Special NALC Conference Preview Edition

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National Law and Aging Conference Agenda

Cover photo: Edwin Walker, Administration for Community Living at the 2016 National Aging and Law Conference
On August 14, 2017, the American Bar Association’s (ABA) House of Delegates adopted Resolution 113, urging state, territorial, and tribal legislatures to (1) amend their guardianship statutes to require that supported decision making be identified and fully considered as a less restrictive alternative, before guardianship is imposed, and (2) require that decision-making supports that would meet the individual’s needs be identified and fully considered in proceedings for termination of guardianship and restoration of rights.

The Resolution further urges courts to consider (1) supported decision making as a less-restrictive alternative to guardianship and (2) decision making supports that would meet the individual’s needs as grounds for termination of a guardianship and restoration of rights.

An individual’s right to make decisions about his or her life is a fundamental value in American law. Sponsored by the ABA Commission on Disability Rights, the Commission on Law and Aging, and the Sections of Civil Rights and Social Justice (Disability Rights Committee), and Real Property, Trust and Estate Law, this Resolution continues and furthers the ABA’s long-standing interest in, and commitment to, ensuring that guardianship is a “last resort,” after other, less-restrictive options have been considered. The Resolution recognizes the newly denominated modality of supported decision making—in which people with disabilities make their own decisions with supports, rather than rely on a surrogate—and urges that it be explicitly included in guardianship statutes requiring consideration of less-restrictive alternatives.

Supported decision making is a process by which individuals with disabilities choose a trusted person or persons to support them in making their own decisions and exercising their legal capacity. Supporters can be friends, family, professionals, advocates, peers, community members, or any other trusted person. They may gather and present relevant information; help the person to understand and communicate the decision to third parties such as health care professionals and financial institutions; and/or assist in implementing the decision.

Notably, the Uniform Law Commission recently revised the uniform law relating to guardianship, the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (UGCOPAA), and, in doing so, recognized supported decision-making as a less-restrictive alternative to guardianship.
Pre-Conference Intensive: Supported Decision Making and Older Adults
By David Godfrey

For the first time since 2010, the National Aging and Law Conference will offer a pre-conference intensive. The program, set for Wednesday October 25, will focus on Supported Decision Making and Older Adults (SDM).

The pre-conference on SDM brings together national experts from the National Support Center on Supported Decision Making, the Burton Black Institute at Syracuse University, the ABA Commission on Law and Aging, North Florida Office of Public Guardian, Inc., and top researchers on these issues. The speakers are a solid mix of frontline practitioners, researchers and advocates. This is an optional session and requires a separate registration of $150. Lunch, breaks and continuing legal education credits are included in the pre-conference. Attendance is limited to 30 people.

Register here: [https://shop.americanbar.org/ebus/ABAEventsCalendar/EventDetails.aspx?productId=280870818](https://shop.americanbar.org/ebus/ABAEventsCalendar/EventDetails.aspx?productId=280870818)

Supported Decision Making (SDM) is based on the premise that all adults, as long as they have the ability to communicate, have the ability—and the right—to make choices. We all engage in SDM. Anytime we ask an “expert” to help us understand an issue and make a recommendation, we are engaging in supported decision making. Depending on our abilities and our experiences, the spectrum of issues for which we seek help will vary. SDM extends this decision-making model to help persons across the spectrum of experience and ability make choices and maintain control of their lives.

SDM is a simple concept that has gained acceptance in the disabilities community over the past few years. It is growing in use in aging services, providing a powerful tool for empowering older adults who are experiencing changes in memory and cognition. SDM also fits well into the type of advance care planning, or planning for incapacity, that lawyers and other advocates engage in with aging clients. The principles of SDM should be integrated into advance care planning documents, such as powers of attorney and appointment of health care surrogates.

Texas and Delaware have passed laws officially recognizing SDM as a potential alternative to guardianship of adults. The statutes urge considering SDM before filing for guardianship. They also create a framework for formal SDM agreements which outline the scope of issues that the person is seeking help with and designate who shall provide that help. SDM agreements are also an excellent place to define the long-term goals and values of the person. We see an increasing role for lawyers and other advocates in creating SDM agreements.

This session will cover the fundamentals of drafting SDM agreements.

How do you know if SDM will work as an alternative to guardianship? Guardianship is increasingly seen as the option of last resort, to be done only when all alternatives have failed. The PRACTICAL Tool handbook has been developed to help advocates review and evaluate SDM based alternatives to guardianship. It includes a check list of steps advocates should review when considering SDM. The steps include: assuming that guardianship is not needed;
SDM is a simple concept which has gained acceptance in the disabilities community over the past few years. It is growing in use in aging services, providing a powerful tool for empowering older adults who are experiencing changes in memory and cognition.

understanding the abilities and needs of the person; indentifying potential advisors, agents or supporters; accessing resources in the community; understanding the challenges of SDM for the individual case; and obtaining guidance on appointing and empowering persons to help.

The pre-conference will demonstrate the PRACTICAL tool in detail. Advocates with experience in using SDM to make the case for terminating or modifying guardianship will teach attendees how to do this. Just as SDM is a tool to avoid guardianship, it is also a tool for ending the need for guardianship. Increasingly, we are seeing SDM as a tool to empower persons with disabilities. As the level of empowerment grows, the need for guardianship decreases. We will cover documenting evidence of successful decision making with support, and other indicators of “capacity” and presenting them in court. Because the process for modifying or terminating a guardianship varies from state to state, the session will talk about how to learn about the processes in each state.

