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Creating Innovative Insurance Solutions

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Life Insurance Beneficiary Issues

Naming your estate as beneficiary: If you have left behind a Last Will and Testament, the terms of that legal document would determine who your beneficiaries would be. The death benefits would have to go through the probate process in order to get to your beneficiaries under the terms of your Last Will and Testament. If you failed to prepare a Last Will and Testament, then you would be deemed to have died intestate and thus the State would dictate who will be your beneficiaries and when and how they will inherit your insurance policy death proceeds, again after going through the probate court. If you have minor children who are beneficiaries under your Will or by intestate distribution, a conservator for those minors will have to be appointed by the court in order to collect and manage the minors money until they turn 18 years of age. At 18, the minors will be entitled to collect and receive the balance of this money without restriction.

"My Spouse with no Contingent Beneficiaries listed": This response is probably the most common. Life insurance with a proper beneficiary designation is be deemed to be a non-probate asset, meaning the death benefits can be paid directly to the beneficiaries listed by contract without any court involvement. However, if your spouse predeceases you, and you have not listed contingent beneficiaries, then the death benefits revert to the process described above as if you ignored it, and your minor children will receive the insurance proceeds at 18 years of age, after going through a probate and conservatorship.

"My Spouse as Primary Beneficiary with my Minor Children as Contingent Beneficiaries": As long as one person listed as a beneficiary or contingent beneficiary (spouse or children) is living at your death, your life insurance death benefits will avoid probate. However, if a minor child becomes the beneficiary of these proceeds, even as a designated beneficiary under contract, the proceeds will not be able to be distributed to the minor due to his or her age. Therefore, a conservatorship will need to be employed through the court system to collect the insurance death benefits. Again, after the minor child turns 18 years of age, he or she will be entitled to receive these proceeds in full without any restrictions.

"My Minor Children as my Primary Beneficiaries": A single parent might list his or her minor children as the only beneficiaries of a life insurance contract, which is a common thing to do. Unfortunately, as mentioned above, if a minor child becomes the beneficiary of these proceeds, even as a designated beneficiary under contract, the insurance proceeds will not be able to be distributed to the minor due to his or her age. Therefore, a conservatorship will still need to be employed through the court system in order to collect the insurance death benefits. The court may appoint a conservator (under intestate law) who the single parent might not have wanted to have control over a minor's assets, such as a biological

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parent from whom he or she is divorced, or grandparents who are former in-laws. Again, after the minor child turns 18 years of age, the minor will be entitled to receive these proceeds in full without any restrictions. In my experience, I have found that most 18 year olds are either ready to handle nor have control and access to a large amount of money as poor financial and life decisions will be made. This is absolutely preventable, but only through proper estate planning.

"Let me First Talk with my Qualified Estate Planning Professional and see what he or she Suggests": Of course this is the best answer. As every family and situation is different, filling out a life insurance beneficiary designation form can be a very important family decision with far reaching legal and financial consequences. It is important to seek out a qualified estate planning attorney to discuss your estate planning goals, including all the various contingencies "just in case" a worst case scenario happens, to avoid more problems that could have a negative impact on your children.

Life insurance is a great mechanism that may help families get through difficult financial times after the death of a parent, spouse or loved one. To make sure that life insurance proceeds take care of your spouse and children, avoid court driven probate, minor conservatorships, or young adults receiving too much money to early in life, it is important to discuss these issues at length with your advisors.

A revocable living trust (even simple non-tax based trust planning) is a wonderful way to avoid probate, avoid minor conservatorships, provide educational incentives to children, staggered distributions to young adult children, or even to create protective trusts where your children's inheritance, including life insurance proceeds, can be protected from your children's creditors, divorces, and other future problems in life.