

PROTECTING NURSING
HOME RESIDENTS

SEPTEMBER
2004

Arkansas Advocates for Nursing Home Residents



NEXT MEETING

Monday,
September 13, 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:
Kathie Gately, BSW
State Long-term Care
Ombudsman

12 noon

Bring a sack lunch.

AANHR's Mission:

**"To protect and im-
prove 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

State Long-term Care Ombudsman to be AANHR's Speaker on Monday, September 13

Kathie J. Gately, BSW, graduated from Arkansas State University in May of 1990 where she obtained an undergraduate degree in Social Work. She relocated to Little Rock in 1990 where her oldest son was attending the Arkansas School for the Deaf. Since 1985, her career has involved working for the elderly and disabled. Serving as the Arkansas State Long-term Care Ombudsman, Kathie is committed to supporting the mission of the Ombudsman Program along with expanding the Volunteer Ombudsman Program. She will discuss the roll of Ombudsmen and why they are an important link in getting good care for nursing home residents.

Civil Money Penalties (CMP) for Pattern of Failure of 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 Viola-
tions: \$205,000.00**
**Total CMP collected for Pattern of Failure Staff-
ing Violations: \$137,500.00**



From the President's Desk

Nancy Allison

While reading the August issue of "Aging Arkansas" I was stunned at facts in an ad purchased by Arkansas Health Care Association. This is the organization representing most of the nursing homes in Arkansas. This ad states that the staffing for patient direct care exceeds the state and federal minimums. State law requires 2.8 hours of direct care staffing per day for each resident and it appears that many homes are staffing at 3.32 hours of direct care per day as stated. However, this ad states the federal preferred minimum is 3.0 hours of direct care per day, while in fact CMS (Centers for Medicare and Medicaid Services) places the preferred minimum staffing hours at 4.1 (not 3.0). 4.1 hours is a MINIMUM below which residents will experience bad outcomes.

So I got to thinking "how else is the public being misled?"

A large ad appearing in a local newspaper each week congratulates a nursing home for an excellent annual certification. It gives the impression that an outside organization is giving the praise when, in fact, it is the Management Corporation that owns and operates the home.

Another nursing home advertises itself as the most highly touted nursing and rehab center in the state citing an award for its wound protocol received from Arkansas Foundation for Medical Care (AFMC). Indeed this home did receive an award for its improvement in preventing and healing pressure sores after volunteering to work in a federally sponsored program with AFMC, but the award was only for the work they did in improving their wound care.

Another ad appearing in a major newspaper indicates Certified Nursing Aides (CNA's) are extremely well trained with continual training offered to them. CNA's are required to have 75 hours of training – both classroom and clinical combined. They are then required to have one hour a month of in-service training. The many, many thousands of hours of training referred to in the advertisement are offered, for the most part, to nurses and administrators, but usually not required. Though both administrators and licensed nurses are required to do ongoing education each year, to imply they participate in all of the training itemized in the ad is misleading.

I know the monthly calendars at most nursing homes are filled with wonderful activities. Remember that these only help the resident if they actually happen and the residents are encouraged to attend. Keep your eyes and ears open, ask questions and remember, things are not always what they seem.

Attorney General Mike Beebe—AANHR's July Speaker

By Martha Blount



Arkansas' chief legal authority concerning citizens' privileges since January 2002, Attorney General Mike Beebe spoke to AANHR members in July. He compared his position to that of being a "protector" for those who are most vulnerable. His realm of influence includes among other things: nursing home residents, children and the internet, environmental issues, and criminal activity.

What's going on in the Attorney General's office relative to nursing home care? When Beebe took over he created a stand-alone department to address abuse and fraud of the elderly. This department is as large as ever. It addressed 3849 complaints in 2003 with less than 300 confirmed as founded complaints. Nearly 3750 of these were forwarded from OLTC. Thus far in 2004, 2241 complaints have been addressed at the AG's office with ninety-eight percent (2192) originating from OLTC.

Arkansas' Medicaid Fraud Unit is essentially the same size as in the previous administration, according to Beebe. The OLTC is required by law to report suspected criminal abuse. Currently, there are eleven criminal cases pending involving nursing home residents with six of those being handled by Attorney General office staff. Various other cases have been settled involving restitution. This restitution money is reentered into the Medicaid/Medicare system and thus attracts more dollars for health care when compounded with the federal monies.