The Model Rules of Professional Conduct direct attorneys to be zealous advocates for their clients—to the extent possible—and to maintain a normal attorney client relationship with an attorney with a disability and to communicate complex legal issues with our clients in ways that our clients can understand. All of these add up to the ethical obligations of an attorney in working with a client using the principles of SDM. Experts will review how the ethics rules support and require using the principles of SDM when working with clients across the spectrum of experience and ability.

This pre-conference requires separate registration. If you are interested in SDM, or active in SDM, please register and join us on Wednesday October 25th.

David Godfrey, J.D., is a senior attorney to the American Bar Association Commission on Law and Aging in Washington, DC.

Grandparents Day Postcard Campaign

This Grandparents Day, Caring Across Generations is launching a postcard campaign to urge the Senate to protect health care for grandparents. The postcard campaign is being held now until Grandparents Day, Sept. 10th.

Upload a photo and adapt or write your own message, which will automatically generate a customized postcard mailed to your Senators’ state offices. Please join the campaign to spread the word and encourage action!

Here’s what you can do:

Promote the campaign on your social media channels from now through 9/10.

■ Sample tweet: We love this! Check out this creative + powerful way to take action AND honor grandparents for #GrandparentsDay http://postcards.care/

■ Sample Facebook post: Wasn’t getting cards from your grandparents the best? For #GrandparentsDay this year (Sept. 10), create a postcard that honors them and has political impact. Go to http://postcards.care/ to send your Senator a snail-mail postcard featuring a photo and a nugget of wisdom from your family. #ProtectOurCare #CaringMajority

■ Additional social shares can be found here.

Send an email to your list. If you can do this, we will provide a unique link so you can track your action takers and benefit from any new growth that comes from it. Sample email.

This campaign gives people an easy but powerful way to take action while telling the intergenerational story of our country. Your participation and support is critical.
Centers for Medicare and Medicaid Services (CMS) released new nursing facility regulations in September 2016. Most of the regulations became effective in November of 2016, although a limited number of the regulations will not become effective until November 2017 or November 2019.

New survey procedures and surveyor guidelines will become effective in November 2017.

The new regulations offer some improved protections to consumers by placing a greater emphasis on person-centered care and attempting to give residents greater control over their care, schedules, and activities. Under the new regulations, a baseline care plan must be completed within 48 hours after admission, and the resident has increased choice over who participates with him or her on the interdisciplinary team that subsequently develops the comprehensive care plan. This care plan generally must include a discharge plan, indicating an increased emphasis on transitioning residents from nursing facilities to homes or other settings whenever possible.

Protections against improper transfer/discharge are somewhat improved, as are the rules that apply to transfers within a facility. On the other hand, staffing standards are not appreciably better, and the regulations failed to take a strong position against use of psychotropic medications. However, one consumer-friendly provision is on the chopping block. CMS now proposes to eliminate the regulations which prohibit a nursing facility from obtaining agreement to arbitration agreement at the time of admission.
Despite beginning to issue revisions to the guidelines to implement the revised standards of care, CMS has delayed enforcement of some of the new guidance regulations. CMS announced plans to combine the two survey processes currently in use—the traditional survey and the Quality Indicator Survey—into a single survey process for all states to use, but no details are publicly available.

With even less prior public announcement, CMS has begun to weaken enforcement of the Nursing Home Reform Law and regulations. A new Civil Money Penalty (CMP) Analytic Tool—which Regional Offices use in determining amounts of civil money penalties—makes per instance CMPs the default in many more situations of facilities’ noncompliance. Per instance CMPs are generally considerably lower than per day CMPs.

For arguably the first time, federal regulations are addressing the standard of care in assisted living facilities. In 2014, CMS released regulations to promote a non-institutional environment in settings in which Medicaid home and community-based services (HCBS) are provided. States are currently developing transition plans to come into compliance with those regulations. Transition plans must be approved by CMS by March 2019, with complete compliance required by March 2022.

Under the regulations, both residential and non-residential HCBS settings must provide service recipients with access to the community outside the setting, and offer choice regarding services, service providers, and other aspects of the service recipient’s life. A subset of the regulations applies only to residential HCBS settings—assisted living facilities, for example. One provision requires that each resident have protections from eviction that are at least equivalent to the protections provided under the state’s landlord-tenant law. If landlord-tenant law does not apply, the state must ensure that equivalent protections are established by a written agreement between the resident and the setting. Other residential provisions require lockable doors, accessible units, and around-the-clock access to food.

Details on these changes will be covered in a workshop at the 2017 National Aging and Law Conference on day 2, October 26, from 2:45-4 p.m. in room Inspiration A.

Eric Carlson is a Directing Attorney at Justice in Aging.

Toby S. Edelman is a Senior Policy Attorney with the Center for Medicare Advocacy.

Requests for Proposals

The Borchard Foundation Center on Law & Aging 2018 Academic Research Grants

The Borchard Center on Law & Aging awards up to 4 grants of $20,000 each year to further research and scholarship about new or improved public policies, laws, and/or programs that will enhance the quality of life for the elderly, including those who are poor or otherwise isolated by lack of education, language, culture, disability, or other barriers. The program is open to all qualified legal, health sciences, social sciences, and gerontology scholars and professionals. Organizations per se, whether profit or non-profit are not eligible to apply, although they may administer the grant. See the Center’s Web site at www.borchardcla.org. Proposal are due no later than Monday, October 16, 2017.

