



AANHR

Arkansas Advocates for Nursing Home Residents

PROTECTING NURSING HOME RESIDENTS
April 2011

Conway (501) 450-9619 · Fairfield Bay (501) 884-6728
Conway (501) 450-7405

AANHR's Mission Statement:
"To protect and improve the quality of care and life for residents in Arkansas nursing homes."

Next Meeting April 11

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)



Don't forget to pay your membership dues!



J. Scott Davidson, Lawyer, to speak at Monday, April 11th AANHR Meeting

Topic: "Why we do what we do: taking our calling to protect the elderly seriously."

Scott Davidson, while representing the family of a resident at a Beverly nursing home in Batesville, became aware of a class action on behalf of all residents of a Beverly home in South Arkansas. He determined that the allegations in his case were similar to that of the South Arkansas case and amended his lawsuit against the Batesville facility to assert claims on behalf of ALL residents in that home. For several years he assisted in the representation of nursing home residents in a class action case alleging that the residents' rights of ALL the individuals had been violated.

In 2007, the Arkansas Supreme Court found that the class action for the residents was proper, thereby making it one of the first, if not first, cases in the country in which a state's highest court has allowed a class action to be brought under this theory.

Mr. Davidson has practiced law for twenty-three years. He graduated from Arkansas State University and University of Arkansas School of Law. During the first fifteen years he focused on personal injury cases representing injured individuals or their families. In recent years he has centered his practice on nursing home abuse cases which is the area to which he feels truly led.

Scott and his wife, Cindy, are the parents of two daughters, Lindsey and Alex. They were recently blessed with their first grandchild, Gabe. Scott is a Deacon and Sunday School teacher at West Baptist Church in Batesville.

Calendar of Events		
Apr. 11	10:00 AM	AANHR Meeting
May 9	10:00 AM	AANHR Meeting

From the President's Desk . . . Martha Deaver

Deaver Receives FBI Award In D.C.

By Robert Bronaugh with Voices for Quality Care

Voices For Quality Care Officers are often invited to special events. March 25, 2011 was one of those events. It was the 3rd annual FBI Director's Community Leadership Awards, presented by the Federal Bureau of Investigation in recognition of outstanding contributions to our nation's communities through unselfish dedication and leadership. Fifty-five very special individuals, chosen by each of the FBI's field offices throughout the United States, journeyed to Washington to receive their awards. One of those individuals was my friend Martha Deaver of Conway, Arkansas, our country's most distinguished advocate in promoting better care in nursing homes and a most worthy recipient of this prestigious award. Other guests of Martha's at the event included Alice Hedt, former NCCNHR Executive Director and Maryland State LTC Ombudsman; Sarah Greene Burger, RN, another former NCCNHR Executive Director and author; Janet Wells, The Consumer Voice's Director of Public Policy; Lori Smetanka, Director of the National Ombudsman Resource Center; Kathie Gately, Arkansas State LTC Ombudsman; and Dr. David Montague. Dr. Montague is an Associate Professor of Criminal Justice at the U. of Arkansas at Little Rock, and Director of the UALR Senior Justice Center, which mentors college students while addressing elder crime.

The diverse list of award winners also included ESPN Sportscaster and ABC's Good Morning America Special Contributor Erin Andrews. In 2009, Ms. Andrews was stalked, videotaped and victimized, and has become a leading national spokesperson for stronger laws against these crimes. Another winner wore uniform #33, 6'10", 261lb. Center Alonzo Mourning, who played most of his 15 year NBA career for the Miami Heat. Basketball fans will remember that Mourning played for the Georgetown University Hoyas. He was honored for the Alonzo Mourning Charities, which has raised over \$7 million dollars for programs that aid in the development of children and families.

Everyone who attended received a 175 page program, and was treated to a buffet reception after the awards presentations.

"In Little Rock, Martha Deaver's tragic experiences with two Arkansas nursing homes caused her to become an advocate for the elderly. After both her mother and mother-in-law were victims of nursing home abuse, she shared her story with a journalist, and it was later published in *Ladies Home Journal*."

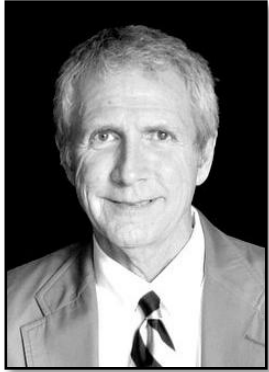
Today, Mrs. Deaver is the president of the Arkansas Advocates for Nursing Home Residents (AANHR), an organization dedicated to protecting the elderly from abuse in nursing homes and seeking justice through prosecution of those victimizing the elderly.

