

PROTECTING NURSING
HOME RESIDENTS
1995-2005

July
2005

Www.aanhr.org

Arkansas Advocates for Nursing Home Residents

***Celebrating our Tenth Year
1995-2005***



NEXT MEETING

Monday, July 11,
2005

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:
**Mark Malcolm,
Pulaski County
Coroner**

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"**

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

July Program to Feature Mark Malcolm

MARK MALCOLM, nationally known Pulaski County Coroner since 1995, will tell us what families need to do when criminal intent against their loved one in a nursing home is suspected. He will speak from a coroner's point of view as to whether an investigation is warranted, what it should include and what coroners look for.

Mr. Malcolm is well qualified to speak on this subject and other timely nursing home issues. He has completed over 400 hours of continuing education training in criminal justice, death scene investigation and forensic investigation from St. Louis University and Arkansas Universities. He's an instructor for the University of Arkansas Criminal Justice Institute, UAMS and UALR. He founded the Pulaski County Coroner's Office Professional Education Program which provides death investigation training to Arkansas law enforcement officers, prosecutors and coroners.

In March of 2002, Mr. Malcolm appeared before the United States Senate Committee on Aging and provided testimony regarding the Arkansas law he authored mandating the report of all nursing home deaths to the county coroner.

Nursing Assistant Awards Luncheon Report *

The June 13 awards and appreciation luncheon for Certified Nursing Assistants (CNAs) proved to be an impressive time for all who attended. CNAs do 90-95% of the hands-on care for nursing home residents, but receive little appreciation for their hard work. In view of this fact, AANHR was honored and privileged to demonstrate appreciation to over 30 deserving CNAs. They were selected by Family Councils and Administrators from various Arkansas nursing homes.

Senator Mary Ann Salmon spoke about CNAs who went the extra mile for her father, a nursing home resident, before his recent death. Miss Teen Lakes Northwest, Savanna Knight, who is a CNA, brought an inspiring message. Each CNA was called forward while the reason he/she was chosen was read. In addition to lunch, they were given certificates of appreciation, CNA pins and \$30-dollar Wal Mart gift certificates. In addition, each nursing assistant will receive a professional picture taken by Ernie Blount showing him/her receiving the awards.

****If you know a nursing assistant who did not receive this newsletter, report it
To AANHR at (501) 225-4082. See insert and pictures on pages 4-5!***



From the President's Desk

Nancy Allison

We have recently been focusing on learning about Advance Directives and Durable Power of Attorney. We have learned what we should do to make sure our wishes are understood and carried out in the event of illness that suddenly deprives us of the ability to speak for ourselves. But there is more – having the “death talk”.

Imagine yourself dealing with a loved one with dementia who has become extremely malnourished, taken to the hospital and a feeding tube inserted. When this person regains strength he immediately “rips out” the feeding tube and continues to do so each time it is reinserted. The family is told that without the feeding tube the patient will die within a matter of weeks. The patient has made it clear in his Living Will that he didn’t want to be kept alive artificially, but the family was not certain if he understood exactly what that meant and if he understood how he was going to die.

In many families death is not a subject for polite conversation. How then do you get the dying family member to engage in discussing his thoughts and feelings? It is important to create a relaxed matter-of-fact style of conversation until, at last, the patient becomes more comfortable with the subject. It is also important that they realize that at some point they may no longer be able to make decisions for themselves. They must be ready to allow another family member to make important life-and-death decisions for them and they must say those words – I trust you with my life.

Sometimes a social worker specialized in end-of-life care is best able to handle these situations after conferring with all the members of the family. Hospice is another source of help.

One message that we can all keep in mind is the need to talk about our wishes. Should the time come we are not able to speak for ourselves, our families must understand what we want and know that we understand what we are asking for. We must have discussions with our families, partners, dear friends and healthcare providers, enabling them to act with our wishes directing them, should that ever be necessary. All forms of advance directives are critically important, but there is more – we must talk openly about this subject. These conversations can be difficult to begin, but begin them we must. We must have them with our parents and we must have them with our children.