The American Bar Endowment (the ABE) Opportunity Grants

The ABE invites smaller, innovative program and project proposals to start or enhance a program of law-related research, education, or public service projects. Opportunity Grants are intended to be one-time awards. The ABE will consider grant applications from 501(c)(3) entities for projects that meet the focus requirements set out in the Program Goal. Visit www.abendowment.org/pdf/OppGrant-Application.pdf for more information. Grant applications must be submitted to the ABE by October 31, 2017.
People with cognitive impairments can experience significant barriers in accessing essential safety net programs such as Social Security, Supplemental Security Income (SSI), and Medicaid. Knowing the ins and outs of these programs can help overcome these barriers. We will explore how to navigate public benefits programs and advocate on behalf of people with dementia to improve their economic security and access to health care.

Those living with Alzheimer’s disease and other cognitive impairments will need to rely on others to manage their finances. Individuals with dementia may require a representative payee to access and manage their Social Security or SSI benefits. Understanding the representative payee program is essential to helping older adults with cognitive impairments achieve economic security.

A representative payee is an individual or organization appointed by the Social Security Administration (SSA) to receive Social Security or SSI benefits for someone who cannot manage or instruct someone else to manage his or her income. In administering the representative payee program, SSA follows certain procedures and regulations in order to: 1) determine whether it is in the beneficiary’s best interest to have a payee; 2) select the proper payee; 3) have adequate oversight over the payee’s activities; and 4) provide redress for any misuse of funds.

People with dementia frequently require Medicaid-funded long-term services and supports, such as nursing home care or home and community-based services. However, applying for these services, navigating the eligibility process, ensuring that sufficient services are received, and that the service is in the setting of the individual’s choice, are all challenges that may require help from an advocate. For example, state assessment processes may not fully take cognitive impairments into account, resulting in too few hours of care being authorized for people with dementia.

Dementia also has arisen as an important consideration in the new federal regulations that govern the settings in which home and community-based services (HCBS) are provided. The regulations work to promote a non-institutional environment in residential and non-residential settings such as, respectively, assisted living facilities and day centers. One important factor in a non-institutional environment is the ability of the Medicaid beneficiary to move both outside and within the setting. CMS guidance focuses on appropriate dementia care, and cautions against policies that too easily restrict a person’s freedom of movement.

Similar issues arise in nursing facilities. Facility residents have the right to access the greater community, and CMS again cautions against blanket policies relating to residents with dementia. In the person-centered care that is identified as the gold standard, a resident should be able to make decisions around issues both big and small, as modified by thoughtful consideration of his or her capacities. It is improper to follow broad generalizations around residents with dementia: each resident will exhibit differences both in preferences and in capacities.

This session will incorporate case studies, to help audience members identify challenges related to public benefits for older adults and develop advocacy strategies to address them. Coverage of the issue will be primarily from a practical point of view. This session will be held on October 26 from 2:15 to 3:30 p.m. in Inspiration A.

Kate Lang joined Justice in Aging (formerly the National Senior Citizens Law Center) in December 2012 in the Washington, DC office as a member of the Economic Security team.

John Whitelaw is a supervising attorney in the Aging and Disabilities Unit at Community Legal Services’ North Central office, Philadelphia, PA.
Last fall, during the 2016 NALC opening plenary, Edwin Walker, Deputy Assistant Secretary on Aging, introduced his agency’s vision for the new National Center on Law and Elder Rights (NCLER). Reiterating that legal services are always on the front-lines of the most pressing issues impacting older adults, he shared the goal that NCLER will help enhance the capacity of the legal services network.

This goal was forefront in our minds over the last year, as Justice in Aging developed and designed NCLER. As the NCLER lead contractor, we solicited feedback from the network of legal services providers and the aging advocates, seeking input on what’s working, and where help is needed to strengthen capacity. During our extensive stakeholder interviews, a prominent theme emerged: the need for the legal services network and aging network to better understand the other’s role, responsibilities and limitations. The interviews revealed successful examples of partnership, as well as challenges in communication between the two.

In an upcoming session at NALC, Bridging the Legal Services and Aging Network: National Center on Law and Elder Rights, Justice in Aging will introduce NCLER and present NCLER’s role connecting these essential partners. The session will educate participants about the NCLER training and technical assistance services for the network at large, as well as introduce ideas for better partnership among network members. NCLER will facilitate a discussion in small groups, focusing on ideas to strengthen collaboration across the network. Based on this discussion, NCLER will build on these solutions through future trainings and resource development.

With our valued partners, the American Bar Association Commission on Law and Aging, the National Consumer Law Center, and The Center for Social Gerontology, Justice in Aging is ensuring that NCLER provides a full range of tools and resources for aging, legal, disability, and elder rights networks across the country.

This discussion will be held on Thursday, October 26 at 9:30 a.m. in the Discovery Room.

Fay Gordon is the Project Manager of the National Center on Law and Elder Rights (NCLER).

Omar Valverde joined the U.S. Administration on Aging in September, 2006 as an Aging Services Program Specialist for the elder abuse prevention and the legal services for the elderly programs.

Jennifer Goldberg is Directing Attorney of the Justice in Aging Health Team, and is based in the D.C. office.

About NCLER

The National Center on Law and Elder Rights (NCLER) is a new national resource center for the legal services and aging and disability networks, focused on the legal rights of older adults. Providing webinars, trainings, written materials, and case consultations, NCLER is a one-stop resource for professionals serving older adults with the greatest economic and social needs. NCLER was created by Justice in Aging under contract with the Administration on Community Living’s (ACL) Administration on Aging, and its temporary home is https://ncler.acl.gov.

