

PROTECTING NURSING
HOME RESIDENTS

JULY 2004

Arkansas Advocates for Nursing Home Residents



NEXT MEETING

Monday,
July 12, 2004

MEETING PLACE:

First Assembly of God
Church
4501 Burrow Road
North Little Rock
Directions to church
on page 8

10 a.m.

Meeting for Members,
Family and Friends of
Residents (Closed to
persons representing
the nursing home
Industry).

11 a.m.

Public Meeting:
Attorney General Mike
Beebe

12 noon

Bring a sack lunch.

AANHR's Mission:

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

We're on the web!

www.AANHR.org

Conway (501) 327-3152 • Fairfield Bay (501) 884-6728
Little Rock (501) 225-4082

**There will be no
AANHR MEETING IN AUGUST,
But we hope to see you on July 12!**

Attorney General Mike Beebe to be AANHR's July Speaker

Attorney General Mike Beebe filed seven lawsuits against substandard Arkansas nursing homes in 2003 and at least three in the first months of 2004. He will update us on the status of the lawsuits of 2003 and 2004, which seek more than \$45 million in civil penalties and fines. AANHR has also asked Mr. Beebe to discuss his opinion on whether caps on lawsuit judgments will be judged constitutional when they are appealed. You don't want to miss this meeting.

Status of AANHR's Challenge of the State Tort Reform Bill

On June 17 the Supreme Court ruled it did not have jurisdiction to hear the class action suit brought by AANHR, the Arkansas Trial Lawyers Association, the Arkansas AFL-CIO and three individuals. The suit challenged the constitutionality of the recently enacted Tort Reform bill.

Attorney Morgan "Chip" Welch explained, "the Court DID NOT hold the "tort reform law" to be constitutional, but held that it could not be challenged through a suit like this and must take it up on an appellate basis. While we'll ask for a reconsideration and consider going to Federal Court, it is likely we'll have to go the 'long way'...one victim's case at a time."



From the President's Desk

Nancy Allison

It appears rumors have been flying about changes in the Department of Human Services Office of Long Term Care. A recent Arkansas Democrat Gazette article indicated that an official within the department has denied any changes and assured "us" that Director Carol Shockley and the people who work for her will remain unchanged.

AANHR has often spoken on behalf of the Office of Long Term Care and will again defend the regulations they enforce on behalf of our loved ones in nursing homes. We hope and pray that we do not hear this rumor again.

Seven months ago a Congressional Report by the Special Investigations Division of the U.S. House of Representatives was published and shocked us with the facts showing that 95% of the nursing homes in Arkansas had at least one violation with the potential to cause more than minimal harm to residents. One-third of the homes had violations that caused ACTUAL HARM to residents.

The OLTC is required by federal and state law to go into these nursing homes once every 12-15 months and they are required to cite these facilities for failed practices that will or have caused harm to the residents. I find it difficult to understand why anyone would want to curtail the work of this agency – the agency that is licensed to protect those frail residents of nursing homes, the agency that enforces the 1987 Federal Resident's Rights Reform Law that guarantees quality of life to those residents.

Furthermore, this agency is the protector of your tax dollars. When a nursing home is not meeting their obligations of care, they are using Medicaid (and in some cases, Medicare) monies inappropriately. We must be the eyes and ears of the Office of Long Term Care when we are visiting our loved ones. We can help protect Resident's Rights and eliminate Medicaid/Medicare fraud.



AANHR at Work

Nancy Johnson, Vice President of AANHR, recently spoke about nursing homes to a Home Extension group in Berryville, Arkansas. Nancy is shown in the picture at left, receiving a basket of flowers after her talk.

Director of the Office of Long Term Care, Carol Shockley, Was AANHR's June Speaker

By Catherine Donovan

Carol Shockley, Director of the Office of Long Term Care (OLTC) discussed nursing home care issues at AANHR's June meeting. The Office of Long Term Care is the regulatory and licensing agency for nursing homes and related facilities. They are charged with doing surveys and inspections annually or when there is a complaint filed. Complaints alleging abuse or neglect are to be investigated within two business days and allegations of actual harm within ten business days.

Carol gave suggestions for anyone filing a complaint. She suggests that the complainant be thorough and be factual, giving details to the complaint intake nurse. If the complainant has worked with the facility in attempting to resolve the complaint prior to making the complaint to OLTC, this is helpful information. After investigating complaints, the surveyors may determine that the complaint is substantiated with or without deficiencies or that the complaint is not substantiated. If deficiencies are cited, the facility will usually have an opportunity to correct the failed facility practice prior to the imposition of enforcement actions. A facility's failure to achieve substantial compliance with Federal regulations may ultimately include civil money penalties, denial of payment for new admissions, and termination of the provider agreement.