An audience member requested that Attorney General Beebe address the issue of the legality of arbitration clauses in nursing home resident's contracts for care. The possibility of issuing a consumer alert to warn citizens about the dangers of signing arbitration clauses in nursing home contracts was posed. Beebe's response was that " the Attorney General's office theoretically represents several facets of health care including nursing home owners, as well as medical and nursing schools, but do not have contact with "teaching" elements so it is not part of the office's agenda to educate the public unless/until some danger is present that must be remedied."

Attorney General Beebe encouraged AANHR to promote good nursing homes via good publicity which would work as positive reinforcement to encourage bad nursing home administrations to clean up their acts. He suggested such strategies as promoting good nursing homes in publications such as [Aging Arkansas](#).

Asked for an opinion on the reported 103 nursing homes who have dropped liability coverage, Beebe mused that their viability might be jeopardized. He suggested the feasibility of an insurance pool or perhaps legislating a requirement for liability insurance. Currently, liability insurance coverage for nursing homes is not mandated by the federal government. However, he warned that more money spent for insurance results in less money available for care needs. (Continued on page 4).

Certificates of Insurance and Arbitration Clauses

By Larry Wakefield

Most of the readers of the AANHR Newsletter have loved ones in Nursing Homes or have had. You are familiar with all of the documents that must be read and/or signed at the time of enrollment for residency. If anyone ever has any questions about the admittance forms, they should seek the advice of an attorney, or at least the advice of someone familiar with the forms. I suggest you ask to take the form or forms in question home for 48 hours to study or to show to your attorney before admittance of your loved one.

Winston Churchill said: "Nothing is as consistent as change". A recent survey revealed that 103 Nursing Homes in Arkansas were not insured. A few days before your resident is admitted to the nursing home you should request Certificates of Insurance because you would wish to have recourse in the event of a resident's injury or death arising out of abuse or negligence. This will take a few days because the Nursing Home will have to ask it's agent or broker to secure the Certificates from the insurer's home office. The Certificates are signed by a home office executive, and give the policy numbers, the effective dates, the expiration dates, and limits of coverage, and pertinent endorsements. This is the best way to determine that you will have something to recover, if recovery is necessary.

Speaking of signing a lot of documents at time of admission, some nursing homes now ask those seeking admission to sign an Arbitration Clause. I recommend that you not sign it. **A NURSING HOME CANNOT LEGALLY DENY A PERSON WITH MEDICARE OR MEDICAID ADMISSION TO A NURSING HOME BECAUSE OF REFUSAL TO SIGN THE ARBITRATION AGREEMENT.** If you were to sign an Arbitration contract, you would be agreeing to take disputes to an Arbitrator. The Arbitrator's ruling is final. You cannot appeal. You lose your right to TAKE LEGAL ACTION.

We hope the up-coming session will pass legislation declaring it illegal to deny admission to private pay residents who do not wish to sign an Arbitration Clause.

(Mike Beebe, Continued from page 3)

Questioned about the Permit of Approval process, Beebe reminded audience members that the POA system was set up for a purpose: to restrict proliferation of services to the point that those services are no longer cost effective. However, one AANHR member pointed out the downside of Permit of Approval process might include the stifling of competition among homes which might contribute to lax, inadequate care. There was also mention of investigating the make up of the Permit board.

Attorney General Beebe praised AANHR for its dedication and effort on behalf of Arkansas' elderly infirm citizens and encouraged them to continue their advocacy and offered his office's assistance when needed.

**National Nursing Home Residents Rights' Day
October 4, 2004
Arkansas State Capitol - Front Steps 11:00 a.m.**

Please join us for the rally!
Arkansas Advocates for Nursing Home Residents

In celebration of Residents' Rights week (October 3-9), we hope you'll attend our rally on Monday, October 4. During the week of October 3-9, visit your friends in long-term care facilities. Discuss their rights with them: right to adequate care, clean and safe environment, free to complain without retribution. Do you think their rights are being honored? If not, contact the ombudsman for that area. The ombudsman's name and number should be posted conspicuously in the home. If the situation does not improve, contact AANHR.



Tom Taggart and his sister,
Kathryn, in 1998

**Tom Taggart, Honorary Board Member
of AANHR Board**

Tom Taggart, a retiree from maintenance for the city of Little Rock, is a charter member of AANHR. When he attended the first meeting in October 1995, both his wife and sister were nursing home residents, and he was interested in getting improved care for his loved ones. About six months later, his beloved wife died. He continued overseeing the care for his sister, Kathryn, for many years. He attended every AANHR meeting until a few years ago when his health failed shortly after Kathryn died.