NCLER combines resources from Justice in Aging, the American Bar Association Commission on Law and Aging, the National Consumer Law Center, and The Center for Social Gerontology to produce and disseminate monthly trainings and written materials that cover both basic and advanced legal topics. Please visit the temporary home, https://ncler.acl.gov, or request a free case consultation by emailing consultncler@acl.hhs.gov.
Approximately 40% of older adults in the United States require surrogate decision making at the end of life because they become unable to formulate or articulate instructions about their health care. When no information about a person’s preferences is available, the general legal presumption is that the individual would choose to receive all medical treatment necessary to sustain life. However, if a person adequately communicates his or her preferences about life-sustaining treatment in advance while still competent, this presumption no longer applies and the patient’s expressed wishes should guide medical decisions. The ongoing process of reflecting on and informing loved ones and health care providers about how future medical decisions should be made in the event of incapacity is called advance care planning (ACP).

The process often results in a legal document called an advance directive, the format of which varies but usually consists of two parts: a living will and a durable power of attorney for health care. The living will allows individuals to state what medical treatments they would or would not wish to receive under certain conditions such as a persistent vegetative state or irreversible and severe cognitive impairment. The durable power of attorney for health care is used to nominate one or more health care proxies to act on one’s behalf in the event of incapacity. Individuals may also communicate their wishes verbally instead of or in conjunction with completing advance directives.

ACP is associated with some important end-of-life quality indicators, including dying at home rather than in a hospital and receiving hospice care before death. Numerous studies have observed that Black older adults are significantly less likely to engage in ACP compared to their White counterparts. This is particularly concerning given the relationship between ACP and end-of-life care. Black elders are less likely to receive hospice or other palliative care at the end of life and are less likely to have their pain effectively managed.

Proposed explanations for relatively low rates of ACP among Black older adults include mistrust of doctors and the health care system, religiosity, reluctance to acknowledge terminal prognosis, greater desire for life-sustaining treatment, lower health literacy, and doubt about the efficacy of ACP. Despite numerous studies testing many of these theories, the underlying mechanisms for race disparities in ACP are still not well understood. One possible contributing factor is disproportionality in estate planning (i.e., the making of a will, trust, or other legal document to dispose of property after death). Having a will is highly predictive of having an advance directive and has been suggested as a possible reason for race disparities.

Using data from the Health and Retirement Study (HRS), the present study tests whether ACP disparities between White and Black older adults can be explained by differences in estate planning. We also examined the relationships between estate planning and demographic, health, financial, and ACP variables. We hypothesized that accumulative financial disadvantages would account for lower rates of estate planning among older Blacks. Estate planning was predicted to explain race disparities in ACP, particularly advance directive completion.

This presentation will be part of the Rapid Fire Plenary on October 27 at 8:30 a.m. in the Pinnacle Grand Ballroom.

Catheryn Koss, J.D., Ph.D., is Assistant Professor of Gerontology at California State University, Sacramento.

These materials are adapted from the following article: Koss, C. S., & Baker, T. A. (2017). “Where There’s a Will: The Link between Estate Planning and Disparities in Advance Care Planning by White and Black Older Adults.” Research on Aging. Advance online publication. doi:10.1177/0164027517697116. Email catherynkoss@sbcglobal.net to request a copy.
Understanding Resources in the Supplemental Security Income (SSI) Program
By Eric Carlson, Mary M. Aquino and Kate Lang

Supplemental Security Income (SSI) is a federal means-tested program administered by the Social Security Administration (SSA). Eligibility is based upon disability or age (65 or older) and financial need. SSI provides subsistence cash assistance to people who are at least 65 years old, blind, or meet the Social Security standard of disability, and who have very low income and limited assets.

Financial need is measured in terms of income and assets or resources. SSI has many complicated financial eligibility rules, including the treatment of resources. The countable resources of an SSI recipient may not exceed $2,000 for an individual or $3,000 for an eligible couple. A resource is defined as cash or other liquid assets or any real or personal property that an individual owns and could convert to cash to be used for his or her support and maintenance.

But the SSI resource limit has not been updated since 1989. This stagnant limit that has not been adjusted to reflect inflation in almost 30 years causes significant problems for individuals who would otherwise be eligible to receive SSI. Some of the more common resource problems for individuals on SSI include having an ownership interest in property where the recipient is not currently living, receiving a lump sum settlement, and receiving an inheritance.

Additionally, applicants and recipients cannot simply transfer countable assets to gain eligibility for SSI. Similarly they cannot decline resources that they are entitled to receive, such as inheritances. An SSI applicant or recipient who transfers a resource to another person for less than fair market value or declines to receive a resource could become ineligible for SSI benefits for up to 36 months.

Anything that fits within the SSI resource definition is a resource for purposes of this transfer penalty.

A common scenario is where an SSI recipient is notified by SSA that her benefits will be suspended because she is over the resource limit, but is told nothing about the transfer penalty. She then gives away the excess resource under the impression this will help her retain her SSI benefits. Instead she then learns she will continue to be ineligible for an extended period because of the transfer penalty.

There are exceptions to the transfer penalty, including undue hardship, where the failure to receive SSI would result in the loss of food or shelter, and the individual’s total available funds do not exceed the applicable monthly payment rate for the individual’s living arrangement.

A gift of cash by an SSI recipient is a transfer of resources and may result in a period of ineligibility if, when added to the individual’s other resources, they exceed the resource limit. Repayment of a loan that one has a legal obligation to repay is not a transfer for less than fair market value. SSI recipients spending money on their own needs never will create a period of ineligibility.

Understanding how these rules work, the exceptions and what can be done to avoid lengthy periods of ineligibility is critical to the financial stability of low income elderly and disabled individuals receiving SSI benefits.

This session will take place in Inspiration B at 10 a.m. on October 27.

Eric Carlson is a Directing Attorney at Justice in Aging.

Mary M. Aquino is a Senior Attorney for Elder Law with the Elder Law Program at the Baltimore County office of Maryland Legal Aid.