Carol also discussed the staffing of nursing homes. There is a misconception that a facility can be short-staffed for up to twenty percent (20%) of its shifts each month before a deficiency can or will be cited or a penalty is imposed. This is incorrect. The minimum staffing standards are just that – the absolute minimum number of staff that must be on duty throughout the entire shift. Technically, if a facility is short staffed by one person for a single shift, the Office of Long Term Care can cite a deficiency. The twenty percent (20%) reflects the point at which *enhanced* penalties may be imposed against facilities. When a facility has short staffing below twenty percent (20%), the Office of Long Term Care can only impose what amount to "standard" remedies – which under the law is fairly low. However, once a facility reaches twenty percent (20%) of missed shifts in a month, the penalties that can be imposed rise significantly. Specifically, beginning with twenty percent (20%), a penalty of \$2500 is imposed. If understaffed 25% of the time, the penalty is \$7500 and all new admissions are denied. A \$10,000 penalty is assessed when the level exceeds 25% and, again, the facility can have no new admissions. (See status of CMPs on page 5). In addition, once a denial of all new admissions is imposed, it is not lifted until the facility has a full month of less than twenty percent (20%) of missed shifts.

We were updated by Carol on the status of increasing hours of CNA training. She advised that there is support for the need for revamping the CNA training program to include additional training hours. Additional training for staff working with residents having Alzheimer's and Dementia is especially needed. The Office is currently working with legislators and with the Arkansas State Board of Nursing concerning the recommendation to transfer CNA training to the ASBN. She cautioned that as we advocate for increased hours, we should be mindful of the fiscal reality of the cost of training and the required state general revenue that will be necessary for the training increases. It may be best to outline the type of training that is needed before recommending a set number of hours of training.

The OLTC is presently developing regulations for Feeding Assistants, and hopes to begin promulgation soon. The training may be from 14 to 16 hours. These employees will not be CNAs but will work 2 or 3 hours a day to assist with residents' eating and hydration.

Because of the hard work, travel and salaries that are not competitive, OLTC has a problem with staff turnover. Surveyors leave for better paying jobs which involve less travel, higher pay, better benefits, or a combination of the three.

Honorary Board Members Named to AANHR Board

AANHR has named two Honorary Members to be placed on its Board. They are Billie Bice and Tom Taggart who are no longer able to attend AANHR meetings due to their health. Read on to learn more about Billie Bice. AANHR's next newsletter will feature Tom Taggart.



Billie Bice

Billie was an Administrative Assistant for forty years before she retired.

Nursing home care issues came to Billie's attention when her brother, a nursing home resident for two years, experienced serious problems due to neglect. A former AANHR board member, her heart's desire is to assist AANHR in any way she can.

She would love to see the idea of "adopting" nursing home residents take hold. "Adopting" a resident simply means you befriend a resident and visit them consistently. It does not require that you spend a lot of money. Billie sees this idea taking hold in family councils and churches and the general public, not just in Arkansas, but throughout the country.

AANHR Tip

Some nursing home Family Councils may want to encourage "adoption" of residents as one of their projects. Families and friends of nursing home residents could also go to their churches and encourage potential nursing home visitors to take a special interest in one or more residents. Church groups and others often come to nursing homes to present programs to a group, but rarely commit themselves to one or two friendships of nursing home residents. You might ask the facility to recommend someone who is bedfast or who rarely gets out of their room and doesn't have many visitors. Besides having someone to talk to, they might want to dictate a letter or have you read to them.

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. A social worker or nurse will be available to answer questions and address concerns. 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://www.medicaid.state.ar.us/general/units/oltc/index.htm>

You should also report complaints to the Attorney General's office! (OLTC no longer alerts that office to suspected criminal activity.)

The Arkansas Attorney General's office has a toll free number to investigate adult abuse and Medicaid fraud.

Please do not hesitate to call them.
TOLL FREE: **1-866-810-0016**
LITTLE ROCK LOCAL NUMBER:
682-7760

For additional assistance or a listening ear, call AANHR at (501) 327-3152 in Conway; (501) 884-6728 in Fairfield Bay; or (501) 224-4082 in Little Rock. For instructions on how to file a complaint, visit our website at www.aanhr.org or e-mail us at info@aanhr.org.

Your local **Ombudsman's** number should be posted in the nursing home. You may also call your local Area Agency on Aging to secure **the name and phone number** of the Ombudsman.

Status of Civil Money Penalties (CMPs) Imposed for Staffing Violations

in Arkansas Nursing Homes 07/01/02 – 06/30/04

1. In the year 2002 nine nursing homes were fined for failure of staffing violations; seven nursing homes have paid their fine; two have not.
2. In the year 2003 fifteen nursing homes were fined for failure of staffing violations; eight homes have paid their fine; seven have not.
3. In the first six months of 2004 fourteen nursing homes were fined for failure of staffing violations; eight homes have paid their fine; seven have not.

