

PROTECTING NURSING
HOME RESIDENTS

October
2007

Arkansas Advocates for Nursing Home Residents



**Next Meeting
Oct. 8**

MEETING
PLACE:

First Assembly of God
Church

4501 Burrow Road
North Little Rock
Directions to church
on back of Newsletter.

10:00 a.m.
Meeting for members,
family and friends of
residents (Closed to
persons representing
the nursing home
industry).

11:00 a.m.
Public Meeting
(see article at right)

**Residents' Rights
Rally
Monday
October 1st.
11:00 A.M.
Capitol Steps
Join Us!**

**We're on the web!
www.AANHR.org**

Conway (501) 450-9619 · Fairfield Bay (501) 884-6728
Little Rock (501) 224-8431

AANHR's Mission Statement:

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

DENA L. CARR, DIRECTOR
COMMUNITY OUTREACH, ARKANSAS HOSPICE, INC.
TO SPEAK OCTOBER 8, 2007

"Can a nursing home resident choose the hospice in which he enrolls?"

"When a nursing home resident enrolls in hospice, what responsibility does the hospice take for the care of the resident and what responsibility does the nursing home keep?"

"What should be done if the nursing home or hospice is confused about its responsibility to the patient?"

"Why use hospice in the Nursing Home?"

Ms. Carr will clarify these and other questions that we hear regarding Hospice Services in Long Term Care at the AANHR meeting October 8th. Hospice is as important to the family as it is to the terminally ill family member. Arkansas Hospice is an award-winning, not-for-profit organization with standards of care that rank it among the strongest hospice programs in the nation. This hospice program serves 30 central Arkansas counties caring for terminally ill patients and families in their private homes, 70 area nursing homes and in the two Arkansas Hospice inpatient hospice centers.

Our speaker has been an RN for 24 years and has worked the past 7 years in hospice care. She is the Community Outreach director for Arkansas Hospice, Inc. She is a Certified Hospice & Palliative Nurse (CHPN) and a member of the National Hospice & Palliative Nurses Association and Arkansas Partnerships for Compassionate End-of-Life Care.

Ms. Carr graduated in 1983 from Arkansas State University, BSN, *Magna Cum Laude* and was Awarded 1999 Distinguished Alumni Award, College of Nursing & Health Professions from Arkansas State University.



From the President's Desk

Nancy Allison

I received a message from a Citizen Advocacy Group (CAG) from another state relating how an effective Family Council is having an effect on the improvement of care in a nursing home. I want to share that with you, but first, I will review.

A Family Council is a group of family and friends of residents in a nursing home. It is the best line of defense, the best way of educating family members and the ultimate way to work toward better care for all residents. To start a Family Council speak to other family members, encourage them to understand that not all residents are lucky enough to have someone looking out for them. A Family Council can provide that care as well as have a strong voice regarding concerns about the care in the facility. Individuals who are reluctant to complain for fear of retaliation, will find themselves part of a group when presenting problems to the administration. Invite all family members to a meeting; juice and cookies are a good incentive to attend. Present your case for forming a Family Council and decide how often you will want to meet. Your local Ombudsman can help you with this. AANHR will be happy to provide you with suggestions for speakers. You will want to make your meeting interesting, not just a gripe session. A copy of the *Family Council Guide* can be downloaded from the OLTC website that is shown on page 7 of this newsletter under Helpful/Important Numbers.

Now, the story about a home that went from 6 deficiencies to 39, several of them immediate jeopardy. The leaders of the Family Council took their concerns through the "chain of command" including corporate officers, without the desired response. At this point the Council called a "town hall meeting" inviting the community. They said that since this is a community resource, the community needed to be involved. The invitation stated that working together, the situation could be turned around. They used the largest lunch room to accommodate the crowd and people stood around the walls. People from the community, state licensing agency, ombudsmen, state legislators and even Medicaid representatives, and the corporate officials were there. There was another meeting to present the plan of correction to the group and it appears that it will continue to be a community effort. The families and residents of the home have noted improvements.

Only time will tell how this works out. The Corporate Officer is encouraging the other corporation-owned homes to form Family Councils and hold similar town meetings in their communities. The importance of a strong and active Family Council cannot be underestimated.

Local NBC affiliate KARK ran a story, "Finding A Good Nursing Home," on February 14 featuring AANHR members. The news clip of this segment is available on DVD for use by Family Councils etc. by contacting AANHR.