Kate Lang joined Justice in Aging (formerly the National Senior Citizens Law Center) in December 2012 in the Washington, D.C. office as a member of the Economic Security team.
5.75 hours of CLE, including 1 hour of ethics

Additional fee of $150 includes CLE credits, Lunch and all day coffee and soft drinks

Registration is limited to 30 attendees.

### Leadership Room

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<tr>
<th>Time</th>
<th>Session</th>
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<tr>
<td>9:00 - 9:30 AM</td>
<td>Welcome, Introductions, Overview of SDM, Goals for the day</td>
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<tr>
<td>9:30 – 10:30 AM</td>
<td>Defining SDM and Older Adults, Integrating SDM into advance care planning</td>
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<tr>
<td>10:45 - Noon</td>
<td>Legal Update: SDM statutes SDM agreements and other documents</td>
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<td>1:00 – 2:15 PM</td>
<td>PRACTICAL tool kit for lawyers, reviewing all alternatives to guardianship</td>
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<tr>
<td>2:15 – 3:00 PM</td>
<td>Restoration of rights: modification and termination of guardianship</td>
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<td>3:15 – 4:15 PM</td>
<td>Legal ethics and SDM, Balancing the role of advocate with best interest</td>
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David Godfrey

David Godfrey and Morgan Whitlach

Jonathon Martinis

Dari Pogach and Erica Wood

Karen Campbell and Jenica Cassidy

David Godfrey

Jonathon Martinis

### Collaboration Room

National Association of Legal Service Developers Symposium

By invitation only – agenda forthcoming
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<th>Time</th>
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<tr>
<td>9:30AM–10:30AM</td>
<td>Legal Ethics and the Older Client</td>
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<td>The legal services and aging network share the privilege and responsibility of promoting elder rights. When they work together, outcomes for clients improve, but they can be siloed. The National Center on Law and Elder Rights (NCLER), supported by the Administration on Community Living (ACL) and developed by Justice in Aging, aims to bridge the two through resource support. This workshop will explore effective strategies to maximize communication and partnership between the aging and legal services network.</td>
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<td>Speaker: Jack Marshall</td>
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<td>Speakers: Jennifer Goldberg, Fay Gordon, Omar Valverde</td>
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<td>9:30AM–10:30AM</td>
<td>Bridging the Legal Services and Aging Network: National Center on Law and Elder Rights</td>
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<td>9:30AM–10:30AM</td>
<td>Advocating for Older Adults who have Experienced Trauma</td>
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<td>9:30AM–10:30AM</td>
<td>Elder Abuse in Guardianship Cases: Best Practices for Identification and Intervention</td>
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<td>9:30AM–10:30AM</td>
<td>Preserving Elders’ Income and Assets Using Consumer Protection Laws</td>
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Legal Ethics and the Older Client is an intense, challenging session that examines current ethics issues that may face lawyers in this important field, such as...ability, disability, and Rule 1.14, advising older clients, attorney competence, technology traps with the technologically inept client, when families interfere...and more.

Speaker: Jack Marshall
Speakers: Jennifer Goldberg, Fay Gordon, Omar Valverde

Trauma and aging affect the brain in particular ways, and advocates and attorneys may face unique challenges in assisting such clients. Briefly, we will discuss the neurobiology of trauma, and issues that may affect older adults’ cognitive functioning (effects of aging on the brain, Alzheimer’s disease, and dementia). Given this research, we will provide an overview of practices that delineate how to best advocate for older adults who have experienced trauma.

Speakers: Laura Cook, Keeley Frank

There are many legal tools available to help elders with limited income and assets address increasing and unexpected debt. With the cutbacks in the social safety net, elders will be assuming more financial responsibilities and accruing more debt. This session will review the consumer protection laws that advocates can use to assist elders in financial distress, including state and federal exemptions laws, the Fair Debt Collection Practices Act and bankruptcy law.

Speakers: Jeremiah Battle, Odette Williamson
### Agenda | Day One: October 26, 2017

#### 2017 National Aging and Law Conference

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<th>Pinnacle Grand Ballroom</th>
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<th>Connection</th>
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<tr>
<td>**10:45 – Noon</td>
<td>Protecting The Safety Net**</td>
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**Speakers:**
- Rebecca Valles
- Don Saunders
- Claire McAndrew

#### Lunch

**Pinnacle Grand Ballroom**

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<td><strong>Lunch</strong></td>
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**Attention III-B Funded Legal Assistance Convening**

Attention III-B legal assistance program folks- you are invited to come gather at two lunch-fueled opportunities to meet, greet and share with your peers from around the country and your ACL colleagues about your unique experiences in III-B legal programs. We’ll open a dialogue among us about the substantive and programmatic issues you care most about, including the ones that keep you up at night. For more information, please contact Omar Valverde (202) 795-7460 or omar.valverde@acl.hhs.gov and Hilary Dalin, (202) 795-7468 or Hilary.dalin@acl.hhs.gov

#### 1:00PM–2:00PM

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<td><strong>Nursing home transitions: Success Through Collaborative Advocacy</strong></td>
<td><strong>State Policy Advocacy to Achieve Systemic Results</strong></td>
<td><strong>LGBT Elders and the Public Benefit Safety Net</strong></td>
<td><strong>Home Improvement Scams: Trends, Tips &amp; Tools</strong></td>
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This workshop will provide an overview of New Jersey’s experience with nursing home transitions through its Money Follows the Person program, and the various legal issues the program has encountered (e.g. guardianship, residents’ rights, MCO contract issues, landlord-tenant). The presentation will also focus on collaborative efforts between the MFP program and Legal Services to address these issues, with an emphasis on utilizing the federal HCBS person-centered planning rules to achieve positive results.