AANHRR Special Thanks

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

1. **Clark Mason** of Hare, Wynn, Newell & Newton for financial and promotional support over the years.
2. **Darren O’quinn**, of The Law Offices of Darren O’Quinn for assistance in the publication of this newsletter, meeting rooms, lunches and numerous other helps to AANHRR.
3. **Brian Reddick** and Bob Edwards of Wilkes and McHugh for the generous donation toward the publication costs of this newsletter.
4. **Jack Wagoner** for keeping AANHRR supplied with copies of the book, DANGER ZONE.
5. **David Couch** of Grayson and Grayson, PA, for employing Brent Birch of One6media, LLC to do AANHRR’s new website design.
6. **First Assembly of God** in North Little Rock for providing a meeting room free of charge.



Advance Directives Discussed At AANHR's June Meeting

By Virginia Cross

The subject of Advance Directives is quite timely because of recent news concerning the removal of life support from Terry Shiavo. Scott Fletcher of Fletcher Law Firm answered some of the questions you may have asked about the case. Making no judgment about whether or not the outcome of the Shiavo case was right, Mr. Fletcher used the case as a teaching tool so that we would gain more understanding of end-of-life issues. Some of the questions he answered were:

1. **Why did Michael Shiavo have so much “say” about what happened to Terry?** When there are no written directives, as in the Shiavo case, Florida Law gives jurisdiction to the spouse over the parents. The same would be true in Arkansas.

Soon after Terry experienced brain damage because of a cardiac arrest from a food disorder, Michael Shiavo petitioned to become Terry's legal guardian. He was not opposed by Terry's parents. The Court appointed him Guardian of the Estate (finances) and Guardian of the Person (care decisions). Things went well. In fact, Michael lived with Terry's parents for several years.

Michael filed a petition for medical malpractice against the doctors who were caring for Terry in connection with the eating disorder. It went to a jury trial in the early '90's. The jury awarded Michael \$300,000 for his loss. Another \$750,000 went into a trust fund for Terry to pay for her care needs. Three months after the jury awarded the dollar amount to the Shiavo's, Michael and Terry's parents began to have differences and become estranged from each other. As guardian, anything left in Terry's trust would go to Michael at her death, unless Michael divorced Terry. In that event the trust would go to her parents. (As someone said at the AANHR meeting, there could not have been much left in the trust after fourteen years' provision for Terry's care!)

2. **What rights did Michael Shiavo have as Terry's guardian?** Under Florida law (as well as Arkansas law), because Michael was the Guardian of the Person as well as Guardian of the Estate, Michael could have said, “Withdraw the feeding tube and let her die on her own.” Because of the feud that was going on and because he

did not want to get sued by Terry's parents, he requested that the Court become the surrogate for Terry to make the decision as to what she would have done. In the Court proceeding both the parents and Michael had opportunity to present evidence in front of the judge. Judge Greer was the person in charge of the guardianship estate, and he made many of the decisions. Under Florida law and Arkansas law the burden of proof is by clear and convincing evidence. No one who ever did a study of Terry ever found that she had any capacity whatever. By 1996 the cat scans done on a regular basis showed severely abnormal structure where much of her cerebral cortex was gone and replaced with cerebral spinal fluid. The Court reached the decision that Terry would not have wanted to be kept alive in the constant vegetative state she was in, (Pictures shown of Shiavo on television were taken before 1996.) The tube was removed for the first time in 2000, a second time later, and finally a third time which resulted in her demise. The Court was making sure Terry and her parents had complete due process of the law.

If your Living Will is dated prior to July 16, 2003 your wishes concerning food and hydration will be ignored.

You need to make out a new Living Will.

3. **Why did the Florida Legislature and Governor get involved?** When the appeals were exhausted and Shiavo's family lost, the Florida Legislature got involved with the imposition of

Terry's Law. The floor of the legislature allowed the governor on a one-decision basis only, right to impose a stay (one time). Michael Shiavo filed a petition with the local courts in Florida that said the law that was passed was unconstitutional. It was appealed to the United States Supreme Court by Governor Bush as to whether Terry's Law was unconstitutional. Every court that looked at the statute, based on Florida law, declared it to be unconstitutional because the court found that it was the decision of the judiciary, not the executive branch.

