

Who gives consent for treatment when a person with stroke cannot?

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Who gives consent for treatment when a person with stroke cannot? The American Academy of Neurology (AAN) is issuing a position statement for neurologists on how to navigate consent issues for people who have experienced acute ischemic stroke. The statement is published in the January 10, 2022, online issue of *Neurology*, the medical journal of the

American Academy of Neurology, and was developed by the Ethics, Law, and Humanities Committee, a joint committee of the AAN, American Neurological Association and Child Neurology Society. This position statement replaces the American Academy of Neurology's 1999 position paper as well as a 2011 policy statement on this topic.

Stroke is the fifth leading cause of death in the United States, with nearly 800,000 strokes occurring each year. In people 65 and older who survive a [stroke](#), more than half have reduced mobility. Ischemic stroke is the most common type of stroke, caused by a blockage of blood flow to the brain.

"Stroke treatments that are effective in preserving brain function can only help if administered quickly, sometimes within just a few hours, yet consent for such treatments must often happen when the person who has had a stroke lacks the ability to make decisions and when those who could make decisions for them may be unavailable," said position statement author Justin A. Sattin, MD, of the University of Wisconsin in Madison. "This position statement provides ethical guidance for neurologists on how to navigate the decision-making process for [stroke patients](#) when time is of the essence."

The AAN position statement says when a person with stroke is unable to give consent for treatment, advance health care directives may provide guidance on their wishes. However, it says such directives, like living wills, are often overly specific or too vague, addressing terminal conditions, but not debilitating conditions like stroke. Another form of an advance directive that can be used is a power of attorney, a person who serves as a surrogate decision maker. Next of kin may also be authorized to serve as a surrogate decision maker.

The position statement explains that a surrogate decision maker may not be adequately prepared for representing a stroke patient's wishes.

Neurologists may need to guide them, giving priority to a patient's preferences, if documented, and if not, then determining what the person would want based on their beliefs. When beliefs are unknown, it says decisions should be made based on the person's best interests.

When a stroke patient needs emergency treatment and has no advance directive or surrogate decision maker, the position statement says treatments may be provided based on ethical presumptions of consent—what a person would consent to if they could be asked.

"A stroke is a medical emergency, so by providing this ethical guidance, the American Academy of Neurology aims to help neurologists navigate issues concerning treatment consent so they can provide the highest quality patient care as quickly as possible, saving lives and improving patient outcomes," said Orly Avitzur, MD, MBA, FAAN, President of the American Academy of Neurology.

The position statement says when there is a generally accepted treatment like clot-busting drugs, neurologists may proceed with treatment on the presumption of consent, if necessary.

When treatments require more consideration of risks versus benefits, such as for endovascular treatment, a procedure to remove a clot, the position statement says the [decision](#) on whether to proceed should be informed by how closely a person's case matches what is recommended in current treatment guidelines.

When there are treatments for which evidence is lacking, the statement advises that neurologists should work with their medical institutions to develop [treatment](#) protocols.

Finally, the [position statement](#) says for stroke research, laws regarding consent by surrogates vary state to state, but the federal Common Rule, a

rule of ethics in research, allows lawful surrogates to provide [consent](#).

Provided by American Academy of Neurology

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