**Speakers:**
- Amy Brown
- Gwen Orlowski

State policy advocacy can produce powerful long-term results for seniors. Collaborations are key to achieving significant changes in state agency policies and laws. Pro bono projects can help identify best practices to emulate, craft persuasive policy arguments, and draft legislative proposals and letters to agencies. State AARP offices are wonderful partners for lobbying for legislation that will benefit seniors. Come hear our success stories and share your own tips for leveraging resources and marshalling allies to accomplish systemic reform.

**Speakers:**
- Karen Loewy
- Murray Scheel
- Aaron Tax

Aging presents special challenges for LGBT individuals, not least of which are the legal challenges they may have face regarding public benefits: Medicare Parts A, B and D; Social Security benefits (disability, retirement); Medicaid; Qualified Medicare Beneficiary; Low Income Subsidy for Medicare Part D; long term care (nursing home); and veterans benefits. This program will provide participants with an overview of the federal and state programs regarding these matters, and recent developments.

**Speakers:**
- Patrice Earnest
- Rubens Pessanha
- Lisa Weintraub Schifferle

Home improvement scams threaten older adults’ financial stability. Learn more about a Better Business Bureau report finding them to be the riskiest scam based on exposure, susceptibility and loss. Then, hear from the FTC and N4A about how to reduce the risk of home improvement scams, what a home improvement scam is, why older adults are targeted, and what to do if someone has been scammed. Finally, try your hand at hypothetical scenarios.

**Speakers:**
- Olivia Jerjian
- Sheryl R. Miller

As the number of at-risk seniors is increasing steadily, Legal Counsel for the Elderly has engaged in innovative corporate partnerships to preserve seniors’ rights and basic needs. This session demonstrates ways to: 1) advocate for these tenants, including building a referral system with the local Public Housing agency, based on LCE’s corporate-sponsored Voucher Preservation Project; and 2) leverage the resources of law firms and corporations to preserve senior’s basic needs through legal clinics.
### Agenda | Day One: October 26, 2017

#### 2017 National Aging and Law Conference

#### Pinnacle Grand Ballroom

<table>
<thead>
<tr>
<th>Time</th>
<th>Session</th>
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<tbody>
<tr>
<td>2:00PM–2:15PM</td>
<td>Break</td>
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<tr>
<td>2:15PM–3:30PM</td>
<td>Wait, Wait Don’t Tell Me – Medicare Hot Topics</td>
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<td>Qualified Medicare Beneficiaries (QMBs)</td>
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<tr>
<td></td>
<td>combating improper billing of qualified Medicare beneficiaries (QMBs)</td>
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<tr>
<td>2:15PM–3:30PM</td>
<td>Discovery</td>
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<tr>
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<td>This session will educate attendees on immediate interventions for victims of financial elder abuse</td>
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<td>who have dementia and other cognitive impairments. From prevention to protect the elder’s financial status to pursuing civil or criminal remedies, the session will discuss working with banks and financial institutions, estate planning, reporting abuse, restraining orders, collaborating with government agencies and multi-disciplinary taskforces, and other civil and criminal remedies.</td>
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<tr>
<td>2:15PM–3:30PM</td>
<td>Connection</td>
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<td>People with cognitive impairments who experience significant barriers in accessing essential safety net programs such as Social Security, SSI, and Medicaid. Knowing the ins and outs of these programs can help overcome these barriers. Join us to learn how to navigate public benefits programs and advocate on behalf of people with dementia to improve their economic security and access to health care.</td>
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<tr>
<td>2:15PM–3:30PM</td>
<td>Inspiration A</td>
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<td>In this new era, it is more critical than ever that legal assistance and elder rights protection systems effectively reach and serve vulnerable elders. Model Approaches to Statewide Legal Assistance projects provide excellent laboratories for systems-level change. Two 2016 Phase I and one Phase II grantees will describe their efforts to assess and strengthen legal assistance within their state aging networks and their visions for the future. Facilitated by AoA/ACL and The Center for Social Gerontology.</td>
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<td>2:15PM–3:30PM</td>
<td>Inspiration B</td>
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<td>In a fast-paced forum, a panel of experts will discuss the latest Medicare news, challenges and successes for beneficiaries. There will be plenty of opportunity for audience participation, questions and answers. Join us for a fun and informative session.</td>
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#### Speakers:

- Mary Ashkar
- Ali Bers
- Gill Deford
- Toby Edelman
- Paul Grabowski
- Kathy Holt
- Kata Kertesz
- Wey-Wey Kwok
- David Lipschutz
- Judy Stein
- Jennifer Goldberg
- Kim Glaun
- Peter N. Travitsky
- Dani Kaiserman
- Jessica Hall
- Jennifer Marshall Roden
- Laura Brown
- Phoebe Hefko
- David Hominik
- Penelope A. Hommel
- Omar Valverde
### Agenda | Day One: October 26, 2017

**2017 National Aging and Law Conference**

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<td>3:45PM–5:00PM</td>
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<tr>
<td>Caregivers and the Aging Network</td>
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<tr>
<td><strong>Speakers:</strong></td>
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<tr>
<td>• Rita Choula</td>
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<td>• Sarjita Gupta</td>
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<td>• Anne Montgomery</td>
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<td>• Edwin Walker</td>
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<tr>
<th>Opening Reception</th>
<th>National Association of Senior Legal Hotlines – Annual Meeting – Open to anyone interested.</th>
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<td>5:00PM–6:00PM</td>
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### Agenda | Day Two: October 27, 2017

**2017 National Aging and Law Conference**

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<tr>
<td>Registration / Check in</td>
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<td>8:00AM–4:15PM</td>
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<tr>
<td>Hot Breakfast Buffet</td>
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<td>7:30AM–8:30AM</td>
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<tr>
<td>8:30AM–9:45AM</td>
<td>Rapid-Fire Plenary - Pinnacle Grand Ballroom</td>
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Join us for this fast-paced session featuring multiple presentations in rapid succession.

