

Fact Sheet Finding an Attorney

When a family member has a cognitive impairment and cannot manage his/her affairs, legal and/or financial planning is often needed. Areas of concern to family caregivers include future health care decisions, management of assets, public benefits planning and, in some cases, litigation.

When seeking legal advice, finding a knowledgeable, competent attorney is extremely important. California residents who are caring for a brain-impaired adult and who are not receiving any other publicly funded legal services may be eligible for a one-time legal consultation from Family Caregiver Alliance or one of its Caregiver Resource Center affiliates. If further legal advice is appropriate, it is the responsibility of the individual to seek an attorney.

Locating an Attorney

One of the surest ways to find an attorney is through a personal recommendation. This may be a recommendation from a friend, relative or co-worker, or from another attorney whom you know and trust. A good way to get a personal recommendation is to attend a support group of persons in a similar situation. Someone there may already have had experience with a knowledgeable attorney and be able to share his or her experience. Referrals, as well as advice, for individuals aged 60 or over may also be obtained from senior legal services provided by local Area Agencies on Aging funded by the Older Americans Act. Independent community legal aid agencies may also offer assistance to persons of all ages.

Another way of locating an attorney is through an attorney referral service. The **local bar association** in your community may have a panel which refers callers to lawyers in various specializations. After describing your needs, you will be referred to the most appropriate specialist. Initial consultations generally include a nominal fee.

Caution should be exercised if such a referral service is used. Panel-referred attorneys need meet only minimum requirements and may have little experience. It is important to check the qualifications of an attorney and to make calls to compare fees and experience. Keep in mind that laws vary from state to state.

Types of Attorneys

Most attorneys concentrate on one or two areas of law. It is especially important for the family caregiver to find an attorney who has the appropriate expertise. Attorneys advising caregivers on planning for long-term care should have knowledge of the following areas of law:

- Medicaid (Medi-Cal) laws and regulations
- Social Security
- Trusts (special needs trusts)
- Conservatorships
- Durable power of attorney for health care and asset management
- Tax (income, estate and gift) planning
- Housing and health care contracts

Some attorneys are certified specialists. For example, an attorney can be a certified specialist in taxation, estate planning, probate or elder law. In the case of an accident, a personal injury attorney is needed. It is advisable to select someone who has had jury trial experience.

Attorneys often do not know about all of the above-mentioned areas. In the case of a personal injury, two attorneys may be needed--one to litigate an accident settlement and another to help plan for long-term financial or health care needs.

Preparing for a Legal Consultation

Before contacting an attorney, a family caregiver may find it useful to familiarize him or herself to some extent with areas of the law which are of interest. It is also helpful to have a clear idea of what one would like as an outcome of a legal consultation. Learning as much as possible ahead of time will better prepare the prospective client for a productive consultation.

More specifically, individuals who are interested in the durable power of attorney for health care may wish to think about what type of life-sustaining procedures they would want used in the case of a serious illness. In addition, it may be helpful to identify a first, second and third choice of a family member or a trusted friend to make personal health

care and financial decisions in the event you are unable to do this for yourself.

Items to Bring to the Consultation

1. List of major assets (real estate, stocks, cash, jewelry, insurance, etc.).
2. Any documents of title (e.g., copies of deeds, stock certificates, loan papers, etc.) which show who the owners are and how title is held.
3. Contracts or other legally binding documents.
4. Lists of all major debts.
5. Existing wills or durable powers of attorney.
6. Bank statements, passbooks, CDs--again showing who the owners are and how title is held.

Resources

Family Caregiver Alliance
180 Montgomery Street, Suite 1100
San Francisco, CA 94104
(415) 434-3388
(800) 445-8106 (in CA)

Website: <http://www.caregiver.org>
E-mail: info@caregiver.org

Family Caregiver Alliance supports and assist caregivers of brain-impaired adults through education, research, services and advocacy. FCA's information Clearinghouse covers current medical, social, public policy and caregiving issues related to brain impairments.