For three years, she worked to supply information and data to Trudy Lieberman, the director of an organization that provides consumer reports regarding health issues. As a result, *Consumer Reports* released one of the most in-depth looks at America's Nursing homes to date.

Mrs. Deaver also created the AANHR's first National Nursing Assistant Recognition Awards to recognize Certified Nursing Assistants (CNA's) from across the state. She also created the first program that recognizes National Resident's Rights Week in Arkansas. She has chaired both events for the past five years.



Martha Deaver with FBI Director Robert Mueller



PUBLIC GUARDIAN FOR ADULTS: A New Concept for Arkansans

Our Arkansas General Assembly found that many adults lacked the capacity to provide informed consent to necessary health care, have not executed an advance health care directive or a durable power of attorney, and have no friend or family member qualified and willing to consent on their behalf. Act 862 of 2007 created the Office of Public Guardian for Adults to meet this public need, and funding was secured in 2009. The Office of the Public Guardian for Adults is within the Department of Human Services Division of Aging and Adult Services. Ivy Lincoln, our state's first Public Guardian for Adults, was selected from a field of applicants and began work May 3, 2010 and currently oversees eighty wards. Mr. Ivy spoke at the March 14th AANHR meeting.

Here is a checklist Mr. Ivy uses for determining whether he should become someone's guardian:

- 18+ years of age
- unsound mind or mentally incapacitated—lacks the capacity to make and communicate decisions necessary for health, safety, and welfare; or to manage property
- served by a public agency of the State of Arkansas
- no advance health care directive or durable power of attorney
- no friend or family member qualified and willing to consent to medical procedures or handle income and possessions

The Public Guardian for Adults (Public Guardian) may serve as guardian of the person, guardian of the person's estate, or both—depending on the needs of the incapacitated individual. Before the Public Guardian can actually make decisions for an incapacitated person, he must be appointed by a judge to serve that particular ward. Appointment can be sought on an emergency basis, a temporary basis, and on a permanent basis. After appointment, the Public Guardian visits his ward at least four times a year, makes decisions for the welfare of the ward as needed, and reports on the ward's status to the court once a year.

The public guardian's annual report with the court includes:

1. Person's current mental, physical, and social conditions
2. Present living arrangements
3. Need for continued guardianship services
4. Property accounting.

The court having jurisdiction of the ward shall not terminate the guardianship of a living ward of the Public Guardian, unless the court declares that the ward is restored to capacity or a successor guardian is appointed.

For more information--contact Ivy Lincoln, Public Guardian for Adults, Department of Human Services, Division of Aging & Adult Services: Post Office Box 1437, Slot W102 , Little Rock, AR 72203-1437 Phone: 501-682-6031 Fax: 501-371-8050 E-mail: ivy.lincoln@arkansas.gov

Continued from pg. 2

Her efforts are best described by Arkansas Governor Mike Beebe, who said 'she is an advocate in the best sense of the word, tirelessly supporting and defending others.'"

For those of you who have never read Martha's story, "It Broke My Heart That I Couldn't Protect My Mom", in the Ladies Home Journal, it is posted on her organization's website:

http://www.aanhr.org/lhj_june06.pdf.

INVOLUNTARY TRANSFER AND DISCHARGE

March 2007

The threat of transfer or discharge from a nursing home can be both frightening and stressful for residents and their families. Too often, a facility may respond to resident's difficulties or increasing need for care or repeated questions or complaints from family members by transferring or discharging the resident. The Nursing Home Reform Law of 1987 protects residents from involuntary transfer and discharge. Contact the Long Term Care Ombudsman in your area for more information about legal rights and protections and for assistance in working with the facility.

TRANSFER and DISCHARGE

Transfer is movement from a certified institution to another institutional setting that assumes legal responsibility for the resident's care. **Discharge** is movement from a certified institutional setting to a non-institutional setting. After **discharge**, the facility is no longer legally responsible for the resident's care.

