insurance proceeds. However, given the various explanations and definitions provided in books and articles relied upon by consumers and financial services professionals, ambiguity, and unintended distribution of life insurance proceeds among beneficiaries may occur. Given the difficulty, or near impossibility, of having a uniform explanation of *per capita* provided in these articles and books, and to protect consumers of life insurance and beneficiaries, it is recommended that either an existing Consumer's Guide to Life Insurance be updated to include illustrative charts of how proceeds will be distributed with various options or a new Consumer's Guide to Beneficiaries should be created and required to be distributed to potential policyowners at the time of application and this new guide should include illustrative charts of how proceeds will be distributed. In addition, upon each beneficiary change, policyowners should receive a copy of, a link to, or a reminder of the guide to ensure the beneficiary election is as intended.

L I . . B . . . *Per Capita* . *Per Stirpes*: I L R T . Ç . ?

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ABSTRACT

Life insurance is a non-probate contract that allows for a gratuitous transfer of funds to designated beneficiaries who receive the payment at the death of the insured. Given the importance of life insurance to replace income or to create an inheritance for heirs, ambiguity regarding beneficiary advice can cause catastrophic results and unintended consequences, ultimately resulting in a failure to meet objectives. Source material available to financial services professionals and consumers is vague and easy to misinterpret, specifically the *per capita* beneficiary option. To provide consumer protection, we recommend that a consumer guide comparing various *per capita* options, as well as other beneficiary options, be distributed to potential policyowners at the time of application. The guide should include illustrative charts of how proceeds will be distributed. We also recommend that the beneficiary designation forms include clear and explicit definitions of various beneficiary options available to the insurance policy.

Keywords: beneficiary, life insurance, insurance regulation, per capita

Introduction

Making a gratuitous transfer through a life insurance policy is usually driven by specific purposes, such as replacing income for dependents, paying final expenses, and creating an inheritance for heirs (*Why Should I Buy Life Insurance?*, 2022).[1] Given the importance of these reasons and the involvement of multiple people and generations in the transfer process, ensuring that the beneficiary designation meets the intended and desired purpose is critical. With a total outstanding face value of life insurance in the U.S. reaching $20.4 trillion in 2020 and an average of $184,000 per individual policy (American Council of Life Insurers [ACLI], 2021), the significance of correctly assigning these values to beneficiaries in alignment with the policyowner's original intent through the available beneficiary designation options cannot be overstated.

The actual process of naming a policy beneficiary is simple and quick, unfortunately. The beneficiary designation is often made in a hurry and without significant thought or advice (Simpson & Rosenfeld, 2017). According to Leslie and Sterk (2015), the wealth transmission process has become fragmented, which has created coordination problems that did not exist when all or the majority of the decedent's assets passed through probate. For example, given that life insurance is a non-probate transfer, attorneys are rarely involved in the guidance of establishing the beneficiaries for the policy proceeds (Leslie & Sterk, 2015).

In contrast, policyowners may mistakenly assume that a will, particularly one created with the involvement of an attorney, can supersede beneficiary designation options in a life insurance policy, which can result in rushed decisions without careful consideration when choosing the beneficiary designation options for the life insurance policy. In fact, Langbein (1984) questioned how a non-probate instrument such as life insurance, which is often prepared casually and without the involvement of attorneys trained to refine and express the desired objectives, could accurately reflect the intent of the decedent.

Without the assistance of attorneys trained in estate transfer, completing the beneficiary designation falls to the owner of the life insurance policy, possibly with the assistance of a financial services professional (i.e., an insurance agent or financial planner). The expertise of the financial services professional and the policyowner comes from the training they have received, if any, and the resources they use in guiding their choices in completing the beneficiary designation forms.

An investigation of numerous resources for consumers and financial services professionals indicates some ambiguity in how beneficiary designations are described. Since these resources are used to help designate beneficiaries, this is concerning.

the *per capita* beneficiary selection is part of the contract made between policyowners and insurance companies, beneficiaries may not know whether the distribution choice specific version(s) of *per capita* used in the policy along with the explicit definitions to minimize ambiguity in the designation process. Given the difficulty in implementing and regulating this, a clear consumer guide with numerical examples and illustrative charts should be provided to policyowners before they make beneficiary choices. Insurance agents or financial planners should also highlight the available beneficiary options offered by each insurance policy and illustrate the options with specific examples to their clients.

This paper will proceed as follows. First, we discuss the parties to the life insurance policy and addficy in the d9r cliea0 Tc 0.004 r.00pap.0cy Insurocess. Givulty 14 r.00papN -1.32r

Kimball (1969) stated how important the beneficiary is.

