



AANHR

Arkansas Advocates for Nursing Home Residents

PROTECTING NURSING
HOME RESIDENTS

July
2016

Next Meeting July 11

Meeting

Place:

First Assembly of God
Church

4501 Burrow Road
North Little Rock

Directions to church

On back of
Newsletter.

10:00 - 11:00 A.M.
Open Forum

11:00 A.M.

Program Speaker:
(See article at right.)

PLEASE NOTE:

There will be **NO**

meeting **NOR**

newsletter in August.

Conway (501) 450-9619

AANHR's Mission Statement:

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

July 11th Meeting Topic: New Maltreatment Reporting Tool Speaker: Stormy Smith, OLTC Program Manager

Stormy Smith will be presenting an overview of the of the LTC facility maltreatment reporting tool, DMS-7734 and investigation tool, DMS-762 developed in 2015 in a collaborative effort between the Office of Long Term Care (OLTC) and Arkansas Innovative Performance Program (AIPP). Stormy will cover F-225 and its requirements to report maltreatment in accordance with the Adult and Long-Term Care Facility Resident Maltreatment Reporting Acts, and then move into the latest tool produced by OLTC and AIPP. The new reporting tool is designed to be carried by all facility employees in their pocket or worn as a badge. The new reporting tool covers the definitions of maltreatment and who to report to in accordance with Arkansas Law. The new employee reporting tool will be available through AIPP at aipp.afmc.org.

Stormy Smith is a Program Manager with the Office of Long Term Care (OLTC) where he has been employed since 1991. Stormy received his Bachelor of Science in Business and Industry from Mississippi State University. He is a Certified Surveyor, Licensed Nursing Home Administrator and a Certified Public Manager. Stormy has forty-two years experience in health care, with thirty-eight of those years being in Arkansas.

Stormy currently reviews all of the Incident and Accident Reports from nursing facilities and he is on the committee that reviews all Abuse Investigation Reports from nursing facilities. He also conducts training programs on nursing home abuse and neglect as it pertains to the Adult and Long-Term Care Facility Resident Maltreatment Reporting Acts, and state and federal regulations.

**Save the Date! Monday, October 10th
Residents' Right Rally
Capitol Rotunda**



Martha Deaver of AANHR Honored by Arkansas Trial Lawyers Association

LITTLE ROCK - Martha Deaver of Arkansas Advocates for Nursing Home Residents was recently honored as the recipient of the 2016 Consumer Merit Award by the Arkansas Trial Lawyers Association (ATLA) at its 53rd Annual Convention in Eureka Springs. The award is given in recognition of outstanding contributions towards fighting to protect the rights and the liberties of all Arkansas. Martha was chosen for her long-term commitment to protect the rights of nursing home residents. "I call Martha, the "Woman on Fire." On fire for Justice, on fire against abuse and neglect, on fire to make sure our loved ones are protected. That fire burns with an intensity as white-hot as any I have ever seen in a human being. You see, Martha knows firsthand, how it feels to lose a loved one due to neglect in a nursing home," said ATLA President Bob Edwards.

Martha Deaver began her work as an advocate for the rights of nursing home residents in the late 1980's when her grandmother was a resident of an Arkansas nursing home. She joined The Arkansas Advocates for Nursing Home Residents in 1998 and became a member of the board of directors in 2001. In January of 2008 Martha was elected President of The Arkansas Advocates for Nursing Home Residents. Martha's mother and mother-in-law were victims of nursing home abuse.

Her story was chronicled in Ladies Home Journal in a report "It broke my heart that I couldn't protect my mom." Since the loss of her mother, she has not stopped. For her efforts, she has been recognized by several groups for her advocacy.

In 2005 Deaver was honored by National Citizens Coalition for Nursing Home Reform (NCCNHR) for her long-term commitment to protect the rights of nursing home residents. She was presented with the Janet Tulloch Memorial Award in Washington, DC.

She is the recipient of the FBI 2010 Community Leadership Award. She was asked to serve in 2015, at the request of Director of AR Department of Veteran's Affairs, Col. Matt Snead, as a committee member with the development of the new Veteran's nursing home at Fort Roots. Deaver also served on the "2015 Professional Advisory Council" for Alzheimer's Arkansas.

Because of her dedication to protecting the rights of the injured, the Arkansas Trial Lawyers Association is proud to award Martha Deaver with this year's Citizen Merit Award.

Founded in 1963, The Arkansas Trial Lawyers Association (ATLA) is a statewide association of approx. 1,000 attorneys from all 75 counties that was established to protect the people of Arkansas's constitutional right to a trial by jury. ATLA supports its mission through advocacy, communications, and continuing legal education.

On the web at Arktla.org.