**Introduction by Jack Rives, Executive Director American Bar Association**

- Findings and Recommendations in Clinical Practice and Health Care Decision Making Laws - **David Godfrey**
- Enhancing your Elder Law Practice with an Elder Care Coordinator - **Maria R. Motsavage**
- Financial Exploitation Task Forces: Success for Less - **Jennifer N. Taylor**
- Fighting Fraud Affecting the Next Generation of Aging Consumers - **Patti Poss**
- Links Between Race Disparities in Advance Care and Estate Planning - **Catheryn Koss, JD, PhD**
- Practical and Legal Barriers to Tailoring Guardianship Orders: Results of a Multi-faceted Research Project - **Ellie Lanier**
- Global Journeys in Elder Justice - **Karen C. Buck**

**Closing remarks by the Assistant Secretary for Aging (invited)**
Agenda | Day Two: October 27, 2017

2017 National Aging and Law Conference

Pinnacle Grand Ballroom | Discovery | Connection | Inspiration A | Inspiration B
---|---|---|---|---
10:00AM–11:00AM | 10:00AM–11:00AM | 10:00AM–11:00AM | 10:00AM–11:00AM
The Future of Medicare and Medicaid | Stretching the Money: Low-Cost Legal Service Delivery Mechanisms | Strategies for Challenging Excessive Drug Prices | Principles for Person-directed Services During Serious Illness | Understanding Resources in the Supplemental Security Income (SSI) Program

**What is the future of Medicare and Medicaid?** How will new federal leadership affect these lifeline programs? Members of Congress receive briefings about the latest developments on Capitol Hill and at CMS, now it’s your turn. Join us to hear about current risks to Medicaid and Medicare from the Washington, D.C. perspective, and how any potential federal changes would affect the older adults you serve. Share how federal changes are already affecting your clients.

*Speakers:*
- Jennifer Goldberg
- David A. Lipschutz

**In this time of funding uncertainty, programs must look for new and unique ways to deliver services and to ensure that services are adequately addressing those in need. This workshop will highlight several different low cost programs being utilized throughout the country including: hotlines, community legal clinics, pro bono practice groups, and court-based help centers.**

*Speakers:*
- Wendy E. Bookler
- Karen Buck
- Keith Morris

**This workshop will discuss the phenomenon of persistent increases in the prices of prescription drugs critical to consumers’ continued health. The presentation will provide a brief overview of claims frequently used to challenge high drug prices, a broad overview of recent case law affecting these claims, AARP research on the historic increase in branded and generic drugs, and state level attempts to rein in costs to consumers.**

*Speakers:*
- William Marra
- James McSpadden
- Andrew Strickland

**People should be able to choose how they live with serious illness, but many lose choices as they age. ACL, with stakeholders from both aging and disability advocacy communities, developed person-directed principles to promote choice during serious illness. The principles address supports for people who are seriously ill and their family caregivers. Advocates can use the principles to help people exercise their rights and improve program services. The principles evolved from research and stakeholder discussions.**

*Speakers:*
- Kelly Bagby
- Dari Pogach
- Jane Tilly

**The Supplemental Security Income (SSI) Program has many complicated financial eligibility rules, including the treatment of resources or assets. We will discuss these rules concerning resources, and explore some of the more common resource problems for clients on SSI, including homes where the recipient is not currently living, lump sum settlements, and inheritances. We will also cover the transfer of asset penalty and strategies for dealing with it, including the undue hardship exception.**

*Speakers:*
- Kate Lang
- John Whitelaw

**Break | 11:00AM–11:15AM**

**11:15AM–12:15PM - Plenary - “Civil Rights and Older Adults” Pinnacle Grand Ballroom**

*Speakers:*
- Bill Rivera, JD
- Aaron Tax
- Maria Town
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<tr>
<td>Lunch</td>
<td>Discovery Room: III-B Funded Legal Assistance Convening - see full description on page 4</td>
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<tr>
<td>1:15PM–2:30PM</td>
<td>Play CFPB Jeopardy Latest tools for older consumers and advocates</td>
<td>DATA = UNDERSTANDING: Discussing New ACL Legal Services Reporting Requirements</td>
<td>Legislative Update on Social Security and SSI</td>
<td>Building a Late Life Decision Making Infrastructure for People Aging Alone</td>
<td>The Intersectionality of Race, Gender, and Immigration Status in Long-term Care</td>
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<tr>
<td>1:15PM–2:30PM</td>
<td>ANSVER: This federal office is always developing new tools to help you protect older consumers. QUESTION: What is the Consumer Financial Protection Bureau’s Office for Older Americans? Join a lively session on how CFPB is: • Helping banks and credit unions prevent elder financial exploitation • Shedding light on older consumers and student loan debt • Helping consumers make informed decisions about reverse mortgages • Supporting community networks that fight scams and exploitation • Advising consumers experiencing wrongful collection of medical debt And more!</td>
<td>As ACL finalizes expanded national reporting on OAA legal services, come hear the latest on the planned changes. Be part of the conversation on how these changes will affect legal providers, AAAs and SUAs. Help brainstorm holistic and effective approaches – involving all levels of the delivery system – to implementing new requirements. Consider how changes will assist to “tell the story” of OAA legal services and its critical role in ensuring justice for vulnerable elders.</td>
<td>This session will provide an update on proposals in Congress that would adversely impact Social Security and the Supplemental Security Income (SSI) program, as well as improvements to Social Security and SSI that have been introduced at the state and federal level.</td>
<td>Talking about the last life chapters isn’t easy for anyone, but it is especially difficult for “solos;” older adults who lack the traditional family support structure. When crafting wills, trusts, Powers of Attorney and Advance Care Directives, members of this group struggle with who to designate as a surrogate. Solos “with capacity,” are a largely invisible but growing group. Help discuss needs and generate ideas about how to create the infrastructure that they need.</td>
<td>Diverse low-income older adults experience significant barriers to accessing long-term care. At the same time, many low-income women of color, frequently immigrants, are providing home care but are unable to access affordable care themselves. This session will address both national and state level policy level initiatives that value the work of caregiving, expand access to home care options and ensure that solutions are inclusive and reduce inequities based on race, gender and immigration status.</td>
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<td>Break</td>
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Speakers:
- Tracey Gronniger
- Kate Lang

