

Life Insurance

Who should be your beneficiary?

By Mary Lynn Kirby

Sometimes it's the little things that mean a lot...and in estate planning, this is certainly true. The specific area today we will address is beneficiary designations, and for purposes of this article, life insurance beneficiary designations. Many times our life insurance is one of the most valuable assets in our estate (if we're talking only in terms of money, of course.) Serious consideration should be given to whom to name as the beneficiaries; how should those beneficiaries receive the proceeds from the life insurance and who should own the life insurance policy.

Let's first explore the issue of whom should be the beneficiary of your life insurance policy. Usually, if married, your spouse is named as your primary beneficiary. Certainly, there is no problem with this; just make sure this is whom you want to be the beneficiary. I had a case several years ago (and another, just the other day, as a matter of fact) that was rather interesting. My client was the beneficiary of a \$100,000 life insurance policy. The thing that makes this interesting is that she was not married to the deceased insured, rather she was his ex-girlfriend. Now, the mystery: did the deceased want to give his ex \$100,000 (for the pain and suffering he had caused her when he jilted her...I'm making that up!) or was he negligent in not changing the beneficiary after the breakup or did he pine alone in his bedroom for her even

after marriage? So sorry- no one will ever know for sure. He is dead.

Now, most stories are not that extreme regarding beneficiary designations, but certainly after a divorce or the death of a spouse, priority should be given to reviewing your beneficiary designations.



Enough about the who; let's go to the how. One of the advantages of having a will is that you can, within that will, create a trust. This is called a testamentary trust...get it...last will and testament. You can then, in the beneficiary designation, designate the "Currently serving Trustee of my Last Will and Testament." The wonderful

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aspect of this planning is that the life insurance can then be used to fund the trust, and what does a trust need? Money, that's right. Property is fine, but

property has to be sold to pay for your child's support and education. Money is what the Trustee named in your will needs to take care of your children. (I didn't need to tell you that if you have children, did I?)

An additional advantage: should the Trustee you have named be deceased, we just move on to the alternate Trustee named in your will. Unfortunately, many times people will name a trusted friend or family member as the beneficiary with the understanding that this person will "take care of the children" with the insurance proceeds. An obvious problem with this planning: there is no legal reason for this person to comply with your wishes. Another not so obvious problem: let's say that you and the named "friend-beneficiary" are both killed in an accident. The good friend makes it to the hospital; you don't. Guess whose

family gets your insurance proceeds? Right, the good friend's family, not your family. Not a pretty picture. An easy solution: a good will and appropriate beneficiary designations.

Another disastrous case I had involved a minor named as the primary beneficiary on her mother's life insurance policy. The father had to post a bond, go through the court proceeding to be named as the guardian of his own child's property and he could not use the money for the child's support

without court intervention....A very bad result for very good intentions by a deceased mother.

Beneficiary designations cost nothing to do. Usually the designation form can be obtained online, or by simply contacting your insurance agent. With life insurance, unlike retirement or pension plans, you are completely free to name whoever you want with permission from no one, and usually no tax consequences. Next month we will talk about who should own your policy and how this can have significant ramifications of which you may or may not be aware.

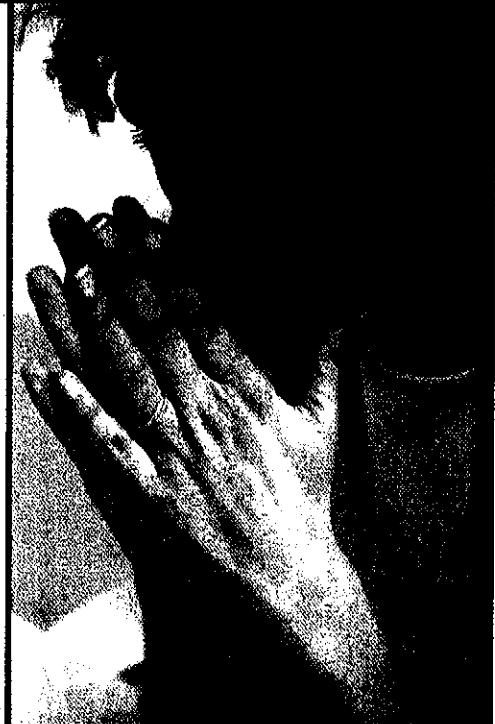
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Mary Lynn Kirby, P.C., has been practicing law since 1978. You can reach her at 1044 Hwy. 54 W., Fayetteville, GA at 770-692-1054.

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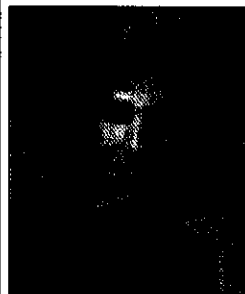
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