AANHHR in the news A limit on elders' rights -- *reprinted from [Arkansas Times](#), June 23, 2016*

Petition framed as way to cap attorneys' fees is bid by nursing homes to limit their liability. *by Benjamin Hardy*

You've probably been approached these past few weeks by canvassers bearing clipboards and petitions asking for your signature on a number of ballot initiatives. Most are fairly self-explanatory: There's the one about term limits, the one about casinos and a range of options on marijuana. Then there's the petition asking Arkansans to endorse a measure to cap attorneys' fees, ostensibly to protect defendants from predatory lawyers. What's that about?

The ballot initiative would do two things: place a \$250,000 cap on the "non-economic" damages a jury may award in a medical malpractice or negligence lawsuit and limit attorneys' fees to one-third of the net recovery in such a suit. Non-economic damages are awarded for harms that are difficult to quantify, such as pain and suffering, whereas "economic damages" include medical bills or lost future income resulting from an injury. Non-economic damages are especially essential in cases involving nursing homes, since residents typically have no potential to earn future income.

"It will be deadly," said Martha Deaver, the president of Arkansas Advocates for Nursing Home Residents. "Justice will be thrown in the trash for nursing home residents and their families if this passes. ... It will be open season on these residents if there is no legal recourse for them and if the nursing home industry knows it is not going to be held accountable."

As of May 31, the committee formed to gather signatures for the ballot measure had raised \$313,110, according to filings with the state Ethics Commission — more than twice the amount raised that month by any other committee promoting a ballot initiative — and \$250,000 of that sum came from the Arkansas Health Care Association. AHCA is the trade group for the state's nursing homes and other long-term care facilities.

Another \$50,000 was provided by RHC Operations, a Conway-based nursing home chain, and \$12,000 came from six Crestpark nursing homes in East Arkansas. The trade group for the state's doctors, the Arkansas Medical Society, has also endorsed the proposed amendment, but nursing homes have thus far provided almost all of the financial support: Of the hundreds of thousands of dollars raised in May, doctors and pharmacists chipped in a mere \$1,100.

The ballot committee, which calls itself Health Care Access for Arkansans, spent just under \$250,000 in May alone — coincidentally, the same amount at which the ballot initiative seeks to cap non-economic damages. About \$237,000 of that sum was paid to a Colorado-based company to provide paid canvassers, the Ethics Commission filing indicates. Like the other proposed constitutional amendments circulating this election cycle, the measure requires the signatures of at least 84,859 registered voters in the state to qualify for the November ballot.

The Arkansas Health Care Association did not respond to requests for comment for this story. But when this reporter was approached by a canvasser in the Little Rock River Market on a recent afternoon, the canvasser said the purpose of the petition was to stop attorneys from taking advantage of clients by charging exorbitant fees. Since the cap on non-economic damages went unmentioned, the canvasser was asked if the proposed measure would have any other effect on the law. "No, that's it," he replied.

Typically, attorneys' fees in nursing home medical malpractice cases in Arkansas run around 40 percent, Deaver said. That's not an unreasonable percentage, she argued, considering "the experts that have to be hired, the investigations that have to be done by outsiders. It can be astronomical, the cost of putting on a lawsuit."

But there's little question the far more important piece of the proposed amendment is the one unmentioned by the River Market canvasser: the cap on non-economic damages. That limit could make it nearly impossible for family members of a neglected or abused nursing home resident to find a lawyer to take their case, according to Bob Edwards, a personal injury attorney and former president of the Arkansas Trial Lawyers Association.

(continued on page 7)

Highlands Family Council



28th Annual Spring Tea

by Paulette Blevins



On May 22, 2016 the Highlands at Cumberland Family Council held its 28th Annual Spring Tea. The purpose of the Spring Tea is to host an event that brings together family, friends, care givers and residents. The residents look forward to this event each year. They know it is the time when they can enjoy spiritually uplifting entertainment, participate in a fashion show and, for-a-moment, be the Star of The Show. They wear their dressiest clothing, get their pictures taken, are given gifts for participating, and may even win first, second, or third place because the Fashion Show is competitive. We purchase clothing for those residents who would like to participate but cannot afford an outfit . The residents are so happy to know that their family and friends are there cheering them on. As you can see in the pictures, the smiles on the residents' faces are priceless.

The Annual Spring Tea is the sole fundraiser for our organization. Each year a Souvenir booklet is produced and advertisements are purchased by family members, churches, local businesses and several organizations. Support is shown by purchasing an ad that can range from a full page to one-eighth page, making it affordable for everyone. The funds raised are used for the residents in Highlands of Little Rock at Cumberland Therapy and Living Center. We also sponsor a yearly Christmas Party where each resident receives a gift of their choice as well as the Annual Spring Tea.

Our mission is to aid and assist the administration in maintaining the best possible care of the residents in this facility. This is done through programs designed to address specific needs of the residents that only family or concerned compassionate people can provide.



