



AANHR

Arkansas Advocates for Nursing Home Residents

PROTECTING NURSING
HOME RESIDENTS

March
2018

Next Meeting
March 12th

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.)

Happy
St. Patrick's
Day!



Conway (501) 450-9619

AANHR's Mission Statement:

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



March 12th, 11:00 AM Meeting Topic:
Current Issues Affecting Nursing Homes
Speaker: Attorney Bob Edwards

Bob Edwards is one of AANHR's longest running and staunchest supporters. He has attended our meetings frequently through the years, providing advocate support as well as monetary support for such things as our Good Care booklets. He also spends many hours working on legislative issues that affect long term care. Please join us as Bob brings us up to date on happenings related to nursing home residents.

Bob Edwards, Esquire grew up in south Lonoke County, in the small farming community of Tomberlin. After graduating from England Public High School, he attended Hendrix College in Conway where he received his B.A. in Biology in 1991. After spending some time in the political arena working for Senator Dale Bumpers, among others, Bob earned his JD from the Bowen School of Law in Little Rock in 1998. Upon graduation, Bob was an integral part of the successful team that helped elect Mark Pryor to the Attorney General's Office. After the election, he went to work for General Pryor, eventually serving as the Chief of Staff in the Attorney General's Office. Bob was with the law firm of Wilkes & McHugh, P.A. in Little Rock from 2003 to July 1, 2013 when he started his own firm. He is licensed to practice law in Arkansas, Kentucky, Georgia, Illinois, Missouri, Pennsylvania, and Tennessee with his practice being focused primarily on nursing home and tractor-trailer litigation. He currently serves as president of the Arkansas Trial Lawyers Association, and is also a member of the Arkansas Bar Association, the American Bar Association, and the American Association for Justice. He is also active in AAJ's Nursing Home Litigation Group and Interstate Trucking Litigation Group. In addition to practicing law, Bob has served as a member of the Board of Directors of the England Public School District in England, Arkansas. He currently is a member of the Board of Alumni at the Bowen School of Law having recently served as its President. Bob is married to Tiffany Fitch of Hindsville. They have one daughter, Katharine Grace, and live in Little Rock where they attend Trinity Episcopal Church.



From the President's Desk Martha Deaver

As many long time AANHR members know I spent a great deal of time visiting with family members who encounter problems with the care their loved ones receive in nursing homes and also looking over survey reports detailing deficiencies cited on facilities during surveys.

Stormy Smith, Program Manager with the Office of Long Term Care (OLTC) and a Certified Surveyor himself, spoke at the February AANHR meeting about the Survey process for nursing facilities. Most readers likely picture a survey as a series of questions in order to get an opinion or evaluation of an issue, candidate etc. A better term for a survey as it relates to nursing homes might be inspection and its assessment.

Inspectors show up at the nursing home unannounced and spend hours, usually a few days, inspecting care methods, dietary offerings and procedures, medication dispensation and many other facets of the care the facility staff provides the residents under their care.

Currently regular inspections of nursing facilities take place at intervals of between nine and fourteen months. Therefore, if the facility where your family member resides has not had an inspection in the past year, facility staff might be expecting one shortly so might begin an improvement project to paint and spruce up, perhaps hire a few extra staff in order to prepare for an expected visit sometime soon. One of AANHR's board members once said he/she could tell if inspectors were in the building if a wet washcloth appeared on food trays because that normally did not happen.

Readers need to be aware that copies of these inspection aka deficiency reports are available to the public by contacting the state office of long term care. Deficiency reports do not require a Freedom of Information request and the best way to request/access one is by email. Requests should be specific as to name of nursing facility and the time period desired. Survey reports are also required to be available somewhere near the facility's primary entrance so interested parties may read through them.

CMS (Centers for Medicare Medicaid Services) is currently working to standardize survey reports nationwide. Therefore, if you arrive at the nursing facility during a survey you will likely encounter a surveyor who has been assigned to one hall, perhaps using a portable computer device that provides standardized questions to indicate whether deficient care methods or practices are present.

If/When deficiencies are cited the facility must provide within a set time period a remedy/ plan of action to correct it. Severity of the deficiency is contingent upon whether actual harm is present and the number of residents affected along with other criteria.

By the way, family members are allowed to visit with surveyors if they have questions. Sometimes family members will also be invited for an interview with a surveyor as will a sampling of residents.

