

Life Insurance Beneficiaries - *Per Capita vs. Per Stirpes*: Is It Really That Clear?

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IMPORTANCE Life insurance is often used as a way to make a gratuitous transfer and is usually driven by a desire to replace income for dependents, pay final expenses, or create an inheritance for heirs (Insurance Information Institute (III), 2022).¹ Given the importance of these reasons and involvement of multiple people and generations in the transfer process, ensuring that the beneficiary designation meets the intended and desired purpose is critical.

OBJECTIVES In this study, we analyze the ambiguity found in resources for consumers and financial services professionals in how beneficiary designations are described. Although, it is understood that these terms pertain to all areas of financial services, this paper specifically details the differences in the definition, or incomplete definition, of *per capita* as a means of distributing life insurance proceeds among multiple individuals and across generations.²

EVIDENCE Consumers and financial services professionals may look to resource material to assist in determining the proper way to designate beneficiaries for life insurance, especially when the goal is to transfer among multiple individuals and across generations. A review of nine books and articles indicates that there is ambiguity of the *per capita* option. Insurance resources generally use a method known as "*per capita* by all surviving beneficiaries" whereas financial and estate planning use either "*per capita* by all surviving descendants" or "*per capita* at each generation." Often, these resources do not designate which is being used, rather just listing the option as "*per capita*."

FINDINGS The variation of the explanation and description of *per capita* can lead to unintended distribution of life insurance proceeds. Intended beneficiaries may receive no proceeds or see their share of the proceeds reduced significantly.³ 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.

CONCLUSION AND RELEVANCE *Per stirpes* and *per capita* are common life insurance beneficiary options used to plan for potential multi-generational transfers of life

1. The remaining reasons listed are to pay federal "death" taxes and state "death" taxes, to make significant charitable contributions, and to create a source of savings. Insurance Information Institute, 2022. Why Should I Buy Life Insurance? Accessed on September 10, 2022, at <https://www.iii.org/article/why-should-i-buy-life-insurance>

2. As part of the analysis, *per stirpes* is also discussed. This is another beneficiary designation often selected to distribute proceeds among multiple individuals and across generations.

3. Figures of the *per stirpes* and the various *per capita* distribution definitions are provided, as well as a table showing how the various distribution methods impact the payment of a hypothetical life insurance policy.

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.

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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. Although we understand these terms pertain to all areas of financial services, this paper specifically details the differences in the definition, or incomplete definition, of *per capita* as a means of distributing life insurance proceeds among multiple individuals and across generations.² This can lead to unintended consequences in the distribution of the proceeds and unsatisfied objectives, as will be illustrated. Moreover, because

1. The remaining reasons listed are to pay federal "death" taxes and state "death" taxes, to make significant charitable contributions, and to create a source of savings.

2. As part of the analysis, we also discuss the beneficiary option of *per stirpes*, the other beneficiary designation often selected to distribute proceeds among multiple individuals and across generations.

the *per capita* beneficiary selection is part of the contract made between policyowners and insurance companies, beneficiaries may not know whether the distribution choice of the life insurance policy reflects the true objectives of policyowners.³ Therefore, the unsatisfied objectives of the policy would not be noticed or examined at the time the life insurance proceeds are distributed.⁴

In this paper, we collect various resources and compare definitions of *per capita* used in the fields of estate planning, financial planning, and insurance. The explanations of *per capita* can be summarized into three categories: *per capita* by all surviving beneficiaries, *per capita* by all surviving descendants, and *per capita* at each generation.⁵ The three explanations of *per capita* have no significant impacts on the distribution of life insurance proceeds if all beneficiaries survive the insured. However, the life insurance proceeds could be distributed quite differently if one or more of the beneficiaries predecease the insured. As policyowners choose the distribution methods with advice from various parties who may have different explanations of *per capita*, it is important to analyze how each explanation is used in practice.

We find that *per capita* by surviving beneficiaries is more commonly used in the insurance field and is also a default method in a life insurance policy. With this choice, all surviving primary beneficiaries will equally share the insurance proceeds, and nothing will be passed to the heirs of the predeceased primary beneficiaries.⁶ However, in financial planning and estate planning areas, it is relatively common to interpret *per capita* as *per capita* by all surviving descendants. With this choice, all surviving primary beneficiaries and the heirs of the predeceased primary beneficiaries will receive equal shares of the insurance proceeds. Moreover, some states also allow for *per capita* at each generation. With this choice, descendants of the insured within the same generation will receive equal shares of insurance proceeds, so the shares may be different for descendants of different generations. Without proper communication and a unified definition of *per capita* method across all financial services, policyowners, with or without the guidance of a financial services professional, may choose an unintended distribution method.

To reduce the mismatch between the actual and intended distributions of life insurance proceeds due to the misunderstanding of *per capita*, we suggest that all areas of financial services and even all states should use consistent explanations for the various versions of *per capita* to ensure a clear and uniform understanding of the concept. The beneficiary designation forms are recommended to highlight the

3. When the policyowner is someone other than the insured, it is possible to determine whether the proceeds of the policy are paid based on the policyowner's intent as they can personally address this issue. However, when the policyowner and insured are the same, which occurs with great frequency, it is not possible to determine whether the actual distribution is based on the understanding of the insured as they are not available to address the issue.

