CANCER LEGAL CARE
lawyers on your cancer care team

Midwest Metastatic Breast Cancer Conference
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What Is Cancer Legal Care?
The Financial Impact of Cancer: Financial Toxicity

- Cancer is a disease that quickly impoverishes people in multiple ways:
  - Cancer patients on average are **2.5 times more likely to declare bankruptcy**.
  - Cancer patients who do declare bankruptcy are nearly **80 percent more likely to die** than those who do not file for bankruptcy.
  - 62 percent of personal bankruptcies filed are due in part to **significant medical debt**. Of these filings, 78 percent had health insurance.
  - 14 percent of Minnesotans are insured by **high deductible insurance plans**—nearly twice the national average. Even with “good” insurance, the out-of-pocket costs for premiums and deductibles results in financial devastation for many families.
  - 30 percent of women diagnosed with breast cancer who are working at the time they are diagnosed are **no longer working** four years later.
The Financial Impact of Cancer: Financial Toxicity and How a Lawyer Can Help

Cancer’s financial toxicity remains the driving force behind our clients’ need for legal care for three key reasons:

(1) they simply don’t have the financial ability to pay for a lawyer’s help, especially in the realm of estate planning at end of life,

(2) the financial freefall they are facing as a result of their cancer is something a lawyer can assist in turning around by helping to preserve employment or secure disability benefits, and finally,

(3) sometimes legal care makes medical care possible by overturning wrongful insurance coverage denials and successfully navigating the immigration laws so that a brother is able to travel to the U.S. and donate bone marrow to his sister.
What Does Cancer Legal Care Do?

• 90% of our clients just need one or two calls or visits with one of our staff attorneys.

• 10% of our clients need additional legal care. Depending on the client’s income and legal issues, one of our staff or volunteer attorneys may be able to do the legal work at no charge to the client.

• In our first 12 years, Cancer Legal Care’s staff and volunteer attorneys have provided free legal care services valued at over $10,500,000 to over 9,400 members of the Minnesota cancer community.

• 25%-28% of our overall clients every year are breast cancer patients and survivors; 53% of whom are living with metastatic breast cancer.
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EMPLOYMENT

Can they really do that?
Help. I can’t work but need income.
ESTATE PLANNING

Do I really need to?
EMPLOYMENT

Can they really do that?
What Laws Protect Cancer Patients and Survivors in the Workplace?

1. Family Medical Leave Act (FMLA)

2. American with Disabilities Act (ADA)/(ADAAA)

   & the Minnesota Human Rights Act (MHRA)
What You Need to Know About FMLA

• **Goal** is to protect your job and continue providing benefits while you’re away from your workplace for you/family member’s health.

• An employee is eligible for FMLA if they:
  - work for a government agency, school, or private employer at a location with at least **50 employees** within 75 miles of each other,
  - have worked for THIS employer for **one year**, and
  - Worked at least **1,250 hours** for this employer in the previous year

• Up to 12 weeks **unpaid** leave in a 12-month period. Employer may require that you take available paid leave to run concurrently.

• Employer cannot fire you while on FMLA and must allow you to return to work in your previous (or equivalent) position.

• **You do NOT need to go on COBRA while on FMLA**, you benefits continue as if you were still working.
What You Need to Know About ADA/ADAAA/MHRA

• **Goal** is to keep you on the job, to *provide protections against discrimination based on disability*, and to require employers to *provide reasonable accommodations* to employees with disabilities.

• **Federal law (ADA/ADAAA)** applies to employers with 15 or more employees.

• **Minnesota law (MHRA)** applies to employers with one or more employees for non-discrimination, but 15 or more for reasonable accommodation.

• Requires an employer to *reasonably accommodate* a qualified individual with a disability who can perform the essential functions of the position with or without a reasonable accommodation.
What is “Reasonable” in Reasonable Accommodations?

• It’s a subjective standard, **viewed from employer’s standpoint**: the accommodation cannot create an “**undue burden**” to the employer.

• Reasonable accommodations must be arrived at by an “**interactive process**” between the employer and employee, both sharing ideas to make it work; it is not the employer’s responsibility to find a solution.

• Examples:
  • Job restructuring
  • Providing assistive devices
  • Granting additional unpaid leave
SOCIAL SECURITY
DISABILITY INSURANCE

Help. I can’t work but need income.
What is Social Security Disability Insurance (SSDI)?

- Monthly cash benefits to people who are unable to work for one year or more because of a disability.

- **Very Specific Definition of Disability**: inability to engage in *substantially gainful activity* ($1,180/mo) by reason of a medically determinable or mental impairment which can be expected to last for 12 months or result in death.

- Pays benefits to you and certain family members if you worked long/recently enough and paid social security taxes. Must have medical condition that meets definition of disability.

- Eligible for Medicare after 29 months of disability.
Compassionate Allowance

• SSA has an obligation to approve benefits quickly for applicants whose medical conditions are so serious that their condition “obviously meets disability standards.”

• The determination may be made quickly, but the applicant is **still required to wait five months after the date of disability** for cash benefits to begin, and 24 months after that for Medicare to begin.
ESTATE PLANNING

Do I really need to?
What is a Will, and Do I Need One?

• It’s a document that lets you determine who gets your assets and belongings, and who manages your affairs (will, children, money), after your death.

• Some property will pass to others without having a will:
  • Jointly-owned or -titled
  • Beneficiary designations
  • Held in trust

• It ensures your wishes are honored, lets you provide for your loved ones, and ensures they’re left unburdened.

• **Having a will does NOT avoid probate.**
Simple vs. Complex Will

- Minor children
- Property in another state
- One spouse is not a U.S. citizen
- Children from a prior marriage
- The total value of your estate is 2M or higher
What Happens if I Die Without a Will?

• It happens to about 50 percent of Minnesotans.

• The probate court follows what’s called “intestate succession” – assets first to spouse, then to children, etc.

• The court will be in charge of determining who will be your personal representative, and the guardian of your children.

• In general, it will take longer and be more expensive to distribute your estate.
Some common ways to avoid (or help to avoid) Probate

• Holding property as joint tenants
• Beneficiary Designations (life insurance, 401(k), bank accounts)
• Putting property into a trust
• Transfer on Death Deed (TODD)
Health Care Directives

- Can name health care agent, list health care instructions, or both.
- Can include funeral directives.
- Only usable during your incapacity.
- Extinguishes on your death (except funeral directives).
Power of Attorney

- Grants financial decision making power on your behalf to another person.

- Generally valid immediately and during incapacity.

- Very powerful document.

- Extinguishes on your death. It is not a replacement for a will.
Questions?

Call us. We’re here to help. 651-917-9000
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