4. **What do we need to know about guardianship?**

Guardianship can be good or bad, depending on who is guardian. Any of the close relatives of an impaired adult may apply for guardianship in a Court of Law. The only time more than one person is appointed guardian is when a husband and wife share the guardianship.

(Continued on Page 6)

Certified Nursing Assistant Honors Luncheon - June 13, 2005



Guest Speaker Senator Mary Ann Salmon



Julia Rivers, Certified Nursing Assistant with Martha Deaver, Luncheon Chairman



Kathie Gatefy, State Ombudsman with Jill Harrison, Lisa Gregory, Savanna Knight's Mother and Sister, Savanna Knight, Senator Salmon, Nancy Allison and Pastor Rod Lay



Norma Derrick and Michelle Mason; Miranda Herderson, Medicare Coordinator; Byrd Haven Nursing Home in Searcy



Martha and Ernie Blount, Photographer; Family Council Officers at Byrd Haven Nursing Home

Certified Nursing Assistant Honors Luncheon - June 13, 2005



Guest Speaker Savanna Knight, Certified Nursing Assistant, Miss Teen Lakes of the Northwest



Nancy Allison, AANHR President and Master of Ceremonies with Pastor Rod Lay, First Assembly of God Church, giving the invocation



*Arkansas Advocates for Nursing Home Residents Board of Directors
Front row: Fred Plant, Catherine Donovan, Marce Best, James Brooks, Larry Wakefield, Nancy Allison and Ralph Erwin
Back row: Betty Buckta, Virginia Cross, Martha Deaver and Lela Burns*

(Continued from Page 7)

A Family Council that Works*

With the proceeds from the yard sale (which totaled almost \$1000), council members were given money to buy a Christmas gift for each resident (as per suggestions from the staff). During our December meeting, we brought our wrapped gifts for the residents, a \$5 gift to be exchanged within the council, and feasted on everyone's favorite Christmas recipe. Later in the month, the council combined forces and fed each shift a home-cooked meal. In March, the council held their annual bake sale in the conference room at the nursing home. The homemade rolls were the first to go, and I doubt I have ever seen so many pies at one time. It was a success as a moneymaker, but also provided enjoyable group time for each council member to once again, touch base with one another. In May, each member of the council brought

two or three casseroles or desserts to feed the nurses, LPNs, and CNAs. We should have compiled a recipe book as every dish looked delicious. While the staff feasted on the food we had brought and served to them, many of the family council members gathered together in the lobby to visit with each other and to renew our common bond. This allowed me to once again feel as if I was part of something of great significance, and something that continues to reassure and grant me the strength to continue on the path our family had chosen for our son.

***Kris Schaeffer**, administrator and co-owner of Greenhurst Nursing Center in Charleston, says:

"I can't stress to you enough how important the Family Council is to life at Greenhurst. I am thankful to Connie for documenting it."

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://www.medicaid.state.ar.us/
General/units/oltc/index.htm**

You should also report complaints to the
Attorney General
TOLL FREE: 1-866-810-0016
LITTLE ROCK LOCAL: 682-7760

**For additional assistance or a listening ear, call AANHR at (501) 327 in Conway;
(501) 884-6728 in Fairfield Bay;
Or (501) 225-4082 in Little Rock.**

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.

(Advance Directives—Continued from Page 3)

When a guardianship is petitioned or appointed, if the incapacitated person is an adult and has neither a known parent nor known spouse, the law requires that only one other competent blood relative of the family be notified. Because of this, it is often a surprise to siblings and other close relatives when they learn of the guardianship, and often they are not happy with the choice of the appointed individual. Mr. Fletcher believes the law should be changed in Arkansas to require that more relatives be informed when petition for guardianship and guardianship appointment are made.

