

Planning Ahead

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Could This Happen To You?

Today I received a heart-breaking call. The caller's brother in his 50's had a massive stroke, he's in intensive care and it's too early to know how well he will recover. What should she do?

For years, her brother had talked about getting his estate plan together, but he never did. The brother does not have a Power of Attorney and he never made his Will. Now the Social Worker at the hospital is talking about a Conservatorship, but she's heard it's very expensive and a long process. And everyone is concerned for the brother's long-time girlfriend. If the brother dies, he has no Will so everything will go to the brother's estranged son and nothing to the girlfriend.

Hopefully, the brother will regain consciousness with no cognitive impairment and he'll have a second chance to make a proper estate plan. We always think estate planning is about after we're dead when the reality is many of us will need protection during our lifetimes if we are ever sidelined, even temporarily, by an accident or illness.

If the brother regains capacity, he can make a Durable Power of Attorney to appoint a trusted agent to handle his financial affairs if something like this ever happened again. The agent will be able to access his bank accounts, pay the bills and manage his investments. And he can make an Advance Health Care Directive naming his girlfriend as health care agent. Then in the future if there was a need for surgery or other medical treatment, the Doctor would not be barred from talking to his girlfriend and she can authorize his medical care on his behalf.

If the brother regains capacity, he can make a Revocable Trust. With a Trust, he'll have a Successor Trustee named to manage his Trust property for him. The Trust can avoid the time and expense of a Probate and he can give his girlfriend a sense of security by making sure she is provided for in his estate plan.

After talking for a while, the caller and I agreed to talk again in a few days when we hope her brother will regain consciousness and we'll have a better idea of the situation. Meantime, we are holding her brother in our thoughts hoping he will make a full recovery.

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