> The only significant assets of most people are the proceeds of one or more life insurance policies. For such people, constituting a majority of the population, determination of the distribution of that "property" through the designation of a beneficiary under the insurance contract not only precisely the same function as a will, but constitutes a much more important "testament" than the will. In view of the numbers of people involved, the life insurance beneficiary designation is the principal "last will and testament" of our legal system.

The improper naming of beneficiary(s) can result in legal complications and, even worse, the failure to meet the objectives as intended by the owner. Also, if a policy-owner fails to make a beneficiary designation, the beneficiary may be determined by federal or state law (Simpson & Rosenfeld, 2017) or via a governing contract for group life insurance policies. Therefore, it is critical that the beneficiary designation be completed accurately and maintained as circumstances and objectives change.

Beneficiary Designation

Since two of the main objectives of life insurance are to replace income for dependents and to create an inheritance for one's heirs, ensuring that a proper beneficiary designation is selected is critical to ensure that proceeds of a life policy are distributed as intended. Naming individuals as beneficiaries rather than one's estate generally allows the beneficiary(s) to receive the proceeds of the policy more quickly, and often *per capita* or *per stirpes*, which directs the proceeds to be paid generationally to the heirs of the beneficiaries without specifically listing some of those that may benefit.

When multiple children or multiple generations are listed or included as beneficiaries, at the same or various levels, the designation of the beneficiaries can become complicated. We next focus specifically on the use of *per capita* and *per stirpes* in life insurance beneficiary designations.

P. S.. .P. C.

When individuals are named as beneficiaries, two options that could lead to multi-generational transfer are *per stirpes* and *per capita*. In general, “*per stirpes*

Note that Melinda did not mention John's or Betty's spouse, and they are not beneficiaries of the proceeds. To be included as a beneficiary of policy proceeds, the spouse of a named beneficiary would have to be specifically listed as a beneficiary.

Regardless of whether Melinda would have chosen *per capita* and *per stirpes* when listing her children as beneficiaries, if no children predecease her, the proceeds are paid as indicated in Figure 1. When one of Melinda's children predeceases her, ies ofare

However, if both John and Susan both predecease their mother, Melinda, possibly in one car accident, then the proceeds are divided even further. In this case, John's share is still divided equally between his two children, Mary and Fred. Susan's full one-third share passes to her daughter, Bri. As illustrated in Figure 3, even though Mary, Fred, and Bri are all grandchildren of Melinda, they do not equally share in the proceeds. In this scenario, Bri will receive twice the proceeds of either Mary or Fred. Betty's share remains unchanged at one-third of the life proceeds.

Figure 3: Named Primary Beneficiaries with *Per Stirpes* (with two primary beneficiaries

The explanations of the *per capita* method used in estate planning, financial planning, and insurance areas can be summarized into three categories, as shown in Table 1. *Per capita* by surviving beneficiaries allows all surviving beneficiaries to equally share the insurance proceeds so nothing will be passed to the heirs of the predeceased primary beneficiaries. *Per capita* by all surviving descendants allows all surviving beneficiaries and the heirs of the predeceased beneficiaries to equally share the insurance proceeds. Some states also allow for *per capita* at each generation. It allows descendants of the insured within the same generation to receive equal shares of insurance proceeds. However, the shares may be different for descendants of different generations.

As shown in Table 1, *per capita* by all surviving beneficiaries is the most common explanation used in insurance books/articles. It is also the default method in life insurance (The Society of CIC, 2020). *Per capita* by all surviving descendants is the common explanation used in estate planning and probate law. *Per capita* at each generation is also used in estate planning if the state probate law allows it. Without a consistent and uniform interpretation of *per capita* distribution, especially between financial planning and insurance resources, policyowners' objectives to protect their loved ones may not be achieved. We next show how the various explanations of *per capita* affect the distributions of life insurance proceeds to the descendants of the deceased insured.

T[illegible]**:** *Per Capita* Resource Material by Primary Field Used

Explanations	**Books/Articles**	**Primary Field Used**
1. Per Capita by all surviving beneficiaries (see Figures 4 and 5)		
	Thompson (1927)	Insurance
	Black and Skipper (2015)	Insurance
	Simpson and Rosenfeld (2017)	Financial Planning
	LOMA Education and Training (2017)	Insurance
	Kaplan Second Edition (2017)	Insurance
	The Society of CIC (2020)	Insurance
2. Per Capita by all surviving descendants (see Figures 6 and 7)		
	Keir (2016)	Financial Planning
	Dalton (2022)	Estate Planning
3. Per Capita at each generation (see Figures 8 and 9)		
	Dalton (2022)	Estate Planning

Note: In some cases, the resources used to explain beneficiary designations do not specify between these three options and may, instead, simply state *per capita* (e.g., Keir, 2016). Resources shown in more than one category may show multiple explanations of *per capita*.

