



# AANHR

Arkansas Advocates for Nursing Home Residents

PROTECTING NURSING HOME RESIDENTS

**April 2014**

Conway (501) 450-9619

**AANHR's Mission Statement:**

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

**Next Meeting**  
**April 14th**  
**Meeting Place:**  
First Assembly of God Church  
4501 Burrow Road  
North Little Rock  
Directions to church  
On back of Newsletter.



**April Meeting Topic:**  
**Arbitration Agreements: Giving away your constitutional right to a jury trial and an important way to hold nursing homes accountable. Speaker will be Attorney David Couch**

Many if not most nursing homes require that as a condition of admission a resident sign an arbitration agreement. These arbitration agreements require

that if you or your loved one is harmed as a result of the nursing home's neglect that you do not have the right to sue in court for damages. Instead of having a jury decide your case, you must present your case to an individual, generally from a list of people selected by the nursing home. This person will decide if you were harmed and the amount of damages you are entitled to if any. This person's decision is final and you have no right to appeal. The statistics show that when a individual is forced to arbitration the nursing home prevails more often than they do in court and when an individual does prevail, the monetary award is substantially less. Nursing homes use arbitration clauses to keep themselves from being held accountable which only perpetuates bad care. As an organization AANHR and we as citizens need to do everything we can to stop the use of arbitration clauses in the nursing home admission process.

David Couch has been representing those abused and neglected in nursing homes since 2001. He is admitted to practice in Arkansas and New Jersey and has represented individuals neglected in nursing homes in more than 20 other states. He believes we have an obligation to care for and protect those who are unable to care for and protect themselves.

In addition to advocating for the rights of our elderly in court, Couch is actively involved with organizations that help shape policy to ensure that our frail and elderly citizens' rights are protected by both the federal and state governments. In recognition of his efforts to protect the rights of individuals, the Arkansas Trial Lawyers Association has awarded him both the President's Award and the Civil Justice Advocacy Award. Because of his litigation and policy expertise, Couch is a frequent speaker at national meetings and

*see Arbitration, pg.2*

**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.)**



**Have A Blessed Easter**



## *From the President's Desk . . . . Martha Deaver*

I hope our readers caught the story that ran in the Friday, March 14, 2014 *Arkansas Democrat-Gazette* about Judge Mike Maggio's court decision relative to various nursing home connected donations to his election campaign.

The story describes how campaign contributions totaling \$21,000.00 were made on July 8th to seven political action committees by a Mr. Michael Morton of Fort Smith. Per the story, Mr. Morton, along with six businesses he controls, each donated \$3000 to a different PAC. In December of 2013 and January of 2014, these same seven PACs all

made contributions to Judge Mike Maggio's Court of Appeals Campaign. According to Mr. Morton, who was interviewed for the article, he was contacted by representatives of Judge Mike Maggio's campaign about making the contributions to these PACs sometime around May of 2013. Apparently, none of the PACs had been registered with the state of Arkansas at the time of the contributions. Six of the seven PACs were registered on July 31, 2013 by attorney Chris Stewart with the seventh PAC being registered by Stewart in August.

The July 8<sup>th</sup> contributions by Mr. Morton and his companies appear to have been made the same exact day that Judge Maggio, currently a circuit court judge in Faulkner County, had a hearing involving a nursing home that Mr. Morton owned in Faulkner County. In May of 2013, a jury had returned a verdict of 5.2 million dollars. The July 8<sup>th</sup> hearing was held so that Mr. Morton's attorneys could ask Judge Maggio to set aside or reduce the verdict. He did just that, reducing the verdict from 5.2 million to 1 million dollars.

It appears from the article that Mr. Morton and his companies were the sole donors to six of the seven PACs and that Judge Maggio was the primary recipient of funds from the seven PACs. The article goes on to say that campaigns for judicial races can't start soliciting money for candidates more than six months out from an election. It appears from what Mr. Morton said in the article that that was not the case here.

Based on the *Democrat-Gazette's* story, AANHR believes the Arkansas State Ethics Commission should investigate these PACs: Conservative Persons In PAC; Thomas Group In PAC; Citizens for Information Technology PAC; Judicial Reform PAC; Taxpayers for Change PAC; Go Good Government PAC; D. Bruce Hawkins 2 PAC and their officer Chris Stewart, as well as Michael Morton, Judge Mike Maggio, and any other individual or group that may be involved with the solicitation of what appears to be improper campaign funds.

