

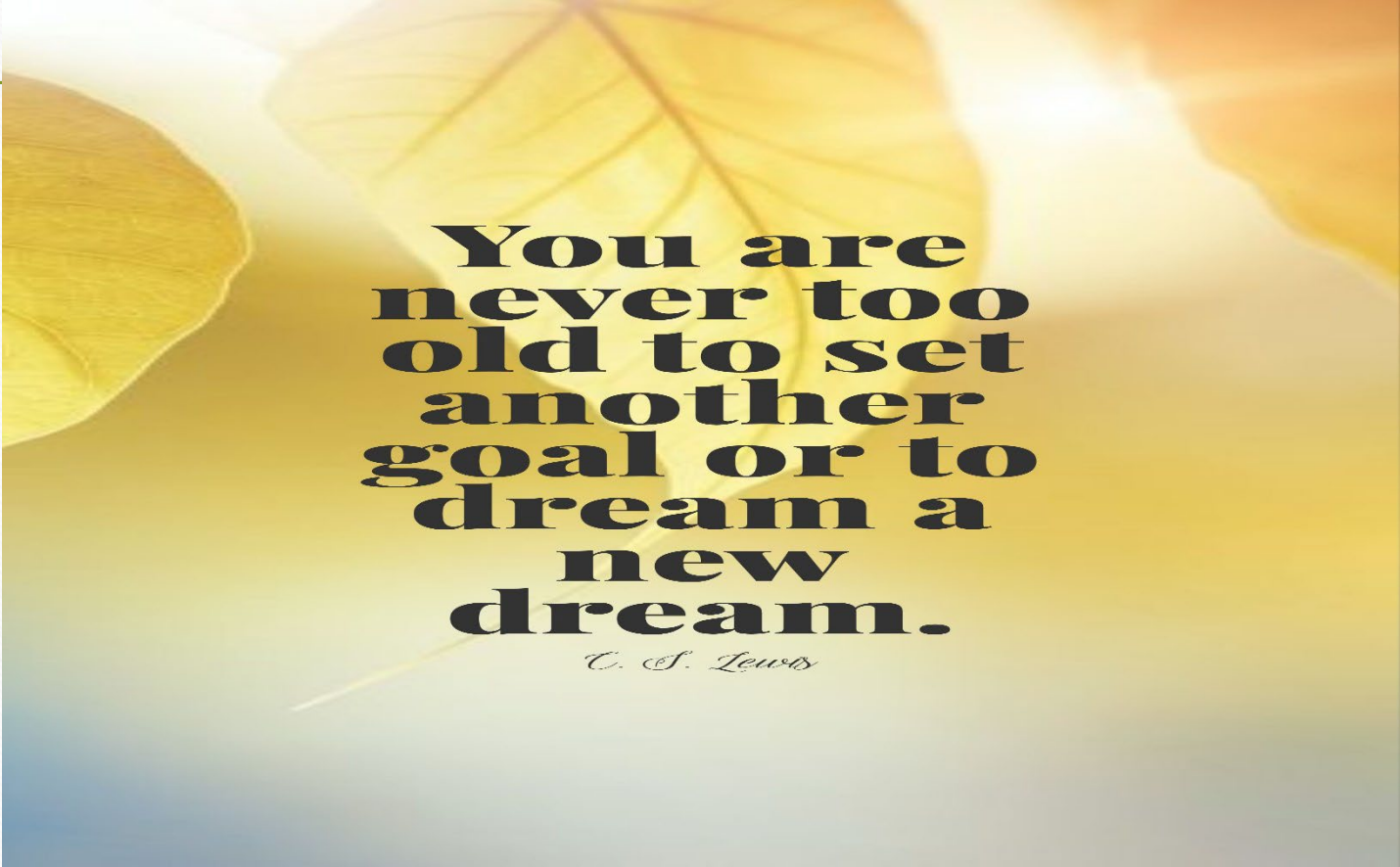
# Elder Law Issues

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## In Retirement

Melanie McNeil, Esq.

**Important legal and practical issues  
that arise in the lives of retirees.**



**You are  
never too  
old to set  
another  
goal or to  
dream a  
new  
dream.**

*C. S. Lewis*

# Topics

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- **Resources for decision making**
  - Medicare
  - Long-term care financing
  - Long-term care options
- **Long-term care in facilities**
- **Decision making by others**
  - Guardianship and Conservatorship
- **Abuse/Neglect/Exploitation**

# Free Medicare Assistance through State Health Benefit Plan

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- SHBP representatives are available at 800-610-1863
- Or go online at <https://shbp.georgia.gov/retirees-0/retirees-medicare>
- Representatives answers questions about Medicare
- The website includes Frequently Asked Questions

