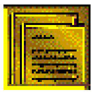
Tip Sheet # 24

Legal Healthcare Issues and Social Security



There are a number of legal issues that many caregivers and survivors must deal with after a stroke. There are also social security benefits that may apply. This tip sheet includes some general areas to think about, and where to find more information.

Examples of legal issues include:

- The need for the caregiver to obtain power of attorney if the survivor needs help paying bills or managing finances
- Guardianship and conservatorship
- Estate wills
- Advance directives including living wills and power of attorney over healthcare
- Social security benefits

Caregivers and survivors often find it very helpful to hire a lawyer to help them through legal issues associated with providing care. A lawyer can help with such things as obtaining a durable power of attorney, questions about guardianship and conservatorship, the development of wills, and many other issues.

If you don't know where to find a lawyer, ask family and friends. Word of mouth is often helpful in finding the right person. Ask other stroke survivors and their caregivers if they can recommend a lawyer. You can find other stroke survivors and caregivers from local stroke support groups See **Tip Sheet #8 Where to find resources** for a list of support groups. Here are a few other places to look:

Lawyer Referral Service, Indianapolis Bar Association, Refers clients to attorneys who charge based on a sliding scale, 1-317-269-2000, https://www.indybar.org/

Lawyer Referral Service, Cincinnati Bar Association, Refers clients to attorneys who charge based on a sliding scale, 1-513-381-8213, https://www.cincybar.org/

Lawyer Referral Service, Northern Kentucky Bar Association, Refers clients to attorneys who charge based on a sliding scale, 1- 859-781-1300, https://www.nkybar.com/

Legal Aid Society, Provides legal representation for low income clients. 1-317-635-9538, http://www.indylas.org/

Legal Aid Society of Greater Cincinnati, Provides legal representation for low income clients. 1-513-241-9400, https://www.lascinti.org/

Legal Aid of Bluegrass, Provides legal representation for low income clients. 1-859-431-8200, http://www.lablaw.org/home

Senior Law Project, Funded by CICOA, the Access Network, to assist low income seniors with legal services at no charge. 1-317-631-9410 or 800-869-0212.

ProSeniors, assist low income seniors with legal services at reduced cost. For Cincinnati, call 1-513-345-4160. For other states refer national directory, http://www.proseniors.org/pamphlets-resources/senior-legal-hotline-directory/

<u>What is a Durable Power of Attorney?</u>

This is where the survivor can give power to a caregiver or another person they choose to handle their finances or other matters. If you are a caregiver who is trying to manage the survivor's finances, this may be necessary. The durable power of attorney will allow you to write checks and pay the survivor's health care costs if they are unable to. Consult a lawyer for more information. This may be a sensitive topic for stroke survivors. Be sure to discuss this with the survivor first. Open communication is important.

<u>What about guardianship and conservatorship?</u>

If the survivor is incompetent and unable to manage decisions related to their care or their finances, you may need to think about submitting an application for guardianship. This is also an issue that should be discussed with a lawyer. The survivor would lose their rights to their own property and decisions if the court appoints a guardian for them. A **conservatorship** is when the survivor is competent, but may be physically disabled. The survivor might ask for a conservatorship if they want to place his or her property or care under court supervised care. Again, these are issues that should be discussed with the survivor if they are able, and with a lawyer.

What are advance directives?

An advance directive is a document that tells doctors what to do and who to talk with if the survivor is unable to make his or her own health care decisions. Advance directives have two parts. The first part lets the survivor name a Durable Power of Attorney for Healthcare who can make healthcare decisions for the survivor if they are unable to do so. The second part lets the survivor record their wishes to have or withhold treatment through the Life-Prolonging Procedures and Living Will Declaration. Talk with the survivor to see what their wishes are in the event that they are near death. Do they want medical treatment to stop? Do they want to limit care only to comfort measures such as feeding tubes or pain medications? Do they want machines or artificial measures taken to keep them alive? ***Do they want you to use your judgment when the time comes? Or, do they want you to follow their exact directions?*** These can be very difficult questions. The survivor may want to ask trusted family members or clergy for advice, or this may be a very personal matter that you and the survivor may want to discuss alone. Whatever the case, if you or the survivor wants to specify your wishes ahead of time, you will want to complete advance directive documents for your state. You can find these documents at www.caringinfo.org or call Caring Connections at 800-658-8898. You do not have to see an attorney to complete an advance directive.