Adopt
A Nursing Home Resident!
 Visit weekly or monthly.
 Bring a gift,
 Read to, or write letters for,
LISTEN TO, VISIT WITH.
 Be creative - spread sunshine!



Join AANHR's Residents' Rights Rally Monday, October 1st, 11:00 A.M. On the Capitol Steps

Arkansas Advocates for Nursing Home Residents (AANHR) is sponsoring an educational rally on protecting the rights of nursing home residents. Please join AANHR on the front steps of the Arkansas State Capitol at 11:00 a.m. Monday. Governor Mike Beebe has signed a proclamation recognizing this very special event.

National Long-Term Care Residents' Rights Week is a time designated by the National Citizens Coalition for Nursing Home Reform (NCCNHR) to honor residents in long-term facilities. Arkansas Advocates for Nursing Home Residents believes all nursing home residents and their families should be aware of their rights in order to empower themselves to live with dignity and self-determination.

At this year's rally, AANHR extends special recognition and appreciation to our local long-term care volunteer ombudsmen and other volunteers who work daily to promote resident rights, assist residents in complaint resolution, and provide helpful, relevant information to those who are searching for a long-term care facility. The contact number for Arkansas' state ombudsman is 501-682-8952. This office will put one in contact with the local ombudsman.

Special guests for this year's rally include Attorney General Dustin McDaniel, Arkansas State AARP President Billie Ann Myers, and Arkansas State Ombudsman Kathie Gately.

Rally contact person: Martha Deaver 501-450-9619

Greenhurst Family Council Cookbook For Sale!

The Family Council at Greenhurst Nursing Home in Charleston, Arkansas sponsors fundraisers (a yard sale in the fall, and a bake sale in the spring) during the year to help pay for Christmas gifts for each of the nursing home residents.

Family council activities include an annual buffet lunch during the Christmas season for staff members on all shifts. During one of these functions, family council members were so impressed with their offerings, they decided to share recipes and the idea for a cookbook was born. Staff members, family members, residents & friends submitted recipes. The response was overwhelming. Initially, we imagined about a 20-page leaflet (after all, it was our first attempt), but over 200 recipes came in, some with stories, and all describing delicious dishes from great cooks.

So, we hope that you will enjoy the collective creations of the staff, patients, families, and administration of the unique community of Greenhurst by buying your own copy of our cookbook. It is \$8.00. Please contact Connie Smith at constanceks@aol.com or 501-223-3733. She will take care of your order. Thank you!

"Speak up for those who cannot speak for themselves, for the rights of all who are destitute. Speak up and judge fairly; defend the rights of the poor and needy." Proverbs 31:8 NIV

20 Common Nursing Home Problems and How to Resolve Them

At the September 10th meeting Darren O'Quinn, of the Law Offices of Darren O'Quinn, reviewed the problems that he addressed at his first presentation some months ago, and continued his presentation on how to resolve common problems encountered in nursing homes. His best advice: be a squeaky wheel and demand solutions to problems.

#1. **Discrimination against Medicaid-Eligible Residents.** One may be told that "Medicaid does not pay for the service that you want." The fact is that a nursing home cannot discriminate against residents based on who pays their bill. A Medicaid-eligible resident is entitled to the same level of service provided to any other resident.

#2. **Care Planning.** The resident and resident's family have the right and **should** participate in deciding what care the resident will receive and the resident's needs and wants need to be taken into consideration.

#3. **Honoring Resident Preferences.** A nursing home must make reasonable adjustments to honor resident needs and preferences. The wants and need of the residents take priority over the convenience of the staff. The resident should insist on staff adjusting to his/her schedule, not vice versa.

#4. **Providing Necessary Services.** A nursing home is required by law to provide the care necessary to meet residents' physical and social needs. Not having enough staff is no excuse, not even on a short-term basis.

#5. **Use of Physical Restraints.** The law also states that restraints cannot be used for the nursing home's convenience or as a form of discipline. This means that they are required to have enough staff to prevent harm from falls or wandering.

#6. **Inappropriate Use of Behavior-Modifying Medication.** Medications should never be given simply to make residents more manageable. Psychotropic medications are to be used only to treat a diagnosed illness, i.e., such as depression or mental illness.