AANHR is appalled at the recent article. One might likely assume the appearance that Judge Maggio has accepted campaign contributions from a nursing home owner in order to lower a verdict regarding the horrific death of a nursing home resident. AANHR members believe no stone should be left unturned in investigating these very serious allegations. Justice must prevail for the sake of nursing home residents in the future. We have to stand up and demand that the rights of our most frail and vulnerable citizens are protected. AANHR will be watching with great interest as to how this story/investigation plays out!

### ***Arbitration, continued from pg. 1***

seminars on issues involving nursing home litigation and policy.

He is a member of the American Trial Lawyers Association Top 100 Trial Lawyers and currently serves as president of the National Trial Lawyers Association Nursing Home Specialty Group. He is a past chairman of the American Association for Justice's Nursing Home Litigation Group.

Couch is a native of Newport and a life-long Arkansan. He received his bachelor's from the University of Arkansas in 1981 and graduated in 1985 from the William H. Bowen School of Law. In law school Couch served as associate editor of the UALR Law Journal.

We hope you will join us on April 14 to learn about this critical topic relative to nursing home quality of care.

## A NEW PERSPECTIVE ON VOLUNTEERISM

By Constance Smith

I have a story that may change your mind about giving whether it is your time, your effort, or your money. I am someone who regularly participates in various volunteer activities. For example, I help serve meals to the homeless, lead a group of new young Moms who need support, lead a small group of women who are in various stages of grieving, and prepare items for bake sales to help buy Christmas presents for the residents of a nursing home. I observe the recipients of these efforts and activities and it is easy to see their gratitude; and I, in turn, am thankful for the opportunity to help. But, actually, the recipients always offer me more than I give them. I feel an increase in my self-confidence and self worth, and though these feelings are not the reason I volunteer; they are at the center of how recipients of volunteerism give in return.

But, consider this: What if I began to regard these people as volunteers and “givers” instead of just “recipients?” But no, after all, volunteering is “my” thing; I get the credit, and these are people who are “needy.” I have always tended to see them as people who need my services, rather than persons who are just as capable of helping others as I am. Recently, however, I have had my eyes opened regarding this issue. My son, Jordan, was accidentally shot when he was eight years-old, and as a result, is very disabled. He is now “logging” volunteer hours at the nursing center where he lives. A retired LPN and friend of Jordan’s, Beverly, spends time helping with Jordan’s care, but her favorite activity is when they both *volunteer* by visiting the other residents at the nursing center. Beverly is keeping a log of Jordan’s hours of giving to others, and hopes to be able to take him to a banquet held every year that honors those who volunteer.

To better understand all this, I should provide you with some background, and let you know the

full story of giving that takes place with Jordan, a resident at Greenhurst Nursing Center in Charleston, Arkansas. Jordan’s family lives in Little Rock, and we have felt that he needs extra love and attention because we cannot visit as often as we would like. The staff at Greenhurst communicates with us frequently and does an amazing job of caring for Jordan. In addition, there is a resident of the city of Charleston, Gary, who visits Jordan for an hour or more every week. And, Beverly has agreed not only to volunteer some of her time with Jordan, but she is also *encouraging Jordan to volunteer*. Now, Jordan is thirty years-old, and over the last twenty-two years since he was tragically injured, I do not think Jordan has ever thought of himself as someone who can help others. In fact, I imagine that he has not felt a lot of self-confidence or self worth, even though he is deeply loved by many. I think that he may be able to experience some of these positive feelings, for the first time, because he has been encouraged to use his limited abilities. Even though he cannot move or talk, he can be wheeled into residents’ rooms and express his caring, with his eyes and his loving spirit. And, the residents have the opportunity to get to know someone new, someone who not only does not judge their disabilities, but can also understand their helplessness. I see so many benefitting from this circle of volunteering, but, to repeat, the volunteer receives even more than the recipient! I know that, and for the first time, I am so very thankful that my son, Jordan, can also experience these feelings. Nursing homes are not just places where people receive care, *but they can be places where giving is a two-way street, volunteering is at its best, and self-confidence and self worth can be experienced by all*. Greenhurst and Charleston are great examples of giving communities.