What about a will?

It is also important to talk about the survivor's will if they have one. ***A will is a legal document that declares how the survivor wants to have his or her property given to others after they die.*** If there is no will, the state courts decide who gets what. Find out if the survivor has a will, and if so, where it is located. Be sure that a copy is kept outside of a safe deposit box. Banks will freeze a safe deposit box for a period of time after a person dies. You may need access to the survivor's will after they die to handle their estate. ***Talk to the survivor about their will and what their wishes are.*** Consult a lawyer if necessary.

What about Social Security benefits?

If the survivor is already retired and receiving Social Security checks, they cannot receive an additional disability benefit.

Social Security has a disability benefit for people less than 65 years of age.

- The person must not able to work because of the disability.
- The disability must be expected to last at least 12 months or result in death.
- The survivor will need to fill out a disability report form and a medical release form. The survivor's doctor will also need to explain the survivor's medical condition and why the survivor is unable to work.

Social Security may also pay early retirement benefits.

- This may be an option if the disability claim is denied.
- The worker must be at least 62 years of age and have a required number of work credits.
- Early retirement benefits will reduce the worker's monthly benefit payments.

Ask the Social Security Administration (1-800-772-1213, www.ssa.gov) for an appointment to talk about 2 programs:

- Social Security Disability Insurance
- Supplemental Security Income

Ask the Social Security Administration what forms are needed before coming to the appointment. It will save time if the survivor has all the forms they need when they come to the appointment to apply. If the survivor is eligible for these programs, it is important to start the process right away. It takes time to process all the paperwork. ***Take a trusted family member or friend with you.*** Social security can be confusing. Keep copies of all documents and written notes on whom you talk to and what they tell you.

You as a caregiver may need to ask about becoming a **representative payee** for the survivor's social security checks. This will allow you to use the survivor's social security income for their care. If you become a representative payee for the survivor's social security checks, you must keep a record of how this money is spent on the survivor's behalf.

Where can I find more information?

Ask the survivor's doctor or lawyer. A social worker might also be helpful.

See **Tip Sheet #8 Where to find resources** for a list of community resources.

American Bar Association, Legal Guide for the Seriously Ill; Seven Key Steps to Get your Affairs in Order. Available online at www.abanet.org/aging.

Lawyer Referral Service, Indianapolis Bar Association, Refers clients to attorneys who charge based on a sliding scale, 1-317-269-2000 or direct line 317-269-2222.

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Legal Aid of Bluegrass, Provides legal representation for low income clients. 1-859-431-8200, http://www.lablaw.org/home

Senior Law Project, Funded by CICOA, the Access Network, to assist low income seniors with legal services at no charge. 1-317-631-9424.

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Social Security Administration: 1-800-772-1213. You can call Monday through Friday between 7AM and midnight. Weekend hours are 8 AM to 3:30 PM.

The Social Security office is located in Indianapolis at 575 N. Pennsylvania St., Rm. 685. Their office hours are Monday through Friday 9AM and 4 PM.

See **Tip Sheet #22 Learning how to manage finances.**

See **Tip Sheet #23 Trying to cover the cost of the survivor's healthcare.**

Call the American Stroke Association's Warmline at 1-888-478-7653 (or 1-888-4-Stroke) to ask for booklets on financial education or go to: or go to: https://www.stroke.org/en/life-after-stroke/recovery/managing-your-stroke/finances-insurance-and-assistance

SHIIP (Senior Health Insurance Information Program) at 1-800-452-4800

Ohio Senior Health Insurance Information Program (OSHIIP) at 1-800-686-452-1578 (hotline)4800

Kentucky State Health Insurance Assistance Program (SHIP) at 1-877-293-7447

Medicare information at 1-800-Medicare (1-800-633-4227) or www.medicare.gov