American Bar Association (ABA)
Commission on Legal Problems of the Elderly
1800 M Street, NW
Washington, DC 20036
(202) 331-2297

The general public may contact the ABA to obtain information on county bar associations. County bar associations provide attorney referrals through local attorney referral offices throughout the U.S.

National Association of Area Agencies on Aging
1112 - 16th Street, NW, Suite 100
Washington, DC 20036
(202) 296-8130

Provides information on local Area Agencies on Aging which coordinate a variety of community-based services for senior citizens, including legal services.

National Academy of Elder Law Attorneys
1604 No. Country Club Road
Tucson, AZ 85716
(520) 881-4005

National Health Lawyers Association
1120 Connecticut Avenue, NW, Suite 950
Washington, DC 20036
(202) 833-1100

National Senior Citizens Law Center
1815 H Street, NW, Suite 700
Washington, DC 20006
(202) 887-5280

or
777 Figueroa Street, Suite 4230
Los Angeles, CA 90017
(213) 236-3890
NSCLC closely monitors court rulings, legislation and regulatory changes which affect older persons. They also publish a weekly newsletter.

California Resources

State Bar of California
555 Franklin Street
San Francisco, CA 94102
(415) 561-8200 (Legal Services Department)
(The State Bar of California is a regulatory agency and does not provide attorney referrals. However, complaints about lawyers can be sent to the State Bar.)

California Advocates for Nursing Home Reform (CANHR)
1610 Bush Street
San Francisco, CA 94109
(415) 474-5171
CANHR provides advocacy, consumer education, and legal information to residents of California.

Orange County Bar Association
P.O. Box 17777
Irvine, CA 92713
(949)440-6747

The only referral service sponsored by the Orange County Bar Association. A representative will refer to appropriate attorney, who may provide an initial brief consultation for free.

Legal Aid Society Of O. C.
902 N Main Street
Santa Ana, CA 92701
(714)571-5200

Provides free legal service in certain areas of civil law to residents of O.C. whose income is at or below 125% of the federal poverty level. Services include family law, landlord-tenant, consumer protection, child custody, government benefits, employment issues, etc. There may be a waitlist. Legal services free to eligible clients.
Santa Ana office- (714)571-5200.
Cypress Office- (714)533-7490.

Senior Legal Advocacy Program

902 North Main Street
Santa Ana, CA 92701
(714)571-5245

Must be 60+ and an Orange County resident. If under 60, may be eligible for Legal Aid.

Public Guardian / Administrator

1300 S Grand Ave, #C
Santa Ana, CA 92705
(714)567-7660

The public administrator is, by state law charged with administering the estates of persons who have died when there is no executor or administrator willing or able to act and the decedent has no heirs. The public guardian, when appointed by court, acts as conservator or guardian for persons legally incapable of administering their affairs and assets and therefore vulnerable to exploitation. The On-call person can provide information about particular court procedures.

For Additional Resources Call:

Caregiver Resource Center
St. Jude Community Services
130 West Bastanchury Road
Fullerton, CA 92835
(714) 446-5050 (800) 543-8312 fax (714) 446-5996

Providing support and assistance to family caregivers in Orange County. Services include Information & Referral, family consultations, support groups, legal clinics, educational seminars and a respite planning. The CAREGIVER RESOURCE CENTER, sponsored by St. Jude Medical Center, is part of a statewide system of Caregiver Resource Centers contracted through the California Department of Mental Health. Additional funding comes from the

Reviewed by Harriet Prensky, Attorney at Law, Prensky & Tobin, Mill Valley, California, March 1996. Prepared by Family Caregiver Alliance in cooperation with California's Caregiver's Resource Centers, a statewide system of resource centers serving families and caregivers of brain-impaired adults. Revised July 1996. Funded by the California Department of Mental Health. © All rights reserved.