Constance Smith  
constanceks@aol.com

## Debunking the Myths of Older Adult Falls

(reprinted from National Council on Aging [www.ncoa.org](http://www.ncoa.org))

Many people think falls are a normal part of aging. The truth is, they're not. Most falls can be prevented—and you have the power to reduce your risk. Exercising, managing your medications, having your vision checked, and making your living environment safer are all steps you can take to prevent a fall.

Every year on the first day of fall, we celebrate National Falls Prevention Awareness Day to bring attention to this growing public health issue. To promote greater awareness and understanding here are 10 common myths—and the reality—about older adult falls:

**Myth 1: Falling happens to other people, not to me.**

**Reality:** Many people think, "It won't happen to me." But the truth is that 1 in 3 older adults—about 12 million—fall every year in the U.S.

**Myth 2: Falling is something normal that happens as you get older.**

**Reality:** Falling is not a normal part of aging. Strength and balance exercises, managing your medications, having your vision checked and making your living environment safer are all steps you can take to prevent a fall.

**Myth 3: If I limit my activity, I won't fall.**

**Reality:** Some people believe that the best way to prevent falls is to stay at home and limit activity. Not true. Performing physical activities will actually help you stay independent, as your strength and range of motion benefit from remaining active. Social activities are also good for your overall health.

**Myth 4: As long as I stay at home, I can avoid falling.**

**Reality:** Over half of all falls take place at home. Inspect your home for fall risks. Fix simple but serious hazards such as clutter, throw rugs, and poor lighting. Make simple home modifications, such as adding grab bars in the bathroom, a second handrail on stairs, and non-slip paint on outdoor steps.

**Myth 5: Muscle strength and flexibility can't be regained.**

**Reality:** While we do lose muscle as we age, exercise can partially restore strength and flexibility. It's never too late to start an exercise program. Even if you've been a "couch potato" your whole life, becoming active now will benefit you in many ways—including protection from falls.

**Myth 6: Taking medication doesn't increase my risk of falling.**

**Reality:** Taking any medication may increase your risk of falling. Medications affect people in many different ways and can sometimes make you dizzy or sleepy. Be careful when starting a new medication. Talk to your health care provider about potential side effects or interactions of your medications.

**Myth 7: I don't need to get my vision checked every year.**

**Reality:** Vision is another key risk factor for falls. Aging is associated with some forms of vision loss that increase risk of falling and injury. People with vision problems are more than twice as likely to fall as those without visual impairment. Have your eyes checked at least once a year and update your eyeglasses. For

those with low vision there are programs and assistive devices that can help. Ask your optometrist for a referral.

**Myth 8: Using a walker or cane will make me more dependent.**

**Reality:** Walking aids are very important in helping many older adults maintain or improve their mobility. However, make sure you use these devices safely. Have a physical therapist fit the walker or cane to you and instruct you in its safe use.

**Myth 9: I don't need to talk to family members or my health care provider if I'm concerned about my risk of falling. I don't want to alarm them, and I want to keep my independence.**

**Reality:** Fall prevention is a team effort. Bring it up with your doctor, family, and anyone else who is in a position to help. They want to help you maintain your mobility and reduce your risk of falling.

**Myth 10: I don't need to talk to my parent, spouse, or other older adult if I'm concerned about their risk of falling. It will hurt their feelings, and it's none of my business.**

**Reality:** Let them know about your concerns and offer support to help them maintain the highest degree of independence possible.

There are many things you can do, including removing hazards in the home, finding a fall prevention program in the community, or setting up a vision exam.

- See more at: <http://www.ncoa.org>

***Steps to take if you find care lacking . . . . .***

1. Talk to the CNAs on duty for your hall. —————→ 
2. Talk to the nurse for your hall. —————→ 
3. Talk to the Director of Nursing or the Administrator. —————→ 
4. Call the Office of Long Term Care or the Regional Ombudsman. —————→ 

- ❖ The Office of Long Term Care Phone in Arkansas is 1-800-582-4887.
- ❖ Regional Ombudsman contact information complete with a photo of the ombudsman should be posted in a prominent place in your facility. You may also have a certified volunteer ombudsman (CVO) for your facility who might offer advice.