# Planning for Long-Term Care

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**ADRC**

**HCBS**

**Facility options**

- Nursing Homes
- Assisted Living
- Personal Care Homes
- CCRCs

- **Rights of LTC Residents**

- **Long-Term Care Ombudsman Role**

- **Documents to complete**

- **Other resources**

- Regulators

- Elderly Legal Assistance Program

- Law Enforcement

# Aging and Disability Resource Connection

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- 866-552-4464 extension 2
- [www.empowerline.org](http://www.empowerline.org)
- Data base of aging and disability services
- Options counselors provide information on options
- Service is free

# Home and Community Based Services (HCBS)

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- Local Area Agencies on Aging(AAAs) provide HCBS in their region
- Some services are means tested
- AAAs also have access to private pay services
- Services include:
  - Meals on Wheels
  - Congregate Meals at Senior Centers
  - Homemaker Services
  - Personal Care Assistance
  - Chore Services

# Long Term Care Facility Options

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- Continuing Care Retirement Communities, also called Life Plan Communities – private pay
- Assisted Living – private pay
- Personal Care Homes (licensed/unlicensed) may be private pay or may include Medicaid
- Nursing Homes – limited Medicare, private pay, Medicaid





# Long-Term Care Financing

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- Long Term Care Insurance
- Medicaid and Medicaid Planning (Seek an Elder Law Specialist, what to look for)
- Self-funding- expected costs and options



# Medicare and Long-Term Care

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- What does Medicare cover?
- What doesn't Medicare cover?
- When and how to plan



# Costs of Long-Term Care

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- NH in Georgia \$7,000 - \$8,000/month
- Assisted Living – as much or more than NH
- Veterans may qualify for Dept. of Veterans Affairs Aid and Attendance
- Medicare pays for first 20 days of NH if in the hospital for 3 days prior.
- 21<sup>st</sup> day to 100 day requires a co-pay. Check your Medicare Advantage plan for their co-pay amounts.
- After 100 days Medicare no longer pays.

# Residents of LTC Facilities Have Rights

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## Federal Law

- Federal NH Reform Act OBRA 87
  - Quality of Life and of Care
  - Individualized Care Plans
  - Freedom from Unnecessary Restraints
  - Rights (to return to facility, personal funds, choice and participation, etc.)

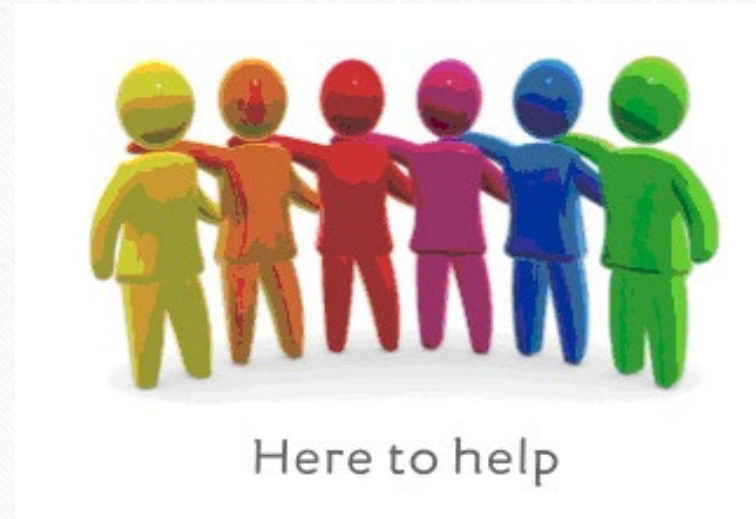
## Georgia Law

- Bill of Rights for Residents of LTCFs
  - Appropriate Care
  - Privacy
  - Visitors
  - Discharge

# What to Do if Concerned for a Resident

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- LTC Ombudsman
  - Who we are
  - What we do
- Regulators (HFR)
- Law Enforcement (GBI)
- ELAP
  - Who we are
  - What we do



# Who Long-Term Care Ombudsmen Are

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- Office of the State Long-Term Care Ombudsman
- Six regional contractors
- Approximately 45 certified Ombudsman Representatives
- Serve 80,000 + long-term care residents
- Authority to advocate in
  - Nursing Homes
  - Assisted Living Communities
  - Personal Care Homes
  - Intermediate Care Facilities for Individuals with Intellectual Disabilities
  - Community Living Arrangements

# Long-Term Care Ombudsman Program

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- Advocates for residents
- Routine visits/complaint response
- Complaints are confidential
- Not mandatory reporters
- Resident directs all actions
- Resolution to resident's satisfaction
- Community education
- Consultation to facilities
- In-service training for facility staff
  - Resident Rights
  - Abuse and abuse reporting