#7. **Use of Feeding Tubes.** There are times when feeding tubes are appropriate but they should be a last resort, not for the convenience of the staff.

#8. **Visitors.** Family and friends of residents have the right visit at any time of the day or night unless the resident objects.

#9. **"Responsible Party" Provisions in Admission Agreements.** You cannot be told that you must agree to be financially liable for the resident's cost of care unless you are the appointed legal agent for them. A nursing home cannot require anyone but the resident to be financially responsible for their nursing home expenses.

10. **Arbitration agreements.** This has become a staple within the admission agreement and requires the resident or resident's representative to agree to submit all future disputes to a private arbitrator. **This effectively takes away the right to sue in court.** Arbitration is often more expensive than a lawsuit and the arbitrator may be more familiar with and sympathetic to the nursing home than to you. **Facilities cannot refuse admission if you refuse to sign an arbitration agreement.** You have every right to circle that portion of the admission papers and state that you do not agree with that provision.

#11. **Determining Eligibility for Medicare Payment.** The nursing home cannot decide whether a care procedure is covered by Medicare or not. -- that is determination that is made only by Medicare. A service that is disputed should be submitted to Medicare and the doctor or therapist should be enlisted to certify the need.

#12. **Continuation of Therapy When Resident is Not Making Progress.** Therapy may be appropriate to prevent further deterioration or to slow the decline in the resident's condition even if there seems to be no improvement. Remember the nursing home is required to meet the needs of the resident.

#13. **Continuation of Therapy After Medicare Payment Has Ended.** Therapy should be provided whenever medically appropriate, regardless of the resident's source of payment. The most important person to convince is the doctor, since the nursing home and the therapist are required to comply with a doctor's orders. The focus should be the resident's need for therapy, rather than on payment.

#14. **Continued Stay in Medicare-Certified Bed Even After End of Medicare Payment.** Medicare certification does not apply to any certain bed. Therefore any bed can be occupied by a residents whose care is paid through Medicare and likewise that bed can continue to be occupied by the resident after his Medicare days are ended if he continues to need care.

#15. **Medicaid Certification.** When residents become eligible for Medicaid after privately paying for a time, they sometimes are told that the facility does not have available Medicaid-certified beds. This is a situation that should be dealt with in advance, giving the facility time to obtain additional certification.

#16. **Readmission from Hospital.** When a nursing home resident is hospitalized, the facility is required by state law to hold the bed for 10 days. If the resident is Medicaid-eligible, even if the 10 days is exceeded, a nursing home must readmit them to the next available Medicaid-certified bed, no matter how long the hospitalization has lasted.

#17. **Extra Charges.** Charges for extra supplies such as catheter supplies, diapers, etc. are covered by Medicare and Medicaid and those residents may not be charged extra for them. Private pay residents are liable only as authorized in the admission agreement.

#18. **Resident and Family Councils.** A nursing home must provide private meeting space for a resident council or family council. The facility must seriously consider, and respond to, all complaints or recommendations made by such councils. Resident and family councils can be a powerful mechanism for making positive changes in a nursing home.

#19. **Eviction Threatened for Being "Difficult".** Eviction of a resident is allowed only for the following six reasons:

1. The resident has failed to pay.
2. The resident no longer needs nursing home care.
3. The resident's needs cannot be met in a nursing home.
4. The resident's presence in the nursing home endangers others' safety.
5. The resident's presence in the nursing home endangers others' health.
6. The nursing home is going out of business.

To evict a resident, the nursing home must give 30 days written notice giving the reason for the eviction. The notice must also give instructions on how to appeal the eviction.

#20. **Eviction Threatened for Refusing Medical Treatment.** This is not one of the six reasons allowed for eviction.

These 20 problems are unfortunately common. But it doesn't have to be that way. These problems are reduced significantly when residents and family members are knowledgeable about the Nursing Home Reform Law's protections, and more willing to be the squeaky wheels that get the grease. So speak up! You may feel embarrassed or awkward at first, but don't let that stop you. It is the nursing home that should be embarrassed when it is violating the law.

Nursing home residents deserve high-quality care. For this high-quality care to become reality, residents and family members must demand it.

