



ELDER LAW AND ESTATE PLANNING

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Life insurance proceeds will go through probate if the beneficiary is your estate

Question: I have a whole-life insurance policy on my life. I own the policy. I bought it 20 years ago when I did not have a family, so I just named “my estate” as the beneficiary. Fast forward to now: I am married and my wife and I have a daughter. Unfortunately I also have a great deal of debt due to business ventures that went sour in the 2008 recession. I want the insurance money to be a cushion for my family if I pass away. Are my creditors entitled to it? How can I protect this money for my family? Do I need to change my will?

Answer: Life insurance policy proceeds are paid out to the beneficiary of the policy. Since your beneficiary is your estate, that’s where the proceeds would go. Upon receiving notice of your passing and proof via a death certificate, the insurance company would make a check payable to your estate and the funds would then go through probate.

Insurance proceeds are exempt from creditors’ claims, but it is still advisable to have them avoid probate and hassles from creditors. Keeping life insurance proceeds out of probate will also speed up the process of getting the money to your family, so that they can have it for funeral expenses and whatever else they need it for to move on with their lives.

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If you want the proceeds of your life insurance policy to protect your family, this is not done through your will. You should change the beneficiary of the policy. Most likely you will want to name your wife as the primary beneficiary, and your daughter as the contingent beneficiary.

Your letter is an illustration of why beneficiary designations are so important to review periodically, and certainly whenever there are changes in financial, family or health status.

Joseph Karp and Jonathan Karp are Florida Elder Law and Estate Planning Attorneys. The Karp Law Firm is located in Palm Beach and St. Lucie counties. It assists clients with wills, trusts, Medicaid and VA benefits planning, special needs planning, asset preservation, probate/trust administration, estate litigation, and probate and elder law mediation.