WHAT THE LAW SAYS ABOUT INVOLUNTARY TRANSFER/DISCHARGE:

The Nursing Home Reform Law of 1987 prohibits nursing homes from transferring or discharging a resident unless it can establish that one of the permissible reasons for transfer/discharge exist. Those reasons are:

- the nursing home cannot provide adequate care for the resident;
- the resident's health has improved to the point that he or she no longer needs nursing home care;
- safety of individuals in the facility is endangered;
- the health of others in the facility would otherwise be endangered;
- the resident has failed, after reasonable and appropriate notice, to pay for care (although the facility cannot evict a resident who is waiting for Medicaid eligibility and should work with other state agencies to obtain payment if the resident's money is being held by a family member or other individual); or
- the facility ceases to operate.

Before proposing a transfer/discharge, a facility must identify and try to meet the resident's individual medical, nursing, and psychosocial needs, by formulating and implementing an individualized care plan designed to meet those needs. Many of the permissible reasons for transfer or discharge can be

addressed through assessment and care planning, making transfer or discharge unnecessary. Because most nursing homes provide fairly complex care for sick residents, it is rare that the facility cannot find a way to provide adequate care for the resident or to keep the resident and others safe with the use of a good assessment and care plan. Furthermore, universal health precautions should be in place in every nursing home that protect the health of residents and others and prevent the spread of infection. The nursing home assesses the care needs of prospective residents upon initial admission. Once a resident has been accepted by the nursing home, the nursing home should find ways to provide safe and appropriate care.

NOTIFICATION

If a resident is to be transferred or discharged, the facility must record the reason for transfer in the resident's clinical record, and notify the resident and the resident's family member, guardian, or legal representative in writing. The statement must include:

- the reason for the transfer or discharge,
- the location the resident will be moved to,
- the date of transfer or discharge, and
- information about the resident's right to appeal to the state concerning the transfer or discharge, with the name, address, and telephone number of the state long term care ombudsman.

The location the resident will be moved to must be specific, appropriate, available, and agreeable to taking the resident. The facility can and should be cited for neglect if they fail to make safe transfer arrangements.

TIME LIMITS

The law requires that a nursing home must inform the resident and the resident's family member, guardian or legal representative about a transfer or discharge at least thirty (30) days in advance. This part of the law applies to all residents, even those who have resided in the facility for less than 30 days.

PREPARATION BEFORE TRANSFER or DISCHARGE

The nursing home must provide discharge planning and sufficient preparation and orientation to residents being transferred/discharged. The law guarantees the right of the resident (and/or family member) to participate in planning care and treatment which

should include choosing a new place to live. The nursing home should also prepare an orientation, such as a visit to the new home. It should tell the resident where he or she is going, and assure a safe arrival. The facility should also inform the new residence about the resident's habits. Lastly, the nursing home should ensure possessions aren't lost in the moving process, and any personal funds are given to the resident or transferred to a new account.

BED HOLD and READMISSION

The Nursing Home Reform Law gives Medicaid recipients the right to return to their facility after they have been out of the facility due to hospitalization or therapeutic leave. Some states will pay to hold a bed for Medicaid residents who are temporarily absent. If a Medicaid recipient loses a bed -- either because the state does not pay to hold the bed, or they have exceeded the state's bed hold period, readmission rights permit him or her to return to the next available bed in a semi-private room in the nursing home. Residents are entitled to notice about bed-hold and readmission rights twice-- upon admission and at the time of transfer. A facility's bed hold policy must be consistent with state regulations.

ADDITIONAL RIGHTS

The Nursing Home Resident Protection Amendment of 1999 requires that nursing homes continue to provide care for Medicaid residents already living in the facility even if the nursing home chooses to cease participation in Medicaid.

- A resident has the right to participate in planning care and treatment or changes in care and treatment.
- A resident and their family member or legal representative must receive notice before the resident's room or roommate in the facility is changed.
- A resident can refuse transfer from a portion of the nursing home that is certified at one level of care to another portion with different certification.

COMPLAINTS and APPEALS

A resident has the right to appeal the facility's decision to transfer/discharge him or her. The transfer or discharge notice must include information about how to request a hearing, the resident's right to use legal counsel or other spokesman at the hearing, and the mailing address and telephone number of the State long-term care ombudsman. A complaint may also be filed with the state survey agency.

PROTECTION AGAINST INAPPROPRIATE TRANSFER OR DISCHARGE

Contact the Long Term Care Ombudsman program if you are concerned about plans for transfer or discharge from a nursing home. The ombudsman is empowered by law to advocate for nursing home residents. Also, find out if there is a family council at the nursing home. When families meet to share concerns and organize a consumer voice, this is a source of power for negotiation with the facility's administration. You can also contact a citizen's advocacy group in your area for help.