Using our example, in the simplest explanation of the *per capita* option, if John predeceases Melinda, then when Melinda passes away, John's share is divided between nation of *per capita* is used most often in insurance resources (e.g., LOMA Education and Training, 2017; Kaplan Second Edition, 2017; The Society of CIC, 2020).

F [illegible]: *Per Capita* by All Surviving Beneficiaries - Named Primary Beneficiaries (with one primary beneficiary predeceased)

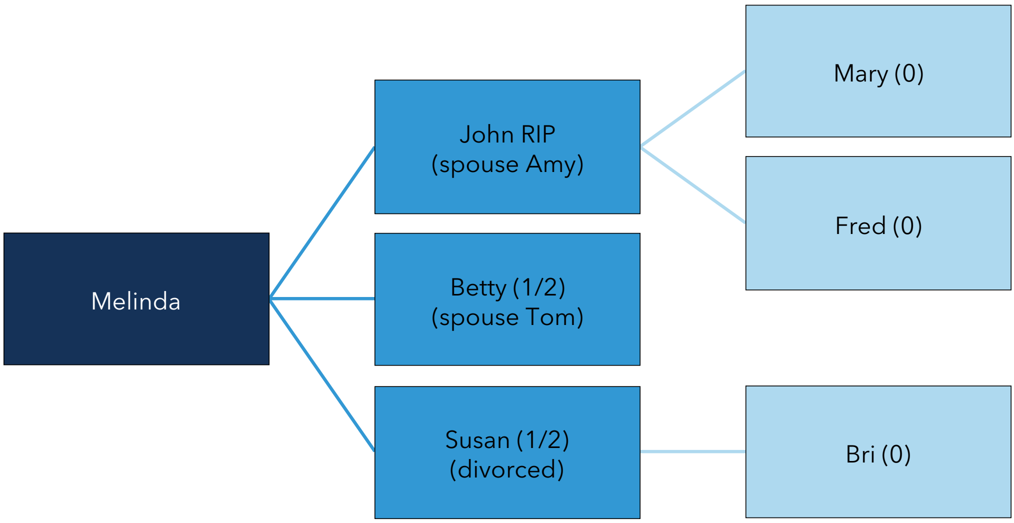

Figure 4 depicts *Per Capita* by All Surviving Beneficiaries as mentioned in Table 1. This example has one child (John) predecease Melinda. In this case, John's share is not passed to his children and is instead divided between all other named primary beneficiaries (Betty and Susan).

Assume again that both John and Susan predecease Melinda. Then upon Melinda's death, Betty will receive the full proceeds, as illustrated in Figure 5. Once again, in this example, Melinda's grandchildren receive no proceeds from the life insurance.[10]

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F . . : *Per Capita* by All Surviving Beneficiaries - Named Primary Beneficiaries (with two primary beneficiaries predeceased)

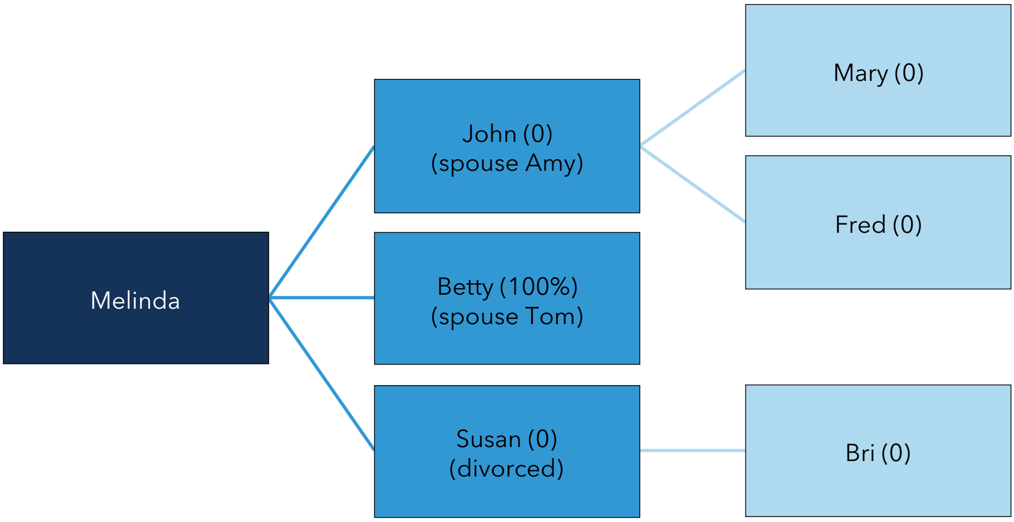
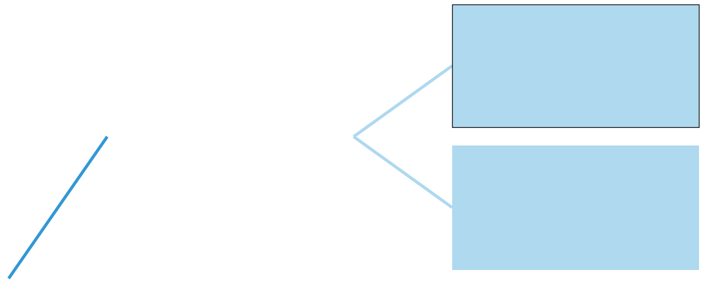


