



ELDER LAW AND ESTATE PLANNING

Joseph Karp

Upcoming marriage has young couple wondering about estate plan

Question: Our upcoming marriage has my fiancée and me wondering if we need an estate plan. We're both just 28. Each of us has a small 401(k). We don't own a home. This is a first marriage for both of us. Are there legal documents we should have once we're married?

Answer: My advice would be to first review the beneficiary designations of your assets. Once you're married, if one of you passes away, the survivor will automatically get the decedent's 401(k). But in the unlikely event there is no survivor, each of you should name a contingent beneficiary – perhaps a sibling or parent. Also, are you sure you don't have other assets, such as checking or savings accounts, stocks, IRAs? If so, you may want to name your spouse as beneficiary of these assets, too.

Each of you should create a will, which provides instructions regarding who gets any assets that do not have a named beneficiary. Note that under Florida law, the spouse must get at least 30 percent of a deceased spouse's assets (the elective share), unless there is a pre- or post-nuptial agreement.

Both of you should have a Durable Power of Attorney and a Health Care Surrogate, so that if you become incapacitated, even temporarily, your spouse can handle your

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financial affairs and health care decisions, respectively. Name back-up decision makers for each document.

Do either of you expect to receive an inheritance? If so, consider a prenuptial agreement to protect your inheritance in the event of divorce. Your respective families will appreciate that you've taken steps to protect the money they want to leave you.

As life goes on, you will accumulate assets, perhaps purchase a home and have children. All these events will require you to take a fresh look at your plans. Like your marriage, your estate plan and life plan are works in progress.

Best wishes to you!

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.