If you are interested in learning more, NCCNHR has several publications that may be of interest. Please call 202.332.2275 for a publication list, or visit the website at www.nccnhr.org. Prices listed do not include shipping or handling.

➤ **Nursing Homes: Getting Good Care There**

Cost: \$11.95

NCCNHR (formerly the National Citizens' Coalition for Nursing Home Reform) is a nonprofit membership organization founded in 1975 by Elma L. Holder to protect the rights, safety and dignity of America's long-term care residents. ©2007. NCCNHR, 1828 L Street, NW, Suite 801, Washington, D.C. 20036. Tel. 202.332.2275, Fax 202.332.2949, email: nccnhr@nccnhr.org, website: www.nccnhr.org.

SMILES



by Gary Melton

Trepidation or depression, I don't know, but it is a feeling unique to entering a nursing home. Immediately those feelings disappear as I see my first friend. He is sitting in the lobby watching the passing cars. A big grin appears on his face upon seeing me. He says, "Hi Sarge". We talk about his friend who visits him every day, year after year. I wish for such a friend.

A knock on a door answered by a meek, "come in". The lady looks up, and a smile appears. We visit mainly about my family. As always, a tattered Bible is in her lap and a newspaper nearby. The facility makes an effort to get her a paper daily. Her request is for me to pray for her.

Another door, another grin, what else could one want? The lady would give anything for her favorite drink, an A&W Root Beer. It is so easy to accommodate her wish. Now she has one or more each day.

I step out into the hallway, and there they are, the ANGELS. These are the girls (mostly) who care for our friends and love ones. If you will just look closely, you will see their wings. Most often they are tired and heavily burdened with problems of their own. However, they have plenty of love and are carried by those little wings.

Next a gentleman on the hallway wants to talk about the St Louis Cardinals-- so little effort to make his day by just listening and discussing his favorite subject.

Then I arrive where I can see a lot of friends -- the dining room staff, CNAs feeding residents and the residents themselves. There is not a greater feeling than having a resident to ask you not to forget them. I visit each table and listen and talk. By the time I make all the tables and head for my car, my step is lighter because I now have some little wings.

Editor's Note: Gary has been a Certified Volunteer Ombudsman for several years at Searcy Healthcare.

Make a Difference: Volunteer Ombudsmen Needed

Do you have one hour per week to visit with residents (those who have few/if any visitors) in a nursing home? We have a place for you. After one 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. 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 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. If interested, please contact Martha Deaver at 501-450-7405; she will put you in touch with your regional ombudsman.

"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

AANHR Special Thanks

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

M. Darren O'Quinn , Attorney, Little Rock, for his offer of free assistance in preparing advance directives, to those present at the April AANHR meeting.

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.

Paschall Strategic Communications for their continued assistance with public relations needs.

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 employing Brent Birch of One6 Media, LLC, to create and maintain AANHR's website.

Gary Miller of ProSmart Printing for assistance in newsletter and brochure publication.

AANHR Officers and Board Members

President - Martha Deaver, Conway

Vice President - Gary Melton, Searcy

Secretary - Betty Buckta, Judsonia

Treasurer - Frances Walker, Benton

Program Chairman - Gary Melton, Searcy

Members of the Board: Nancy Allison, Conway; Martha Blount, Searcy; Linda Brimer, Searcy; James Brooks, North Little Rock; Julie Edwards, Mabelvale; Pat McGuire, Alexander; Nancy Patterson, Searcy; and Ann Pinney, Benton.

Honorary Board Member: Faye Sandstrum, Searcy.

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:

<https://www.medicaid.state.ar.us/InternetSolution/General/units/oltc/index.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;

(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.**



Arkansas Advocates for Nursing Home Residents

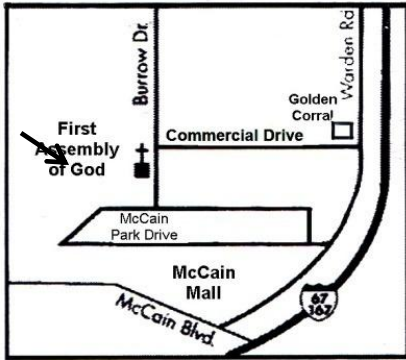
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www.aanhr.org

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April 2011



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.

Please lend your support by joining AANHR. 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, 2011.**

Today's Date _____

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 2336 Riverview Circle, Benton AR 72019

**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.