

# Life Care Planning After Traumatic Brain Injury

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## KEYWORDS

• Traumatic brain injury (TBI) • Life care planning • Psychiatry • Medicolegal

## KEY POINTS

- A life care plan sets out the full extent of the acquired impairments, likely complications, implications for independence, quality of life, and long-term care needs and then informs the parties about the rationale, including nature, extent, and frequency, for all the goods and services likely to be needed over a person's life span and associated costs.
- Whether from a clinical or litigation perspective, all life care plans should be founded in good science and preferably methodologically sound evidence-based medical practice.
- For patients with traumatic brain injury (TBI), a life care plan requires systematic and thorough consideration of multiple dimensions of central nervous system functioning, including not only the more obvious problems of motor, communication, cognitive, and neuropsychiatric impairment but also other issues, such as pain, fatigue, and psychological responses to trauma, impairment, and disability.
- Some of the major life care plan domains include home and/or facility care, medications, durable medical equipment, and vocational issues. Physicians and life care planners should be aware of common faux pas made in life care plans that can undermine the credibility of a plan as well as a professional's expert testimony.
- Clinicians—physicians or otherwise—involved either in the development of life care plans or in their critique should have a consistent methodology for reviewing the scientific credibility and foundation of such documents.

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## INTRODUCTION

TBI sequelae typically affect all aspects of a patient's future life: domestic, recreational, vocational, social, and personal. Any good life care plan must accomplish several important goals for a patient with TBI. It must serve to fully and clearly inform all parties to litigation about the rationale, including nature, extent, and frequency, for all the goods and services likely to be needed over a person's life span. It must also serve to fully and clearly set out the associated costs in adequate detail. A life care plan also offers a critically important basis for the person and his or her family to fully appreciate the seriousness of the acquired impairments, likely complications, implications for independence and quality of life, and long-term care needs, whether for clinical or litigation purposes.<sup>1</sup>

For some individuals and families, a life care plan is the first and/or most comprehensive explanation of the traumatic condition and its lifelong implications. A life care plan can also be a reality check, however, placing limits on the expectations that claimants and families may develop in regard to the size and conditions of settlement. It necessarily follows that when all parties have a realistic appreciation of the nature of a condition, long-term implications, and associated realistic needs for goods and services as well as costs, early and reasonable settlements are facilitated.

Life care planners have a duty to develop a plan to assist attorneys, juries, and other health care providers in understanding the variety of special needs created by an injury and disability and how resources can be marshaled to meet those needs, including specialized care, assistive devices, medications, therapy, and environmental adaptation. In the course of preparing a plan, 1 or more of the attending physicians may be asked to work cooperatively with a life care planner in marshaling the medical evidence, identifying needs, and making lifetime prognostications. (For consistency, this article focuses on the nexus between the TBI life care planner and the physician, whether attending physician or independent expert physician. The authors recognize and acknowledge the important role of nonphysician health care professionals in life care planning, and it is appropriate for readers to infer that when physicians are referred to, it is reasonable to substitute or supplement this reference with other professionals, such as a psychologists, neuropsychologists, physiotherapists, occupational therapists, or nurses.) Alternatively, a physician who has had no prior therapeutic relationship with a patient may be retained as an independent expert by the plaintiff lawyer. Conversely, an independent expert may be retained to critically review a plaintiff's life care plan for the defense or to help prepare a second life care plan by a planner retained by the defense. In either circumstance, it is essential that physicians understand their role within the context of both the clinical development of a life care plan as well as the medicolegal setting.

Inasmuch as a life care planner has more expertise than a clinician in developing such plans, it is entirely reasonable for a planner to point out areas of omission, deficiency, and/or impracticality in clinical recommendations. The physician's role is one of expert resource and advisor to the life care planner: the physician and the planner are expected to act professionally at all times, offering impartial expertise—advocacy is never an appropriate role for an expert.

A life care plan should always be based on current standards of care and as much as possible on evidence-based practice. In a legal context, without the proper support from health care providers, a life care plan is not admissible in court. If a plan is not admissible, patients have no way of presenting vital evidence, and the result could be catastrophic: much-needed health care and ongoing support will never be considered by a jury and, thus, denied to a deserving patient.

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