives a complaint about it. This vacuum has the agency re-evaluating its approach to adult family homes, said Craig Cloud, the director of the Division of Aging and Adult Services. "We want to make sure we know where these facilities are, how they're being operated," Cloud said. "And we want to be able to certify them and require that they have an annual inspection and meet a minimum standard and criteria." As the division considers the group-home program, the number of abuse cases statewide is increasing, said Shannon Halijan, interim assistant director of the Division of Aging and Adult Services. Halijan said that's part of a national trend as people continue to live longer.

The state began cultivating adult family home providers in 2010 to help address the need for long-term care facilities in rural areas. The program grew slowly, adding usually one home each year. But even at the program's peak in 2015, none of the facilities were in rural areas -- four were around Little Rock and one was in Hot Springs. Group homes give families alternatives to traditional nursing homes for functionally impaired individuals who are disabled or over the age of 65. A state-certified home, which may house up to three residents, can receive daily reimbursements from Medicaid ranging from \$48.22 to \$56.25 per resident, depending on the level of required care. Medicaid reimbursements only cover the costs of "daily living care" and don't include other costs, such as room and board, which beneficiaries pay for separately. Providers are expected to help those in their care with medication reminders, supervision, bathing, cooking, toilet use and transportation.

Licensed homes are put through an extensive approval process and at least one annual inspection; providers undergo drug tests and criminal background checks. Martha Deaver, president of Arkansas Advocates for Nursing Home Residents, said her organization is very supportive of the adult family home concept because it gives beneficiaries a less institutionalized, community-based option, but she said outside supervision is key. She supports the oversight increases that Cloud mentioned. "Too many of these group homes have popped up everywhere with no oversight, and the problems can be just as severe as the violations I find in nursing homes," Deaver said.

Records obtained through an Arkansas Freedom of Information Act request show that most adult family homes leave the program after about two years. Elijah Pricop of Hot Springs joined the program with his wife in 2012. They were state-certified until last year, when their certification wasn't renewed. Pricop said in a Wednesday phone interview that state regulations make it difficult for family homes to remain solvent. Now that they're no longer certified by the state to receive Medicaid dollars, the Pricops operate two family homes in Hot Springs, which wouldn't be allowed under the state's program. "The math does not make sense," Pricop said. "That's the sad part. It's tough. That's why I had to do two. If you do one, you just go under. It's only a matter of time." Pricop called it a "great program," but he said he would like to see the state raise the maximum occupancy to six beneficiaries per home.

Other providers who were formerly certified didn't respond to interview requests last week. However, Hope Fitchpatrick, who operates the sole remaining home in Earle, said she, too, would like to see the maximum capacity increased. Before moving to Arkansas, she worked in an adult foster home in Georgia. There, she said, homes can have up to five residents. Fitchpatrick is finishing her bachelor's degree in business. Then, she said, she'll start advertising her home more aggressively. She was advised to set up shop near Little Rock because of the larger population, but she wanted to fill the long-term care void that exists around Earle. "That's what I'm really looking forward to," she said.

Recent events have underscored the risks of abuse and neglect that are present even in state-certified homes. Last month (April), investigators removed three residents who showed "obvious signs of neglect" from a certified home in Little Rock. Wilson's Adult Foster Care Home, at 5 Sunny Circle in Little Rock, became the first state-approved home in 2011. But when inspectors arrived Feb. 6 for a re-certification inspection, they found a host of compliance problems, according to a report obtained through a Freedom of Information request. Inspectors found that Shavita Wilson, 45, the owner, wasn't properly storing residents' medications, which were in unlabeled, open containers resembling "plastic laundry detergent caps" on the kitchen counter. Two bottles of her own medicine were said to have been unsecured in the living room. Inspectors also discovered that outer doors were being locked, and Wilson misplaced the keys while inspectors were on site. She couldn't provide documentation showing that extra workers she had hired received background checks or training to administer CPR or first aid, telling inspectors, "I train them myself," according to the report. She also couldn't provide monthly progress notes for the residents or proof that the fire extinguishers were in working order. Despite those infractions and several others, the state Department of Human Services extended her certification, which was set to expire March 31, for a month to give her time to comply with regulations.

After several attempts by Wilson, the agency accepted a corrective action plan pending a surprise inspection. When inspectors visited the home April 7, Wilson peered out a window but refused to open the door, according to a police report. After waiting outside for several hours, inspectors were able to enter when one of the residents arrived and opened the garage door, the report said. Inside, inspectors found numerous violations, and the home's three underfed residents were taken by ambulances to a hospital, the report said. The state closed the home shortly after, and the Arkansas attorney general's office is investigating the home.