# Healthcare Facility Regulation Division, Department of Community Health

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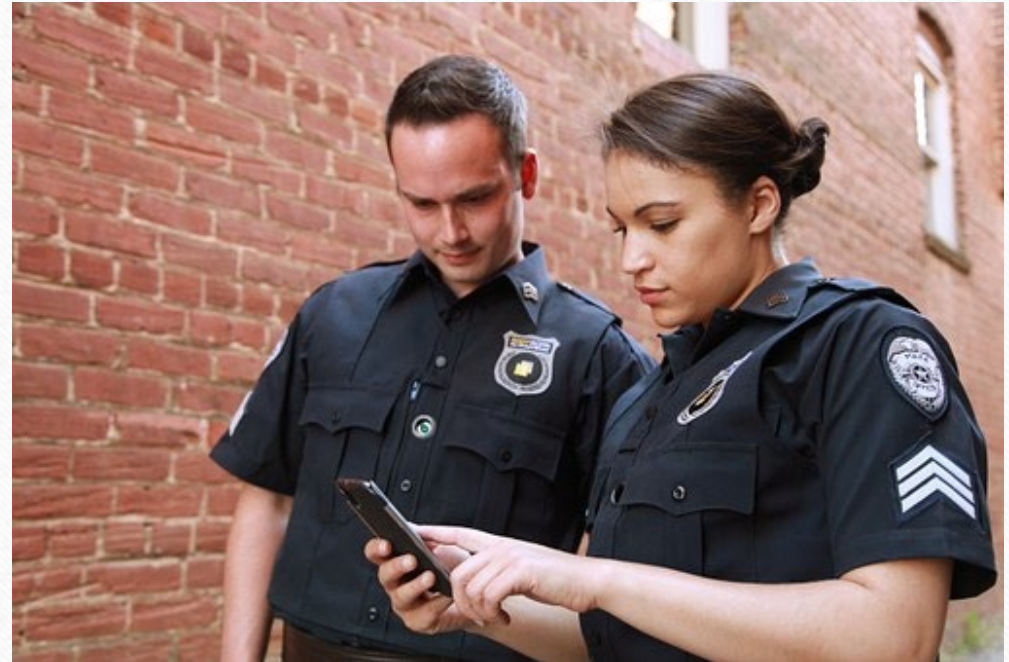
- HFRD
- Licenses health care facilities including long-term care facilities
  - Surveys long-term care facilities for compliance with federal and state law and rules as applicable
- Receive and investigate complaints
- Sanctions facilities for non-compliance
- Most surveyors are clinicians



# Law Enforcement

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- If crime committed in the community
  - Report to local law enforcement
    - Home Repair scams
    - Telephone scams
- If crime committed in facility
  - Report to local law enforcement
  - May request GBI assistance



# Elderly Legal Assistance Program (ELAP)

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- Provide civil legal advice
- Older adults 60+
- Free
- Priority areas



# Senior Legal Hotline

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- Provides free legal advice
- To or on behalf of individuals 60 or older
- Brief advice and assistance
- 866-552-4464 option 7



# Documents for Future

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- Advance Directive – for health care and end of life decisions
- Financial Power of Attorney – for managing finances
- Will – for distributing your assets after you die



# Guardianship/Conservatorship

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- Court Process/Court Oversight
- Adversarial process
- Alters legal status
- Restricts rights and places decision making in the hands of another
- Studies show it is rarely tailored



# Guardianship/Conservatorship

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- Court determines who makes decisions
- Control of personal decisions – guardian
- Control of financial decisions – conservator
- Some rights retained



# Elder Abuse, Neglect and Exploitation

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- What it is
  - Financial
  - Physical
  - Neglect
- How to Spot it
- What to Do
- Reporting
- Remedies



# Consumer Fraud Issues

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- Not just for seniors
- Common forms
  - Lottery Scams
  - IRS scams
  - Internet Scams
  - Distress calls from a relative
  - Marriage Scams





# Precautions

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- Prevention is key
- Think before you “click”
- If it sounds too good to be true . . .
- Slow down if someone is pushing you to make a quick decision

A graphic featuring the word "Refuse" in large, grey, 3D-style letters. Below it, the phrase "To Be A Victim." is written in white, bold, sans-serif font on a red, slightly tilted rectangular background. A registered trademark symbol (®) is located at the end of the phrase.

# What to do if you are a Victim of Fraud (hint: don't be ashamed or quiet!)

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- Georgia Remedies
  - Local Law Enforcement
  - GBI/Attorney General
  - Georgia Fair Business Practice Act
- Federal Remedies
  - Consumer Financial Protection Bureau, Federal Trade Commission, Securities and Exchange Commission, U.S. Postal Service
- Private Orgs (BBB, etc.)



# Who Can Provide More Information

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- Aging and Disability Resource Connection
- Georgia Division of Aging Services
- Federal Administration for Community Living
- Local Area Agency on Aging
- Private Groups (AARP, Alzheimer's Association, Georgia Council on Aging, etc.)



Thank You!

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Any  
Questions?

