



ELDER LAW AND ESTATE PLANNING

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Life insurance proceeds go to estate if no living beneficiaries

Question: I found a life insurance policy in my mother's house while going through her things. She died a few weeks ago. The policy was on her life. My father is named as the main beneficiary, but he passed away several years ago. My brother is named as the contingent beneficiary, but he too has passed away. I am now my mother's only living child. Mom also had a will that leaves everything to her husband, or if he predeceases her, to my brother and me, split evenly between us. I am confused about what to do with the life insurance policy. What steps do I need to take now? I should also probably mention that my brother was not married and had no children.

Answer: You have written about a common problem for adult children: Going through a deceased parent's paperwork and trying to make sense of it all. When beneficiary designations are outdated, it can become that much more challenging.

Here's what happens now: Since the designated beneficiaries of your mother's life insurance policy are now deceased, the proceeds of the policy become an asset of the estate, and subject to probate. You have not said if your mother's estate is currently in probate. If it is not, you will have to open a probate estate for

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the purpose of handling this asset. You will need to contact the insurance company that issues the policy, too. Once you submit proof to the insurance company of your mother's, father's and brother's death, the company will make the funds payable to your mother's estate.

Your mother's will now becomes the controlling instrument insofar as the distribution of her assets is concerned. As her sole surviving beneficiary under her will, the insurance proceeds will go to you.

Hope this information helps.

Joseph Karp, a member of the Florida and New York Bars, is a Nationally and Florida Bar Certified Elder Law Attorney and founder of The Karp Law Firm, located in Palm Beach and St. Lucie counties. The firm assists clients with wills, trusts, Medicaid and VA benefits planning, special needs planning, asset preservation, probate/trust administration and estate litigation.