Speakers:
- Penelope Hommel
- Jennifer Klocinski
- Lauren Lisi

Speakers:
- Linda J. Camp
- Marit Peterson

Speakers:
- Jennifer Goldberg
- Sameera Hafiz
- Josephine Kalipeni
- Aaron Tax
- Daniel Wilson
| Agenda | Day Two: October 27, 2017 |

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<tr>
<td>2:45PM–4:00PM</td>
<td>The Need for Remote Protection Orders for Older Victims of Domestic Violence</td>
<td>Access to Long-Term Services and Supports: The Potential (Mis)use of Medicaid Waivers and the Path Forward on Financing Coverage</td>
<td>What’s Next for Long Term Care Facilities? Recent and Future Changes</td>
<td>What’s Hot in Guardianship: Learn the Latest and Fly with WINGS</td>
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<td>2:45PM–4:00PM</td>
<td>This workshop introduces New York’s Remote Access Temporary Order of Protection Program, the first statewide program allowing domestic violence victims to obtain protection orders electronically from remote locations. The presenters, using case studies, will also discuss murder and murder-suicides cases involving older couples which often aren’t investigated as domestic violence homicides, despite the presence of abuse in the relationship. This phenomenon underscores the importance of older victims obtaining protection orders which include weapon surrender.</td>
<td>The United States lacks a comprehensive system for long-term services and supports (LTSS). Today, Medicaid acts as the primary payor of LTSS. Demonstration waivers offer an opportunity to improve the system. At the same time, beneficiaries face the risk that states will use these waivers under the new Administration to further restrict access to the program. Meanwhile, the market for long-term care insurance has faltered with many insurers exiting the market. Learn what think tanks and other stakeholders have proposed to fix our broken LTSS system.</td>
<td>Both nursing facilities and assisted living facilities are experiencing changes in governing law. Nursing facilities are subject to revised federal regulations; most of the regulations are newly-implemented, although others will not become effective until November 2017 or November 2019. Medicaid-reimbursed assisted living facilities also are in transition. Relevant Medicaid regulations on community-based settings will become effective in March 2019. Join us to learn how these new rules could be implemented in your individual state.</td>
<td>Integrating core social work and legal principles has proven to be an invaluable asset in long-term care planning for aging patients. The presenters will discuss two interdisciplinary programs, one in a hospital setting and one in a legal setting. Michigan Medicine addresses complex patient care issues requiring the convergence of social work and law. The Alternatives to Landlord/Tenant Court for the Elderly Project at AARP Legal Counsel for the Elderly in DC, is a social work/legal eviction prevention collaborative focusing on early intervention to help at-risk elders age in place through social work assessments and interventions, protective arrangements, and legal interventions.</td>
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<td></td>
<td>• Hon. Deborah A. Kaplan</td>
<td>• Jason Frank</td>
<td>• Eric Carlson</td>
<td>• Alethia J. Battles</td>
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<td>• Joan G. Levenson, Esq.</td>
<td>• David Goldfarb</td>
<td>• Morris Klein</td>
<td>• Jennifer Berger</td>
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<td>• Dee Mahan</td>
<td>• Lori Stiegel</td>
<td>• Erica Wood</td>
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Registration now open:
https://www.americanbar.org/groups/law_aging/events_cle/nationalagingandlawconference.html

- Workshops on innovative approaches to critical legal issues
- Breaking news on policy issues
- Cutting-edge workshops on legal service delivery and development
- Networking with top experts from across the country
- Silver Spring, Maryland, is a short 20-minute metro ride from downtown Washington, DC.
- Walking distance to many restaurants and shops
- Registration includes lunch on Thursday and Friday, breakfast on Friday, and coffee and soft drinks throughout the two days.
- 11.5 CLE credits, including 1 Ethics Credit
- Low $169 per night hotel room rate (limited availability)

New this year!

Optional Pre-Conference Intensive:
Supported Decision Making (SDM) and Older Adults
Wednesday October 25th
Additional fee required
Separate registration required:
https://shop.americanbar.org/ebus/ABAEventsCalendar/EventDetails.aspx?productId=280870818

- Agenda includes an overview of the basics of SDM, an update on laws regarding SDM, drafting SDM agreements, a review of the PRACTICAL tool for lawyers, restoration of rights, and legal ethics.
- Attendance is limited to the first 30 participants,
- Tuition for the pre-conference is $150 and includes 5.75 CLE credits (including 1.0 of ethics,)
- Includes lunch and all day refreshments.

Join us this October
- Increase your knowledge and skills.
- Learn from experts in elder law
- Take home resources and tools to use in practice
- Network and connect