Figure 5 depicts *Per Capita* by All Surviving Beneficiaries as mentioned in Table 1. This example has two children (John and Susan) predecease Melinda. In this case, John's and Susan's share are not passed to their children. Instead, all life proceeds are paid to the sole living primary beneficiary (Betty).

F . : *Per Capita* by All Surviving Descendants - Named Primary Beneficiaries (with one primary beneficiary predeceased)



In addition to the prior descriptions of *per capita*. Dalton (2022) includes an additional definition of *per capita*. However, in this case, it is referred to as "*per capita* at each generation." In this case, heirs of the same generation will always get an equal share (Dalton, 2022).

Using our example again, as shown in Figure 8, if John predeceases Melinda, then upon Melinda's death, Betty and Susan receive their one-third share, and John's share is split between his two children, Mary and Fred. In this case, the proceeds are distributed in the same manner as if Melinda had chosen *per stirpes*. (Refer to Figure 2.)

F . . : *Per Capita* at Each Generation - Named Primary Beneficiaries (with one primary beneficiary predeceased)

F . – : *Per Capita* at Each Generation - Named Primary Beneficiaries (with two primary beneficiaries predeceased)

T[illegible]: Summary of Distribution by *Per Capita* Method

Case A: John Predeceases Melinda	**Explanation 1**	**Explanation 2**	**Explanation 3**
	Per capita by all surviving beneficiaries	**Per capita by all surviving descendants**	**Per capita at each generation**
John (Child) RIP	–	–	–
Mary (Grandchild)	0	1/4	1/6
Fred (Grandchild	0	1/4	1/6
Betty (Child)	1/2	1/4	1/3
Susan (Child)	1/2	1/4	1/3
Bri (Grandchild)	0	0	0
Case B: Both John and Susan Predecease Melinda	**Explanation 1**	**Explanation 2**	**Explanation 3**
	Per capita by all surviving beneficiaries	**Per capita by all surviving descendants**	**Per capita at each generation**
John (Child) RIP	–	–	–
Mary (Grandchild)	0	1/4	2/9
Fred (Grandchild	0	1/4	2/9
Betty (Child)	100%	1/4	1/3
Susan (Child) RIP	–	–	–
Bri (Grandchild)	0	1/4	2/9

R[illegible]

Per stirpes and *per capita* are common life insurance beneficiary options used to plan for potential multi-generational transfers of life insurance proceeds. Ultimately, it is the policyowner's preference as to whom to designate as beneficiary(s). Some policyowners will make this selection on their own, without assistance. Others will seek the advice of financial professionals, such as insurance agents, financial planners, and estate planners. Regardless of which, ensuring that the beneficiary designation meets the intended and desired purpose is critical.

To better assist the general public, especially life insurance policyowners, as well as financial advisors who may give them advice, the definitions of *per stirpes* and the various *per capita* options should be more clearly defined and be consistent among all resources used by these individuals. In particular, the beneficiary designation new guide should include illustrative charts of how proceeds will be distributed.[12,13] Second, as part of this guide, a discussion of *per capita* and *per stirpes* methods must be included with at least two examples of each provided (similar to our examples). In particular, the contrasting differences among various *per capita* options need to be highlighted. Finally, a copy of, a link to, or a reminder of the guide should be provided to the policyowner with each beneficiary change.

C[illegible]

Life insurance is purchased for many reasons, and among these are to replace income for dependents and to create an inheritance for one's heirs (*Why Should I Buy Life Insurance?*, 2022). These objectives require that the proceeds of the life insurance policy be distributed as intended by the policyowner. Whether the policyowner completes the beneficiary designation without assistance or seeks the guidance of a financial services professional, it is possible that they may make the selection based on an incomplete understanding of the choices available. In some cases, this result may occur because of inconsistencies in the explanations of the *per capita* method of distribution, which could lead to the unintended distribution of the life insurance proceeds. To address these concerns, disclosures need to be created and used at the time of application and upon each instance of a beneficiary change.

Although this paper focuses on the *per capita* options in the beneficiary designation of life insurance contracts, it is also commonly used in the beneficiary designation in individual retirement accounts (IRAs), 401(k) plans, and other retirement plans. It may also be used in the payable on death (POD) beneficiary designation in bank