**HEADSTRONG NEWSLETTER**

1. Are people living with an acquired brain injury considered to be of sound mind in regards to the validity of living wills that they write?

A majority of people who suffer acquired brain injuries remain competent to manage their daily affairs. Suffering a brain injury does not automatically reduced one’s ability to arrange legal or financial affairs. If concerns do arise about an individual’s ability to manage health care decisions, property or provide instructions to their counsel, then a capacity assessment may be necessary. If capacity may be a concern then the assessment should be carried out before a Will, Living Will or Power of Attorney are created. The assessor should produce a report which then can be held with the legal documents themselves so that any future challenges to the legal documents can be dealt with quickly. If a qualified assessor finds that the individual has capacity, it would be very difficult to challenge a Will or Power of Attorney. Only minimal capacity is required to instruct counsel on provisions for a Will or Power of Attorney.

1. If an individual continues to experience chronic pain that is related to past injury, accident or disease, are they eligible to seek or claim compensation to pay for treatment?

Yes. However, requests for compensation must be made in a timely manner. If these requests are not made promptly, you may loose the right. Thus, it is wise to seek advice on potential remedies as soon as possible. In the case of an injury caused by another’s negligence, there would be the potential for a lawsuit against the at-fault party. As well, in the case of a motor vehicle accident there will be accident benefits (no-fault benefits) available to an injured individual. Both at-fault and accident benefits claims may offer important source of compensation.

Others suffering with chronic pain (who are not involved in an accident), may also seek compensation from various insurance plans (group or long term disability) or government bodies such as Ontario Disability Support Program, Assistive Devices Program or Canada Pension Plan. When someone seeks advice from our office we always explore all potential avenues of compensation reasonably available to the individual. Again, the sooner the injured person receives this advice and pursues their remedies, the better their chances of obtaining compensation.

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