**Total CMP for Pattern of Failure Staffing Violations:
\$205,000.00**

**Total CMP collected for Pattern of Failure Staffing Violations:
\$137,500.00**

Special Thanks

Jack Wagoner for keeping AANHR supplied with copies of the book, DANGER ZONE.

Brian Reddick and Bob Edwards of Wilkes and McHugh for its generous donation toward the publication costs of this newsletter.

David Couch of Grayson and Grayson, PA, for employing Brent Birch of One6Media, LLC, to do AANHR's new website design.

Clark Mason of Hare Wynn Newell & Newton for financial and promotional support over the years.

First Assembly of God Church in North Little Rock for providing a meeting room free of charge.

Arkansas State Ombudsmen

What is an Ombudsman?

An ombudsman is an advocate who can help people get fair treatment. A long-term care ombudsman stands up for residents of nursing homes and other long-term care facilities.

In seeking good care in a nursing home, if you are not satisfied with results after going through nursing home protocol, consider contacting the ombudsman for your area before you go to the Office of Long Term Care with your complaint.

If you do this, AANHR would like to hear from you about the results.

A list of the State Regional Ombudsmen follows. Bear in mind, however, that each nursing home is required to post in a highly visible location, the name of the Regional Ombudsman for that home.

REGION I

Carol Loring, Ombudsman

Northwest Arkansas Area Agency on Aging

1510 Rock Springs Road

P.O. Box 1795
Harrison, AR 72602
Phone: 1-800-432-9721 or 870-741-1144

Counties: Baxter, Benton, Boone, Carroll, Madison, Marion, Newton, Searcy, and Washington

REGION II

Royce Haigwood, Ombudsman

White River Area Agency on Aging

3998 Harrison Street

P.O. Box 2637
Batesville, AR 72503
Phone: 1-800-382-3205 or 870-612-3000

Counties: Cleburne, Fulton, Independence, Izard, Jackson, Sharp, Stone, Van Buren, White and Woodruff

REGION III

Harold McMickle, Ombudsman

East Arkansas Area Agency on Aging

P.O. Box 5035

Jonesboro, AR 72401
Phone: 1-888311-2238 or 870-930-2238

Counties: Clay, Craighead, Crittenden, Cross, Greene, Lawrence, Lee, Mississippi, Phillips, Poinsett, Randolph, and St. Francis

REGION IV

Carolyn Thomas, Ombudsman

Area Agency on Aging of Southeast Arkansas

P.O. Box 8569

Pine Bluff, AR 71611
Phone: 1-800-264-2535 or 870-543-6300

Counties: Arkansas, Chicot, Cleveland, Desha, Grant, Jefferson, and Lincoln

Jean Douglas, Ombudsman

Area Agency on Aging of Southeast Arkansas

P.O. Box 722
Monticello, AR 71655
1-800-737-1629 or 870-367-9673

Counties: Ashley, Bradley, and Drew

REGION V

Herman Estaun, Ombudsman

Carelink
706 West 4th Street

P.O. Box 5988

North Little Rock, AR 72119
Phone: 1-800-482-6359 or 501-372-5300

Counties: Faulkner, Lonoke, Monroe, Prairie, Pulaski, and Saline

REGION VI

Emelie McDonald, Ombudsman

Senior Specialists
West Central Arkansas Area on Aging
905 West Grand Avenue

Hot Springs, AR 71913
Phone: 1-800-467-2170 or 501-321-2811

Counties: Montgomery, Garland, Hot Springs, Clark and Pike

Judy McCready, Ombudsman

Senior Specialist
West Central Arkansas Area on Aging
1310 West Main - Suite A
Russellville, AR 72801
Phone: 1-800-467-2171 or 501-967-9300

Counties: Conway, Johnson, Perry, Pope, and Yell

REGION VII

Deborah Hanson, Ombudsman Southwest Arkansas Area on Aging

600 Columbia
P.O. Box 1863
Magnolia, AR 71753
Phone: 1-800-272-2127, 870-234-7410

Counties: Calhoun, Columbia, Dallas, Hempstead, Howard, Lafayette, Little River, Miller, Nevada, Ouachita, Sevier, and Union

REGION VIII

Debbie Medley, Ombudsman

Western Arkansas Area on Aging
524 Garrison Avenue
P.O. Box 1724
Fort Smith, AR 72902
Phone: 1-800-320-6667 or 501-783-4500

Counties: Crawford, Franklin, Logan, Polk, Sebastian, and Scott

All Regional Ombudsmen can be contacted via email by going to the Arkansas Ombudsman web page.

