

## Vascular Dementia

*A Case History*

*by Louis Levenson, JD*

As a lawyer who works in the area of mental health and legal incapacity, I thought I really understood the distinctions between Alzheimers dementia and the other types. And then I had a major dose of the difficulties the legal community and the medical community have in understanding and differentiating these issues.

As a preliminary observation, I have had clients who have been diagnosed with cancer and also have had clients whose family members have a diagnosis with Alzheimers dementia. Most say that they would rather have cancer because Alzheimers is progressive and terminal and without a cure and that cancer has a cure in many cases.

Allow me to tell you about a case that highlights this problem. A 73 year old female was injured from a medical malpractice matter and is now examined and found to have had progressive but sporadic dementia events since about age of 60. The defendants in the medical malpractice case are saying she was going to die soon anyway so there was not much harm resulting from the medical negligence. The psychiatrists who had been treating her at age 60 decided, without any testing, that she had progressive Alzheimers dementia and told her family. As you might imagine, her family hearing this information received it with a sense of hopelessness and abandoned any effort to seek her improvement. Her family gave up all hope because they believed she was going to die in 10-12 years, the normal life expectancy for those with Alzheimers.

When she was involved at age 73 in a medical malpractice claim involving hospital neglect, and after a careful review of the medical records from age 60 it was finally revealed that she had probably suffered a blow to the head in a fall that was likely the result of an ischemic event (stroke or mini stroke). At the time of the incident her health care provider assumed her changes were due to vascular disease. There was not a work-up for the possibility of a TBI (traumatic brain injury), nor was there an evaluation for differentiating the possibility of an acute vascular event and the presence of chronic vascular dementia. No tests were done to assist the family in differentiating the different possibilities for recovery, rehabilitation, or if it was present, what type or types of dementia were involved. As a result she was given a “death sentence” so to speak, and her family never asked for, or received, a different opinion. And vascular dementia is not the same condition and does not progress, at all, in the same fashion as Alzheimers disease. Progression of vascular dementia is highly variable and there may be years of stabilization with a basic supportive program of exercise, weight and blood pressure control, social and cognitive engagement, and monitoring.

What we know now is that there are tests, whether CT scan or MRI testing, that can assist a family in understanding whether vascular dementia is present or not. Brain damage from impaired blood flow to the brain can cause the onset of vascular dementia but strokes don't always cause vascular dementia. It can in fact take 5-20 years following a stroke to begin to see the behavioral symptoms of a vascular dementia, if the stroke or head injury is treated as an acute event worthy of intervention and follow-up care. It is generally believed that vascular damage is not always progressive. That brains continue to have some neuroplasticity into old age, and that how we take care of our brains, even as we age, matters tremendously in the progression of vascular dementia. Sorting out what is happening, whether something is a vascular incident where some recovery or stabilization is possible, or vascular dementia where care planning and care support can make a huge difference in quality and length of life until death. Vascular dementia is currently being seen as one dementia that has some promise for risk reduction and disease modification, whereas Alzheimers dementia is progressive and cannot be halted or reversed at this time. When someone in the family is given a specific diagnosis of Alzheimers dementia because doctors don't do the testing, or the families cannot afford the testing, or because they don't understand the differences, it is for most families the ultimate death sentence and sometimes no effort is made to check further. The problem is that the screening was not done to investigate the possibility that it never was Alzheimers, but rather another form of dementia that would have benefitted from other interventions. That's what happened with my client. And it was crucially important for me to prove to the defendant's insurance company lawyers that because she had had vascular dementia there was no certainty that her life was over and therefore the argument that she was going to die anyway was lost in the medical negligence case which caused her death. This was a very crucial turning point.

The moral to the story is this: always get a second opinion and struggle to insist that effort is made to separate vascular dementia, if possible, from the other types of progressive dementias such as Alzheimers. In a legal proceeding, vascular events of even stabilized vascular dementia may result in temporary incapacity but not permanently impair the person, such that the court hearing a guardianship or conservatorship proceeding would address the remedy and restrictions on her life in a different manner than if the person is diagnosed with dementia of the Alzheimers type. Again, for example, if vascular dementia is the result of high cholesterol, smoking, or some form of heart disease, those factors or life choices may be medically corrected, and as such, that the vascular dementia symptoms can be stabilized and the brain impairment effects reversed in some areas with collateral circulation or the development of alternate neural pathways. It may or may not show progression on a regular or predictable schedule.

The legal community and the lawyers and judges and evaluators who work in this area need to be specific and to understand in adult incapacity proceedings from trained and experienced experts the differences. Otherwise those with vascular dementia, or some of them, will be treated as if terminally ill Alzheimers patients, which is not always so. The law's genius is always in the details and the law needs this kind of genius to protect and aid those who have vascular events or vascular dementia, to determine whether they are transient or not, so that with the right support the individual might be able to change their habits, care, and circumstances and improve, significantly, their capacity to function better for much, much longer.

Therefore, be sure to ask your physicians and psychiatrists and lawyers who are assisting you in this unique area of the law and medicine to explain the differences to you between vascular dementia (with proper testing) and whether it can be managed in a much more proactive and supportive way to retain a person's abilities, rights, and responsibilities, as this progression pathway is very different from Alzheimers dementia which, unfortunately, is much more predictable in its progression and pattern.