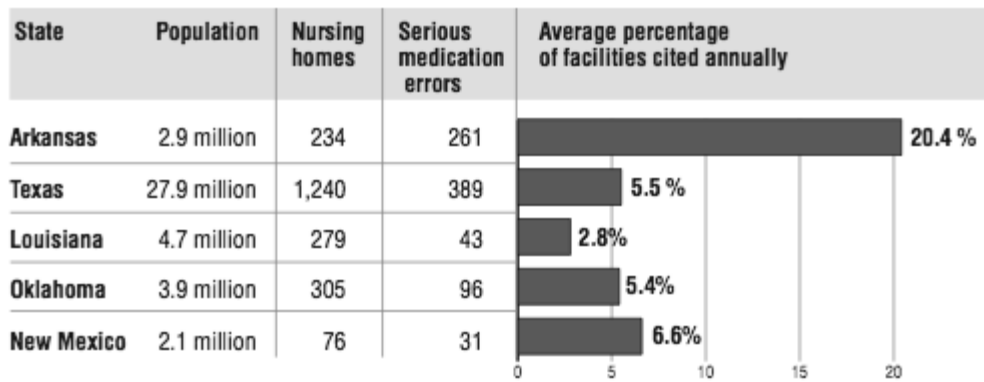
ARKANSAS' REST HOMES HIGH IN MEDICATION ERRORS

Watchdogs report 261 'significant' medication mistakes from 2013-17

HUNTER FIELD / Reprinted from ARKANSAS DEMOCRAT-GAZETTE 12-3-17

Medication errors in Arkansas nursing homes

The number of serious medication errors found at nursing homes in the state is high. Here's a comparison of Arkansas with other states in the same Centers for Medicare and Medicaid Services region from 2013-17.



SOURCE: Centers for Medicare and Medicaid

Arkansas Democrat-Gazette

SOURCE: Centers for Medicare and Medicaid Arkansas Democrat-Gazette

GASSVILLE — Linda Cooper spent her final days in a north Arkansas nursing home working crossword puzzles — always in ink. Hers wasn't a slow spiral into death's grasp. It was sudden. The 65-year-old died after a nurse with a history of making mistakes gave her another resident's high-dose narcotics. The mistaken medication administered to Cooper was one of 261 "significant" medication errors uncovered by watchdogs in Arkansas nursing homes since 2013, according to an *Arkansas Democrat-Gazette* analysis of federal nursing home data.

A significant medication error is one that discomforts or jeopardizes the health of a resident, according to the U.S. Centers for Medicare and Medicaid Services. Inspectors take three factors into account when determining whether a medication error rises to the level of "significant": the resident's condition, the frequency of the error and type of drug. Federal data show significant errors on average are discovered in one of every five nursing homes in Arkansas, which has 234 such facilities. Neither state nor federal regulators could provide information on how many medication errors have resulted in deaths. Fines were levied in 43 of the cases, totaling about \$1.3 million, according to federal data.

Arkansas' significant error citation rates far surpass those in most other states, and the Natural State is the only state that has ranked in the top 3 for percent of errors in each of the past five years. The percentage of Arkansas nursing homes cited in 2013 and 2014 was the highest in the country. Also, for those years, Arkansas was the only state where more than 20 percent of the nursing homes were cited. That's counting only the errors that have been made public. Many errors go undiscovered by inspectors and are unreported, as Cooper's case illustrates. Her nurse had made multiple significant medication errors, which the facility didn't report before Cooper's death, according to reports.

(Continued on page 4, "Medication Errors in Arkansas Nursing Homes")

Medication Errors in Arkansas Nursing Homes

(Continued from page 3)

Government data account for only errors found by regulators, who readily acknowledge that they can't catch every infraction. Furthermore, facilities are required to report medication errors only if the facility determines an error rises to the level of abuse, neglect or maltreatment. Inspectors enter facilities annually unless a complaint is received, in which case inspectors investigate the complaint. They work to discover medication errors by reviewing selections of records and by watching nurses give medicine to residents. "The fact that we do a sample — we have no choice but to do a sample — is going to ensure that there are deficiencies that we never see," said Frank Gobell, deputy director of the Arkansas Office of Long Term Care, which inspects Arkansas nursing homes.

Significant medication errors have been found in facilities ranging from some of the top-rated nursing homes in Arkansas to the state-run home for military veterans in Fayetteville. Martha Deaver, president of Arkansas Advocates for Nursing Home Residents, said that for many years she's seen nursing home residents suffer because of medication errors in Arkansas nursing homes. The current rates, she said, are concerning. "The outcome of these serious violations of our laws not only causes harm, but in many cases the nursing home resident does not survive," Deaver said. "Nursing home residents are our most frail and vulnerable citizens. They are at the mercy of their nurses to make sure they receive their medications properly."