NURSING HOME FAMILY COUNCIL

(Quotes are from the Arkansas Department of Human Services'
"The Family Council Guide")

1. **DEFINED:** A group of family and friends of residents in a certain nursing home.
2. **PURPOSE:** "to protect and improve the quality of life of residents in the nursing home and to give families a voice in decisions that affect them and their loved ones."
3. **IT'S MOST IMPORTANT FUNCTION:** To hear and process concerns of family members and friends. "The concerns of several people...receive a quicker response followed by...action..."(Than an individual concern.)
4. **HOW DOES A FAMILY COUNCIL GET ORGANIZED?** Either the facility or an interested family member can start a Family Council. You can begin with just a few interested people.
5. **WHAT IS THE ROLE OF THE FACILITY?** If the facility is the initiator, it should have the members elect a president; from that point on, the families should run Family Council, and staff should attend part or all of the meeting at invitation only. The law requires that the facility provide a meeting place there at the home, if it is needed. The facility must be supportive of Family Council as it is being organized, as well as after it is formed. If asked, the facility might send out meeting notices to each family and/or allow posting of meeting notices.
6. **WHAT ARE THE RIGHTS OF THE FAMILY?** To organize a family council with the cooperation of the facility as described above, to meet away from the facility if desired, and to keep confidential what is said in meetings.
7. **HOW MANY OFFICERS ARE NEEDED?** No limit; only the president is essential.
8. **HOW MANY FUNCTIONS ARE NECESSARY?** Hearing and processing family members' concerns is the only necessary function. As the council grows, and as it chooses, any number of functions may be added. (Consult "The Family Council Guide" provided by Office of Long Term Care, P. O. Box 8059; Slot 405, LR, AR.72203-8059 or pull it up on the OLTC website: www.medicaid.state.ar.us/general/units/oltc/index.htm).
9. **HOW ONE FAMILY COUNCIL OPERATES:** The president is the only officer. A meeting is scheduled once every one, two or three months, as the need is indicated, or as family members request it. The president asks people to put their concerns in writing and give them to him before the meeting. The administrator and Director of Nursing are only present by invitation of the president. After some brief introductions and pleasantries, people voice concerns. Then with written concerns in hand, the president reiterates the expressed complaints and politely asks the staff what can be done to improve things. The understanding is clear: A reasonable length of time will be given for the facility to respond. If, within that time things do not sufficiently improve, the group will go to the Office of Long Term Care about the matters. One meeting was devoted to praise of the facility because of the overall improvement since the last meeting.

Strength in Numbers, AANHR needs you!!

Please take a moment to find out if you've renewed your AANHR membership. (Our fiscal year began on November 1, 2003. If you have not paid your dues since August 2003, then you are past due). We are so appreciative of people like you who support us because together we can make a difference.

- I wish to receive the AANHR newsletter
- \$15 per individual membership enclosed
- \$20 per family membership enclosed
- \$4 per student or CNA
- Waive dues because of financial hardship

Please make checks payable to:

AANHR P.O. Box 22421 Little Rock, AR 72221-2421

AANHR Officers and Board Members

President—Nancy Allison, Conway

Vice President—Nancy Johnson, Fairfield Bay

Secretary—Kelly O'Quinn, Little Rock

Treasurer—Ralph Erwin, Little Rock

Members of the Board of Directors: Marce Best, Maumelle; Betty Buckta, Fairfield Bay; Virginia Cross, Little Rock; Martha Deaver, Conway; Catherine Donovan, Little Rock; Fred Plant, Little Rock; Larry Wakefield, Fairfield Bay

Honorary Board Members: Billie Bice, Batesville; Tom Taggart, North Little Rock

AANHR Meeting Directions

(see map below)

First Assembly of God Church, 4501 Burrow Road, North Little Rock, Arkansas

From Little Rock, on Highway 67-167 take the west McCain Blvd. exit. Immediately after crossing the overpass, turn right (north) on Warden Road (the access road that parallels the divided highway and McCain Mall). Stay on Warden Road for three blocks.

Turn left on Commercial Street, the street with the Golden Corral restaurant on the corner. Commercial Street ends three blocks later at Burrow Road.

The church is at the end of Commercial Street and is easily recognized by three large crosses. Proceed ahead in the parking lot (do not turn right) past the crosses to the southwest corner of the building. Turn right on the narrow alley-like drive. Enter the door halfway down this side of the church. The meeting is in room 113 (immediately inside the entrance door).



Arkansas Advocates
For

Nursing Home Residents

P. O. Box 22421 Little Rock, AR 72221-2421

*PROTECTING THE RIGHTS OF
NURSING HOME RESIDENTS FROM
FRAUD, ABUSE, AND NEGLECT*

NON-PROFIT
ORGANIZATION
U.S. POSTAGE PAID
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PERMIT NO. 1886



MAP TO MEETING