*** Additional information on the 20 Common Problems is available in a booklet available from AANHR or the National Senior Citizens Law Center. (www.nsclc.org) or call 202-289-6976 ext 201.*

Election at November Meeting for AANHR Officers and Board Members

Nominating Committee for November Election:

Chairperson - Martha Deaver - 501-450-9619

Committee Members - Martha Blount - (501) 268-7654
James Brooks - (501) 753-6680

Call any member of the Nominating Committee if you wish to nominate someone for an officer or board position. You must have the permission of your nominee.

The AANHR by-laws require a presentation of a slate of officers nominated by the Committee for the coming year at the October meeting. For 2008, they are:

President - Nancy Allison, Conway

Vice-President - Nancy Johnson, Fairfield Bay

Secretary - Betty Buckta, Judsonia

Treasurer - Nancy Johnson, Fairfield Bay

Members of the Board of Directors:

James Brooks, North Little Rock

Martha Deaver, Conway

Julie Edwards, Mabelvale

Gleason McGuire, Alexander

Ann Rainey, Benton

A.A.N.H.R. GRATEFULLY ACKNOWLEDGES THESE MEMORIALS TO OUR LATE TREASURER, RALPH ERWIN:

*Nancy Johnson
Fairfield Bay AR 72088*

*Betty Buckta
Judsonia, AR 72081*

*Joe and Nina Hudgens
North Little Rock, AR 72118*

*Gleason McGuire
Alexander AR 72202*

*Shannon C. Noehring
Onalaska, TX 77360*

*Virginia Cross
Little Rock, AR 72205*

*Russ and Carolyn Lacy
Russellville, AR 72802*

*Pat and Horace McGuire
Alexander, AR 72202*

*Lyle and Nancy Allison
Conway, AR 72034*

*Larry Wakefield
Fairfield Bay, AR 72088*

*Jerry and Emma Adcock (Emma Jo Fulton)
Emory, TX 75440*

AANHR Special Thanks

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

- Chad Trammel and Don Sorey of The Law Offices of Nix, Patterson and Roach for gift memorials and financial support.
- Brian Reddick and Bob Edwards of Wilkes and McHugh for its financial assistance in the printing and mailing of AANHR's newsletter and other publications as well as financing the attendance of two board members to the annual NCCNHR conference.
- Eric Wewers of The Law Offices of Eric Wewers, PLLC, for advising AANHR's Board of Directors.
- Hare Wynn Newell & Newton for financial and promotional support over the years.
- Todd Griffin of The Law Offices of Todd Griffin, PLLC, for advising AANHR's Board of Directors.
- Jack Waggoner and Gene Ludwig for keeping AANHR supplied with copies of the book *DANGER ZONE*.
- Brandon Clark of the Law Offices of Brandon Clark, PLLC, for ongoing support of AANHR activities.
- David Couch of The Law Offices of David A. Couch, PLLC, PA, for employing Brent Birch of One6 Media, LLC, to create and maintain AANHR's website.
- Darren O'Quinn of The Law Offices of Darren O'Quinn, PLLC, for assistance in the publication of this newsletter, meeting rooms, lunches and donations.
- First Assembly of God Church in North Little Rock for providing AANHR a meeting room.
- Bob Davidson of The Law Offices of Bob Davidson, PLLC, for advising AANHR's Board of Directors.

AANHR Officers and Board Members

- Executive Director - John Satterfield, Mt. View
- President - Nancy Allison, Conway
- Vice President - Nancy Johnson, Fairfield Bay
- Secretary - Betty Buckta
- Treasurer - Nancy Johnson, Fairfield Bay
- Members of the Board: James Brooks, N. Little Rock; Betty Buckta, Judsonia; Martha Deaver, Conway; Gleason McGuire, Bryant.
- Honorary Board Members: Jim and Faye Sandstrum, Pine Bluff.
- Newsletter Editors: Martha & Ernie Blount, Searcy

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](http://www.medicaid.state.ar.us/General/units/oltc/index.htm)

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;

(501) 884 - 6728 in Fairfield Bay;

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.**

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, 2008.

Name _____

Mailing address _____

City/State/Zip _____

Phone _____

Email _____

- I wish to receive the AANHR newsletter.
 \$15 per individual membership enclosed.
 \$20 per family or corporate membership.
 \$4 per student or CNA membership.
 Waive dues because of financial hardship.
Please make checks payable to: AANHR and mail to PO
Box 22421, Little Rock, AR 72221.

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 #1 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 (#113) is immediately inside the entrance door.



Arkansas Advocates
For
Nursing Home Residents

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

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

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