



ELDER LAW AND ESTATE PLANNING

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Wife frustrated that husband won't do a will, won't discuss planning

Question: My husband refuses to discuss doing a will. We're both 55 and healthy so we hopefully have many years ahead, but I'm still concerned. I worry about what will happen to me if he dies first. I worry about our adult children getting the inheritances that I want to leave them. My husband keeps saying his million-dollar life insurance policy means I don't have to worry. Can I create an estate plan of my own, without him?

Answer: Your husband's avoidance of this topic is common, but not wise. It could create real problems for your family going forward. Consider mentioning the following points to him. Maybe one or more of these issues will resonate with him:

Has he thought about what would happen if he becomes incapacitated? Even if you have joint accounts, there may be assets in his name that you won't be able to access without his prior authorization. At that point, court guardianship over him might be necessary. That's an ordeal none of you want to go through, and can easily be averted if he does the appropriate planning in advance.

He's obviously interested in protecting his family. His insurance policy shows that. Although the insurance proceeds will pass without

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probate, other assets may not. Probate could be a big hassle for you and your kids. It could drain funds unnecessarily from the estate and slow the release of funds you may need to carry on with your lives. Additionally, money may not pass the way he wants and expects. If, for example, he has children from a prior marriage, they may be entitled to a portion of his estate if he does not have a will.

Yes, you can create a will and other documents for yourself, without him. That approach could provide you with some peace of mind, but it does have its limitations. See an experienced elder law/estate planning lawyer to get the ball rolling.

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.