Mr. Fletcher says that in addition to a Will, it is critically important to have the following basic estate planning documents:

1. **Financial Durable Power of Attorney:** Your appointment of a person to make your business decisions if you are alive, but incapacitated. This person is not authorized to make your health decisions. You should also designate successor or successors, by naming another individual to fill the position if your first choice becomes incapacitated.
2. **Health Care Durable Power of Attorney**
Appoints a health care proxy who will be able to make decisions for your health care if you become incapable of making known your wishes. You should designate successor or successors.
3. **Living Will**
 - a. Gives directive to physician of your choice of care if you become incapable of expressing your wishes.
 - b. *If your Living Will is dated prior to July 16, 2003 your wishes concerning food and hydration will be ignored. You need to make out a new Living Will. It will be honored because of an Arkansas statute that went into effect on July 16, 2003.*
5. **Authorization to Disclose Protected Health Information and Appointment of HIPAA Personal Representatives**
Without your signature on this document no one, not even your guardian, would have access to your medical records. The Authorization names the person you wish to have access to your health records.

If you need copies of any of the above documents, contact AANHR at (501) 225-4082.

A Family Council that Works*

By Connie Smith

Finding the best nursing home for a loved one is a very difficult process. Upon initial consideration, all that seems relevant is a clean, inviting atmosphere with an attentive, and loving staff. Careful research, however, reveals that there are other important issues to consider. I was surprised when a nursing home advocacy member, Martha Deaver, advised me to look specifically for the presence of a family council as another important criterion in my nursing home evaluation process. I was advised not only to look at whether a council existed, but also to assess its level of activity and influence. The nursing home we chose, Greenhurst, has a family council that is active both within the nursing home, and throughout its community.

The Greenhurst family council had a positive influence on our initial adjustment of placing our family member, our son. Its influence has continued by providing an understanding, knowledgeable, and trustworthy sounding board for all of our concerns, suggestions, and questions regarding having our son live at Greenhurst. Because I am a member of a group with a common denominator, I have felt a sense of belonging and security. The Greenhurst Family Council meets monthly to plan projects, and to talk about how things are going at

Greenhurst. This grants us all the opportunity to gain support from each other, and to possess the power to suggest and/or make changes. The Greenhurst family council does not seem to be a threat to the administration because they provide places for the council to meet, and cooperation with the council's programs and ideas.

A successful family council must have a good leader who is familiar with the nursing home operations, is knowledgeable about group dynamics, and has a working relationship with the administration and staff. Our family council president,

***Kris Schaeffer, administrator and co-owner of Greenhurst Nursing Center in Charleston, says:**

"I can't stress to you enough how important the Family Council is to life at Greenhurst. I am thankful to Connie for documenting it."

Susie Hood, not only meets these requirements, but also keeps every council member informed about new nursing home policies, offers updates about life at Greenhurst, and organizes plus leads each family council meeting. Family council members are free to voice concerns to Susie, which she delivers to the administration. This keeps the fam-

ily anonymous and blocks any possible repercussions. Susie enables the administration, staff, residents and families to successfully address many problems because she encourages a comfortable and open dialogue. I have observed everyone working together to sort out what suggestions are reasonable, what the past has been, and what changes may be possible.

The family council is involved with each new admission to Greenhurst, staff and resident birthdays, and in reporting changes in health status of its residents. Some of the family council members are at Greenhurst daily, and can help assess loved ones whose family may not be able to visit as often.

Unfortunately, I cannot see our son as often as I would like because we live 130 miles away. I have been assured that someone, in addition to the staff, will interact with our son on a frequent basis, and will communicate with the family council president if there is a concern. This is a tremendous safety net.

The Greenhurst family council officially meets once a month, and besides attending most meetings, I have also been involved with at least four family council projects in less than a year. In October, the family council organized a large yard sale.

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 January 1, 2005. If you have not paid your dues since August 2004, 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—Catherine Donovan, Little Rock

Treasurer—Ralph Erwin, Little Rock

Members of the Board of Directors: Marce Best, Maumelle; James Brooks, North Little Rock; Betty Buckta, Fairfield Bay; Lela Burns, North Little Rock; Virginia Cross, Little Rock; Martha Deaver, Conway; Fred Plant, Little Rock; Larry Wakefield, Fairfield Bay

Honorary Board Members: Jim and Faye Sandstrum, Pine Bluff.

AANHR

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



Arkansas Advocates For
Nursing Home Residents
P.O.Box 22421 Little Rock, AR 72221

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).

MAP TO MEETING



NON-PROFIT
ORGANIZATION
U.S. POSTAGE PAID
LITTLE ROCK, AR
PERMIT NO. 1886