While resident advocates are alarmed over Arkansas' medication administration issues, representatives of the nursing home industry see it differently. Rachel Bunch, executive director of the Arkansas Health Care Association, said the errors represent only a small fraction of the "hundreds of thousands" of medications administered each year in Arkansas. "Any individual citation requires the proper response, but we don't believe the rate is a widespread concern in Arkansas," Bunch said. Arkansas' significant medication error citation rate has been nearly triple the national average over the past decade, according to data from the U.S. Department of Health and Human Services, but officials and industry insiders don't know why. Bunch and Carol Shockley, director of the state Office of Long Term Care, cautioned against comparing error citation rates among states, because each state has different inspectors who may interpret things differently. "You're dealing with humans," Shockley said. Bunch also noted that federal guidelines state that the "relative significance of medication errors is a matter of professional judgment." Based on this, you can see where the potential for differing measurements of medication errors versus significant errors exists," Bunch said.

Compared with other states in Arkansas' U.S. Centers for Medicare and Medicaid Services region (Texas, Louisiana, Oklahoma and New Mexico), nursing homes in Arkansas have been flagged for significant medication errors at four times the rate of the other states. Arkansas nursing homes were cited over the past five years more times than Louisiana, Oklahoma and New Mexico combined. Oklahoma and Louisiana have higher populations and more nursing homes than does the Natural State. While each error is an individual event, most experts trace them to a common issue — staffing. Nursing homes typically have high employee turnover, and staffing levels are usually kept near a minimum to maximize profits, plaintiffs' attorneys and resident advocates say.

"Medication errors happen for a variety of reasons, but in my opinion, they almost always lead back to staffing," said Bob Edwards, a Little Rock attorney who specializes in nursing home abuse and neglect cases. "It takes a lot of teamwork to provide proper care between nurses and aides, but when owners don't put enough team members on the floor, it makes it hard to provide adequate care."

In Cooper's case, Gassville Therapy and Living had shortages in certified nursing assistants for every day in January leading up to the fatal error on Jan. 11, according to staffing reports submitted to the State

Office of Long Term Care. The shortfalls, though, didn't rise to the level of violating federal regulations because enough licensed nurses were on duty to keep the total staff-to-resident ratio in compliance, records show.

However, experts said, such a practice stresses nurses because they must pick up slack left by the shortage in certified nursing assistants, creating an environment ripe for mistakes. Certified nursing assistants handle much of the direct care for residents, such as feeding, bathing, moving, toileting and answering calls. "When a facility is short-staffed — and it does happen — a nurse can't go out and hire more nurses; an aide can't go out and hire more aides," Edwards said, speaking generally about nursing homes. "That's a decision at the corporate level. The staff on the floor has to deal with the situation the best it can. "Not only is it unfair to the residents when the facility is short-staffed, it's unfair to the staff," Edwards said.

What do medication errors look like? Sometimes a nurse simply gives the medication on the wrong side of a meal. In Cooper's case, the error was the result of two years of failures by the facility to properly train one of its nurses, according to a survey report from the state Office of Long Term Care. Before licensed practical nurse Cynthia Sakian gave Cooper morphine and Percocet that were prescribed for another patient, she had made at least five previously documented medication errors in the less than two years of being issued her Arkansas nursing license, the report said. Those errors included administering a harmful dose of nerve pain and seizure medication after misreading the patient's records, giving the wrong insulin after grabbing the wrong pen, and giving an incorrect narcotic after again misreading a resident's records.

Sakian was also one of several nurses who in 2016 documented that they had been giving a resident medicine for Alzheimer's disease, when in fact the facility didn't have any of that medication in stock. Each time Sakian was "counseled" by a supervisor, but the facility allowed her to continue administering medication and didn't put plans in place to monitor her in the future, according to a survey report by the state Office of Long Term Care. She was fired after the fatal error involving Cooper, according to the report. The Arkansas State Board of Nursing reviewed the case and issued her a letter of reprimand, requiring her to complete a pair of courses on giving medication. Her nursing license was revoked for about six months, but she was cleared to continue practicing in September. Attempts to reach Sakian weren't successful, and her attorney didn't respond to a message requesting comment.