Many AANHR members will never forget Tom Taggart and we miss seeing him. He faithfully "passed the hat" at our meetings, and made sure everyone had a chance to contribute to expenses. He, himself, made a very generous contribution every month, both monetary and otherwise – never for show! We're telling on him now.

We observed his love and faithfulness to his sister, Kathryn, knowing he visited her two or three times daily at the nursing home. He assisted her with meals and kept a close watch on her. Whenever he thought she was not getting the care due her, he went through the proper protocol to get that care. He consistently had the courage to stand up for her rights.

Tom Taggart will always be our hero. We "take our hat off to him" and are so glad he accepted our invitation to be an honorary board member.

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) 225-4082 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.

AANHR Special Thanks

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

1. David Couch of Grayson and Grayson, PA, for employing Brent Birch of One6media, LLC, to do AANHR's new website design.
2. Clark Mason of Hare Wynn Newell & Newton for financial and promotional support over the years.
3. First Assembly of God in North Little Rock for providing a meeting room free of charge.
4. Brian Reddick and Bob Edwards of Wilkes and McHugh for their generous donation toward the publication costs of this newsletter.
5. Jack Wagoner for keeping AANHR supplied with copies of the book, DANGER ZONE.

Adopt

**A Nursing Home Resident!
Befriend a resident.**

Visit weekly or monthly.

Bring a gift,

Read to, or write letters for,

LISTEN TO,

VISIT WITH.

Be creative – spread sunshine!

A Happy, Comfortable Home for Jordan

Past AANHR Newsletters have recommended Greenhurst Nursing Center in Charleston, Arkansas as a good nursing home. Recently Martha Deaver suggested Greenhurst as a possible solution to finding good care in a nursing home for "Jordan" to his mother. This, after some unhappy experiences for Jordan and his family. Even though Greenhurst Nursing Center is a two-hour drive for his family, they opted to place Jordan there when they were told there was an available bed. The family, which includes a teenager and three grown children, now rent an apartment near the nursing home so they can see Jordan weekly. The "thank you" letter below was too good not to share. This should be the normal experience for skilled care nursing home residents, rather than the exception!

To Martha Deaver:

This email is late on my part. I've been so overjoyed, overwhelmed, and relaxed that I haven't done much of my usual activities. I wish I could tell you every detail of how the move-in at Greenhurst went, how it came about, and the subsequent messages from Kriss and staff about how Jordan is doing. I'm walking on air, and so is my husband. We've looked at each other in the evening and said, "Can this be true? Can we sit here and not be sad/fearful/worried/guilty about Jordan? Can we live our lives without having sadness overtake us so frequently?" This is going to take some getting used to. Suffice to say, Jordan's move into Greenhurst went smoothly, everyone was so welcoming, the updates from Kriss/staff have been encouraging, and I think that a group of people besides our family knows the value of Jordan, understands the intricacies of his care, and even loves him unconditionally!

I have you to thank for steering me in the right direction. You hung in there daily (and sometimes many times/day), encouraging me to seek something better without being pushy. You were so very supportive and offered, at every step, just what I needed to continue my search. I have no idea how you kept your opinions to yourself during some of our conversations! You led me in very thoughtful ways. My husband said the other night, "You know, we owe Martha Deaver a lot for helping us find Greenhurst." So, we are both in agreement, you were instrumental in helping us find a good place for Jordan, and in being able to have some peaceful times as a family....

Thank you, Martha, for all you did to help us find a comfortable home for Jordan. You made the hugest impact on our entire family, especially Jordan.

Connie

P.S. Maybe we'll meet in person some day!

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).



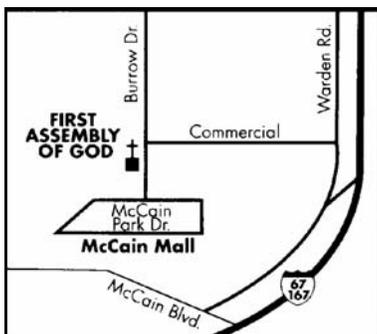
Arkansas Advocates
For

Nursing Home Residents

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

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

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MAP TO MEETING