



MANAGING FINANCIAL & LEGAL ISSUES

Getting Help with Legal Matters

Everyone should have their legal matters in order. Your stroke survivor could lose the ability to make decisions. Careful planning will make sure your loved one's wishes are followed.

What Do You Need to Know?

Plan ahead. Talk to your stroke survivor about legal matters early. Your loved one must have mental capacity to sign legal documents. Mental capacity means they can understand and make decisions.

You may need legal advice on the following:

- Advance planning, such as a living will.
- Public benefits.
- Long-term care and other housing.
- Abuse and neglect.

Where Can You Find Help with Legal Matters?

If possible, use an elder law attorney or attorney familiar with disability. Contact the National Academy of Elder Law Attorneys. Your local Area Agency on Aging (AAA) can refer you to an attorney. Some AAAs provide legal services for seniors. Find your local AAA on the Eldercare Locator. The "More Resources" section at the end of this fact sheet has contact information for these resources.

Community legal aid agencies offer help at low or no cost. The bar association in your area can refer you to an attorney. First visits often include a small fee. Look in your local phone book to find these agencies.

What Legal Documents Do You Need?

The documents below will protect your loved one's rights:

Durable Power of Attorney (POA)

Durable power of attorney (POA) gives someone the right to act for another person. This could include making financial or legal decisions. It could include writing checks to pay for bills. It stays in place if your loved one becomes unable to make decisions. Give the VA a copy of the POA for their records.

Durable Power of Attorney for Health Care

Durable power of attorney for health care names a person to make healthcare decisions for someone who cannot. For example, the person could decide to continue or stop a feeding tube. The person is usually a family member or close friend. They may be called a healthcare surrogate or healthcare proxy.

HIPAA

HIPAA (Health Insurance Portability and Accountability Act) provides privacy for a person's medical records. Your loved one should sign a HIPAA release. The release says who can see your loved one's medical records.

Living Will

Living will states in advance a person's wishes about medical care. Your loved one can say what medical treatments should be done. This may include a feeding tube or breathing machine. The document often allows naming someone to make healthcare decisions.

DNR

DNR stands for Do Not Resuscitate order. A DNR states not to revive a person who stops breathing.

Will

A will states how a person wants assets (property and belongings) distributed at death. A will lists who is in charge of a person's assets. A will can include other things, such as gifts or funeral wishes.

What Are Some Other Legal Matters You Should Know About?

Guardianship

In a guardianship, the court appoints someone to make decisions when a person no longer can. The court also decides when a person cannot make decisions. The family may need this if other advance planning documents are not in place. This process can take a long time.

Living Trust

A living trust gives instructions about a person's estate. An estate includes a person's property and funds. The trust appoints someone to handle the estate when the person becomes unable. Trust instructions state how assets should be distributed at death. A trust can avoid the expense and delay of probate. Probate is when the courts say that a will is valid.

Estate Planning

Estate planning is developing a plan for others to manage assets if a person dies or becomes unable. Estate planning can include writing wills and naming beneficiaries. A beneficiary is someone who receives benefits or assets. Estate planning can include creating trusts and making funeral plans.

Joint Accounts

Joint accounts allow another person to handle someone's affairs. These can be checking, investment or other accounts. Contact an attorney before setting up a joint account.

Helpful Tips

- Educate yourself on legal matters.
- Keep important legal documents up to date. Review them often to make needed changes.
- Store your loved one's legal documents in a safe place. Tell someone you trust where you put these documents.

Remember

- Take care of legal matters early. Discuss legal matters while your loved one is able to think clearly. Your loved one must be mentally capable to sign legal documents.
- Talk to an attorney. If possible, find an elder law attorney or attorney familiar with disability.

More Resources

The following resources contain internet links. The location of internet pages can change. Therefore the links provided may not always work. For the most current version of this list, go to <http://www.rorc.research.va.gov/rescue/resources>. This page will be updated frequently.

Link Disclaimer: Links to information and Web sites outside of the Department of Veterans Affairs do not indicate an endorsement of products or services offered by the sites. In addition, these sites may have privacy and security policies that are inconsistent with those of VA.

American Bar Association

Web: <http://www.abanet.org>

Your state's Bar Association may have basic living wills, trusts and power of attorney forms you can download. Find your state's Bar Association on the American Bar Association's Web site. Go to this link:

<http://www.abanet.org/barserv/stlobar.html>

The American Bar Association – Commission on Law and Aging has legal tools for making sure your wishes are carried out. Go to this link:

<http://new.abanet.org/aging/Pages/default.aspx>

Caring.com

Web: <http://www.caring.com>

Phone: 1-650-312-7100

Caring.com has information on advance health care directives. It includes a step-by-step guide on how to set up an advance directive. Go to this link:

<http://www.caring.com/articles/health-directives-and-living-wills>

Caring.com also gives expert advice on wills. It explains what a will is and how to set up and update one. Go to this link:

<http://pacaregiver.caring.com/articles/protect-your-estate-with-a-will>

Disability Lawyers.com

Web: <http://www.disabilitylawyers.com>

Disability Lawyers.com is an on-line nationwide disability lawyer directory.

Eldercare Locator

Web: <http://www.eldercare.gov>

Phone: 1-800-677-1116

Your local Area Agency on Aging (AAA) can refer you to an attorney. Some AAAs provide legal services for seniors. Find your local AAA on the Eldercare Locator.

For more information on stroke caregiving, visit the RESCUE home page:

<http://www.rorc.research.va.gov/rescue>

My HealthVet

Web: <http://www.myhealth.va.gov>

My HealthVet has information on VA services, strokes and caregiving.

Also visit the Caregiver Assistance Center on the My HealthVet Web site. This section provides more information on caregiving.

- Go to: <http://www.myhealth.va.gov>
- Click on the button that says “Enter Here”
- Click on “Research Health” on the top bar, then “Healthy Living Centers”
- Click on “Caregiver Assistance”

National Academy of Elder Law Attorneys

Web: <http://www.naela.org>

Phone: 1-703-942-5711

The National Academy of Elder Law Attorneys provides education and support on financial issues. They have brochures on Medicare and planning for health care decision making. To see a list of their brochures, go to this link:

http://www.naela.org/public_resources.aspx

References: Houts, P.S. (Ed.). (2004). *ElderCare At Home, Advance Directives*. (2nd Ed.). New York, NY: The AGS Foundation for Health in Aging; Caring.Com. (2009). *How a Conservatorship, or Adult Guardianship, Works*. Retrieved February 27, 2009, from: <http://www.caring.com/articles/guardianship-of-adult>; Caring.Com (2009) *Protect Your Estate with a Will*. Retrieved February 26, 2009, from: <http://pacaregiver.caring.com/articles/protect-your-estate-with-a-will>; New York Life, MainStay Investments (2009). *Role Reversal: Your Aging Parents and You*. Retrieved March 4, 2009, from <http://www.nylim.com/portal/site/MainStay/menuitem.3fee00be62dbf2b06d3ce939da48c1ca/?vgnnextoid=de6d54841a92c110VgnVCM100000ac841cacRCD>; National Institute on Aging. (2009). *Making Legal Arrangements*. Retrieved February 19, 2009, from: <http://www.dementiacarecentral.com/caregiverinfo/managing/legal>; Alzheimer’s Disease Education & Referral Center. (2008). *Legal and Financial Planning for People with Alzheimer’s Disease Fact Sheet*. National Institute on Aging, NIH Publication No. 08-6422, June 2008. Retrieved October 30, 2008.



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