## Revitalizing A Family Council

Kathie Gately, Arkansas State Long Term Care Ombudsman, has been working with Family Councils over 30 years. Kathie recently began a focus to **rebuild and maintain** family councils at nursing homes around Arkansas. She relates that in the 1980s, ninety percent of the LTC facilities had family councils. Presently only about eighteen percent of the facilities have family councils. She aspires to reach fifty percent with this campaign. Her regional ombudsmen are challenged to develop and sustain family councils in their area nursing homes.

To develop a family council, remember that it is not run by the facility. A family council is not required by law, but the facility is required to provide a meeting room if asked. The staff does not attend the meeting unless invited. It is often wise to hold family council meetings away from the facility to maintain focus on issues and avoid any feeling of intimidation. A person does not have to have a resident in the facility to be a member of the family council.



The persons starting the family council must enlist a person with energy, time and passion to be the leader. You need an organizer, establish a structure, and officers are chosen or elected. A draft of by laws for your family council organization should be submitted to other members for their input/ideas. Draw everyone into the dialogue as you share ideas and then choose a name for your group. Decide how often you want to meet. Now it is time to talk to the Administrator telling him you are interested in forming the family council. It is important to create a working relationship with this person.

When you have chosen a date, you will start to pass out flyers and put up signs in the facility advertising the first meeting. A pot luck or speaker is a good way to draw people to the family council meeting. It is important to keep the meeting structured and not allow it to be monopolized by one person. You want to address concerns that benefit all residents. If someone has a concern specific to their loved one it is suggested that they speak with the administrator. You will start to draw ideas for future meetings from attendees.

The Ombudsman program in Arkansas is known to be the best in the nation. Kathie now has 580 volunteer ombudsman in long term care facilities around the state. These ombudsmen are available to help in creating and maintaining family councils. Kathie believes the success of this initiative will stimulate improved relationships with family and staff and, most importantly, affect the quality of care and life of our loved ones.

If you see someone without a smile...  
Give them one of yours.



### 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 continued assistance to and support of AANHR.

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Joshua Mayhan for managing the AANHR website and sending AANHR email alerts.

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David Couch of The Law Offices of David A. Couch, PLLC, PA, for his support and assistance, and his providing POA documents pro bono.

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

### AANHR Officers and Board Members

**President** - Martha Deaver, Conway (501-450-9619)

**Vice President** - Nancy Patterson, Searcy (501-278-6577)

**Secretary** - Nancy Allison, Conway (501-327-3152)

**Treasurer** - Frances Walker, Benton (501-316-0260)

**Members of the Board:** Martha Blount, Searcy (501-278-9168); Linda Brimer, Searcy (501-268-4699); James Brooks, North Little Rock (501-454-6279); Pat McGuire, Alexander (501-847-1016); and Ann Pinney, Benton (501-249-1084).

**Newsletter Editors:** Ernie and Martha Blount, Searcy.

**Honorary Board Members:** Faye Sandstrum, 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://humanservices.arkansas.gov/dms/Pages/oltcHome.aspx](http://humanservices.arkansas.gov/dms/Pages/oltcHome.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**

Visit our website at [www.aanhr.org](http://www.aanhr.org) or e-mail us at [Info@aanhr.org](mailto: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.**

[www.ualr.edu/senior\\_justice](http://www.ualr.edu/senior_justice)



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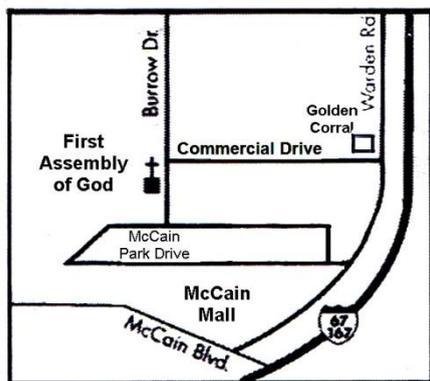
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### Strength in Numbers, AANHR Needs You!!

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, 2014**.

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.
- Waive dues because of financial hardship.

Please make checks payable to: AANHR and mail to PO  
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 #1A 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 (#102) is immediately inside the entrance door.