June 13th Meeting Topic: Estate Planning
Speaker: Ryan O'Quinn

Attorney Ryan O'Quinn spoke at the June 13 AANHR meeting about estate planning. He stated there are basically two phases: 1. Incapacitation: You must consider a plan in the event you become incapacitated? 2. Death: What is your plan for your assets when you die?

If you become incapacitated who will be in charge of your affairs and what do you want them to be able to carry out on your behalf? A financial Power of Attorney (POA) can be authorized to pay bills, manage checking accounts, sell property if you designate those as duties you wish them to perform. You may put into effect that he/she cannot sign a Arbitration Agreement with a nursing home.

When designating a Healthcare POA you must also state what you want them to be able to do as well as when the POA takes effect such as "when I lose mental capacity based on a physician's note". It boils down to whom do you trust? If you designate two persons they must agree.

A Living Will is another vital document when making preparations for our final days. If permanently incapacitated do you want to remain on life support. You must state your wishes -- in writing-- to avoid crises such as in the Terri Schiavo case.

What will happen to your assets when you die? One simple solution for bank accounts is designating person(s) to "Pay to On Death" (POD). The account passes automatically to those designated. Property can be placed in a trust to be dispersed after your death or passed on to beneficiaries in a will. Choose executor(s) carefully as you want them to carry out your wishes.

We all procrastinate but end of life issues should be tended to -- for you never know when/where you might become incapacitated or be called into eternity. If you wish consultation with our AANHR speaker, his contact info:

C. Ryan O'Quinn
roquinn@qgtlaw.com 501-379-1736
111 Center Street, Suite 1900 Little Rock
www.qgtlaw.com

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.



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.

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.

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 his support and assistance, and his providing POA documents pro bono.

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

The Law Office of **Bob Edwards and Mrs. Edwards** for providing financial assistance as well as AANHR Good Care booklets

AANHR Officers and Board Members

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

Vice President - Nancy Patterson, Searcy (501-305-4034)

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

Treasurer - Julie Edwards, Alexander (501-425-9959)

Members of the Board: Martha Blount, Searcy (501-278-9168); Linda Brimer, Searcy (501-268-4699); James Brooks, North Little Rock (501-454-6279); Julie Edwards, Alexander; Pat McGuire, Alexander (501-847-1016); and Ann Pinney, Benton (501-249-1084); Julie Shaw, Memphis (901-508-0558)

Newsletter Editor: Martha Blount, Searcy; Marcy Wilson, Sherwood

Honorary Board Members: Faye Sandstrum, Searcy.

AANHR in the news Continued from page 3

"When you consider the huge cost of these cases ... lawyers will have no incentive to pursue them," Edwards said. "You'll see more personal injury lawyers going back to fender benders."

Which is exactly the point, according to Deaver. Although nursing homes are frequently cited by state authorities for violations, "the only recourse is a minimal fine, at most."

"The one thing the nursing homes want to take away is the right to sue them, because that is the only way that they are held accountable in any way by residents and their families. ... The nursing home industry violates the law and gets away with it on a daily basis. It's not the nursing home industry that needs protection; it's the residents that need protection."

Deaver said nursing home owners have developed a variety of ways to shield themselves from litigation, including arbitration clauses that families are asked to sign before admitting a loved one into a home, therefore waiving the right to a lawsuit. If non-economic damages are capped at \$250,000, she warned, residents will be even more defenseless.

"Limitations are being placed on what has historically been considered one of our country's basic civil rights — the right to have disputes heard by a jury of one's peers," Deaver said. "Juries make decisions of life or death in murder cases. If that is a basic right, why can't a jury be considered competent enough to hear the facts when our most frail and vulnerable citizens are abused and neglected?"



Arkansas Advocates for Nursing Home Residents

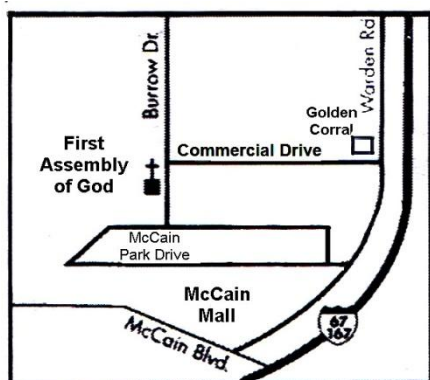
AANHR

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www.aanhr.org

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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, 2017**.

Today's Date _____

Name _____

Mailing address _____

City/State/Zip _____

Phone _____

Email _____

- ☐ I wish to receive the AANHR newsletter.
☐ \$20 per family or corporate membership.
☐ Waive dues because of financial hardship.

Please make checks payable to: AANHR and mail to
111 River Oaks Blvd, Searcy AR 72143.

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 (#113) is immediately inside the entrance door.