Cooper's family sued Gassville Therapy and Living, Reliance Health Care, Eagle Health Systems and LTC-Systems/RX. All four companies share a corporate address in Conway, and the latter three comprise a web of businesses that own and manage the facility. All three companies are primarily owned by brothers Bryan and Brandon Adams. The case was settled out of court under undisclosed terms, and an attorney for the family declined to comment, citing a confidentiality agreement. The Cooper family's lawsuit is the type that would be hampered by the passage of a constitutional amendment on tort reform that's set to go before Arkansas voters on next year's November ballot. The measure would cap punitive and noneconomic damages, as well as limit attorney's contingency fees to one-third of the net amount awarded their client.

Tort reform has long been championed by the nursing home industry, and its staunchest opposition has come from plaintiffs' attorneys. A similar measure was to appear on the 2016 ballot until the Arkansas Supreme Court ruled that the ballot title contained unclear terms. In support of that measure, Reliance Health Care in 2016 gave \$173,140 to Health Care Access for Arkansans, a ballot question committee formed to advocate for the tort reform amendment's passage. The Arkansas Health Care Association, which receives monthly dues from nursing homes in the state, contributed \$585,677 to the tort reform effort.

Medication Errors in Arkansas Nursing Homes

(Continued from page 5)

Eric Bell, Reliance Health Care's general counsel, said that even one medication error is too many, but he noted that facilities that contract with Reliance have administered about 80 million doses of medication to residents since 2013. "Potential residents should take comfort in such a low error rate," he said. "The odds of a significant medication error is literally less than one in a million." Asked why a nurse would be allowed to continue giving medication despite having a history of making medication errors, Bell said that confidentiality laws precluded him from commenting on specific patients or personnel matters.

As for the Arkansas Health Care Association, Bunch, the executive director, said medication errors have been on its radar. Within the past year, Bunch said the group has worked to develop an educational program with clinical best practices using input from pharmacists, medical directors, nurses and state regulators. The data show signs of improvement, even though Arkansas' significant error citation rate remains well above that of other states. After peaking with errors at about 27 percent of nursing homes in 2014, the rate dropped below 20 percent in the next two years, and its on pace to drop below 15 percent this year.

For Cooper's family, her death was a cruel irony. The mother of two was a nurse before several health complications stole her mobility. Months after her sister Linda's death, Elaine Sondy sat in the corner booth at a north Arkansas McDonald's inside a Wal-Mart. Beside her husband, she discussed the sister she so dearly misses — the razor-sharp wit, the keen political observations, the sisterly gossip. "Linda was made of some pretty stern stuff," said Elaine's husband, David. Elaine nodded slowly with a small smile, her eyes fixated on the table. "[Elaine] was at the nursing home so much, they could've had her on the payroll," David joked, drawing a slightly larger smile from his wife. In the months after Cooper's death, Elaine gradually learned the chain of events that killed her sister. She's gracious and angry all at once. "I know it was human error, but people were turning their head to a grave thing," Elaine said. "This was preventable."

Volunteer Ombudsmen Always Needed to Assist Regional Ombudsmen

Paid Regional Ombudsman contact info along with their pictures should be posted in a prominent location in your facility.

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 your local Area Agency on Aging or 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, Conway (501-847-1016)

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

Treasurer - Nancy Patterson, Searcy (501-278-6577)

Members of the Board: Martha Blount, Searcy (501-278-9168); James Brooks, North Little Rock (501-454-6279);

Harry Burns Jr. White Hall (870-267-5298) Julie Edwards, Alexander (501-425-9959); Cindy Murders, Sheridan;

and Ann Pinney, Benton (501-249-1084).

Newsletter Editors: Martha Blount, Searcy; 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/seniorjustice



Arkansas Advocates for Nursing Home Residents

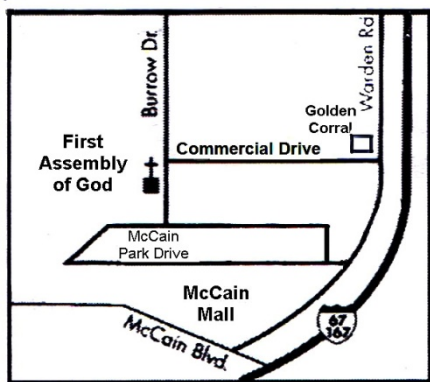
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Strength in Numbers, AANHR Needs You!!

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.

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 just inside the door off the alley-drive.