Deaver, the nursing-home residents advocate, said the state overlooked too many "red flags" when it inspected the Wilson home in February. "When you find that many infractions, and you're caring for the most frail and vulnerable citizens, you can't wait two months to go to that facility to make sure the environment is safe and the residents are getting the care required," Deaver said. "The final outcome speaks for itself."

Brandi Hinkle, a Department of Human Services spokesman, said the initial infractions weren't severe enough to warrant decertification and that the agency hoped Wilson would fix the problems. Two days after authorities removed residents from Wilson's home, Davette Montgomery, a group home operator in North Little Rock, surrendered her certification in an email to the Human Services Department. Montgomery had used Wilson as a reference when she applied for the program in 2014, records show. Attorney general's investigators visited Montgomery's home April 25, but a man at the home said there were no elderly residents at the house and refused to let investigators look inside, according to a search warrant affidavit. However, while investigators were still there, the man pushed an elderly, wheelchair-using woman from the home to put her on a bus. Moments later, a second bus arrived to drop off an older man with Alzheimer's disease, the affidavit stated. Human Services employees were then called to take custody of the elderly residents. An investigation is ongoing.

Hinkle stressed that the department deals with some excellent providers who take great care of residents. "It's unfortunate that there are other people who do take advantage and besmirch the reputations of good providers," she said.



TAP: Topic of June Meeting

Lynn Franquemont is Program Director for the Telecommunications Access Program (TAP). As Director she is responsible for coordinating and marketing outreach to assure that all persons with disabilities know about these specialized services. The equipment provided by TAP enables the deaf, deaf-blind, hard of hearing, those with mobility or cognitive impairment, legally blind/low vision, speech or voice impairment to communicate with others using the telephone.

Ms. Franquemont showed attendees at the meeting examples of the many different appliances they are able to provide. Each applicant is evaluated and a TAP representative will work with them

to determine what will best serve their needs. A wide range of instruments include amplified phones which allow the user to adjust the tone of the incoming voice, captioned phones (CapTel) allowing a severely hard of hearing user to speak for themselves and read incoming text through a captioning service. There are amplified telephones with talking keypads and photo phones with photo auto-dial memory buttons that allow easier dialing for those with cognitive impairments. AANHR members were also shown types of signaling devices to alert the individual to the ringing phone. The TAP program is keeping up with new technology and is now able to provide these services on cell phones and on an internet line.

This service was legislated in 1995 and is funded through a two cent surcharge on land phone lines. To qualify for one of the free specialized phones, an individual must be an Arkansas resident, 75 years of age or over, have a phone line and an annual income of less than \$50,000. The application can be processed in two weeks or less. TAP does not pay for phone service, but provides the equipment needed. If you are interested in getting more information or seeing a demonstration, please call 1-800-981-4463 or go to www.arkansasrelay.com.



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.

AANHR Special Thanks

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

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.

The **Law Office of Bob Edwards and Mrs. Edwards** for providing financial assistance as well as AANHR Good Care booklets

M. Darren O'Quinn, Attorney, Little Rock, for his continued assistance to and support of AANHR.

Paschall Strategic Communications for their continued assistance with public relations needs.

AANHR Officers and Board Members

President - Martha Deaver, Conway (501-450-9619)

Vice President - Pat McGuire, Alexander, (501-847-1016)

Secretary - Julie Shaw, Memphis (901-508-0558)

Treasurer - Nancy Patterson, Searcy (501-305-4034)

Members of the Board: Nancy Allison, Conway (501-327-3152; Linda Brimer, Searcy (501-268-4699); James Brooks, North Little Rock (501-454-6279); Harry Burns Jr.; Julie Edwards, Alexander (501-425-9959); Cindy Murders (501-747-2060) and Ann Pinney, Benton (501-249-1084);

Newsletter Editors: Martha Blount, Searcy (501-278-9168); Marcy Wilson, Sherwood

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

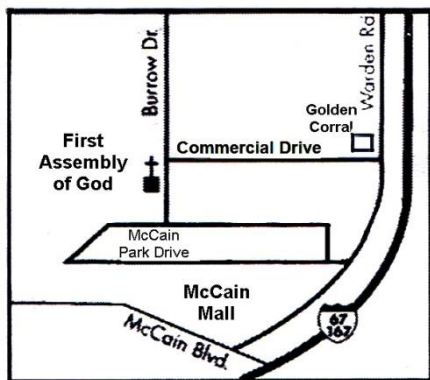
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July 2017



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.

Won't you 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, 2018**.

Today's Date _____

Name _____

Mailing address _____

City/State/Zip _____

Phone _____

Email _____

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

Please make checks payable to: AANHR and mail to
111 River Oaks Blvd, Searcy AR 72143.

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 (#102) is immediately inside the entrance door on the left.