4. Various factors may impact the knowledge of the policyowner regarding the various beneficiary options. For instance, the age of the policyowner may impact the ability to understand the various options (i.e., some older individuals may have limited or declining cognitive abilities). The resources available at the time of the policy purchase and subsequent beneficiary changes, if any, might also impact the understanding of the various options (i.e., whether the policy was purchased on-line or whether there is access to a financial services professional or attorney may impact the success in meeting the desired outcomes of the policyowner). It is also possible that insureds may put more effort in determining the beneficiary selection of larger policies. However, there is no way to measure this at this time.

5. As will be seen, in some cases, the resources used to explain beneficiary options do not specify between these three options and may instead, simply state *per capita* (Keir, 2016).

6. An explanation of primary, secondary, and tertiary beneficiaries is presented later in the paper.

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 address the importance of the beneficiary designation. Next, we present the definitions and descriptions of *per stirpes* and *per capita* found in the financial services industry and illustrate the inconsistencies. We then discuss recommendations for consumer protection, and finally, we discuss conclusions and implications for future analysis.

The Parties to the Life Insurance Policy

Other than the insurance company, there are several parties to a life insurance policy. The insured is the individual (or individuals) whose life is covered by the policy. When the insured dies, the insurance company will pay out the death benefit (proceeds) of the policy.

The owner controls the life insurance policy. The owner can designate a beneficiary(s), make changes to the policy, borrow funds or withdraw cash values, select options, and even change the ownership of the policy (National Alliance, 2012).⁷ The owner may be the insured or may be another individual with an insurable interest in the life of the insured.⁸ Without insurable interest, a person cannot purchase life insurance on the life of another person. In addition, if the owner is someone other than the insured, the owner must have the permission of the insured or the insured's guardian to obtain insurance on the insured.

The payor of the life insurance policy is often the insured or the owner. However, this is not required. In some cases, another individual makes the premium payments (i.e., a grandparent pays the premium on the policy where the insured is the grandchild, and the parent is the owner).

Finally, the beneficiary is the individual(s) or entity(s) who receives the death benefit from the life insurance policy. The beneficiary is to whom the insurer agrees, subject to specified conditions, to pay the amount stipulated in the life policy should the insured pass away while the policy remains active (Vance, 1922). As stated, the owner of the policy designates the beneficiary(s), and this beneficiary designation is "ambulatory," taking effect on death and as such, with few exceptions, it can be changed by the owner until the death of the insured(s) (Kimball, 1969).

The importance of the beneficiary in the life insurance policy transaction cannot be overstated.

7. Some types of life insurance policies accumulate cash value and permit the owner the right to borrow against these funds. In addition, these funds can be paid out to the owner if the policy is surrendered. Participating policies may pay out dividends, although these are never guaranteed, and how the dividend is distributed is the choice of the owner.

8. Insurable interest means that a person would encounter a financial hardship if the insured dies.

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 Designations

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 without taxation (NAIC, 2020). Therefore, many individuals list their beneficiaries by name, rather than simply designating the beneficiary as their estate (Hau, 2000).⁹

Life insurance beneficiary designations often list or affect more than one level of beneficiaries. To understand how beneficiaries work, it is important to first understand the terminology associated with the various levels. The primary beneficiary(s) receive the policy benefit, a portion or all of the proceeds depending on the number listed, if they outlive the insured. The contingent or secondary beneficiary(s) receives the proceeds if the primary beneficiary(s) dies before the insured. Secondary beneficiaries generally receive proceeds only if all primary beneficiaries predecease the insured. The tertiary beneficiary(s) receives the proceeds if the secondary beneficiary(s) dies before the insured. Tertiary beneficiaries generally receive proceeds only if all primary and contingent beneficiaries predecease the insured.

In addition to the various levels indicated above, life insurance policies can include language which permits a distribution of life proceeds given a specific class or generational relationship to the insured. For instance, an insured could list the beneficiary as “all children born to or adopted by the insured.” This would not require the specific naming of the children. The beneficiary can also be designated with terms such as

9. The Life Insurance Fact Books (1990, 1994) report that in 1985 and 1990, only 4.5 percent and 5.7 percent, respectively, of life insurance policy beneficiaries were either estates or trusts. One main reason for this is that life insurance is often used to bypass the probate process by paying proceeds directly to the beneficiary (Hau, 2000).

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.

Per Stirpes vs. Per Capita

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*" means by the root, stock or branch and *per capita* means by the head. Making the wrong choice when selecting between these two options could lead to an estate planning disaster (Schulte, 2020). Surprisingly, we find inconsistencies in the description of *per capita* across various materials available for reference, and often used by financial service professionals. These inconsistencies can lead to unfulfilled objectives of the life insurance proceeds.

To best understand the difference between *per capita* and *per stirpes* and the inconsistencies with explanations available to financial services professionals and consumers, we propose the following examples:

Melinda is a widow who wants to designate her three children (John, Betty, and Susan) as beneficiaries of her life insurance policy, with each receiving an equal share. John is married to Amy and has two children (Mary and Fred). Betty is married to Tom, and they currently have no children. Susan is divorced and has one child, Bri. In this scenario, if Melinda's three children survive her, then upon Melinda's death, the children will each receive one-third of the proceeds of the life insurance policy, and Melinda's grandchildren (Mary, Fred, and Bri) receive no part of the distribution. In other words, Melinda, without giving consideration that one of her children might predecease her, assumes the distribution of the life insurance will be made, as shown in Figure 1.

Figure 1: Intended Life Distribution with Named Primary Beneficiaries

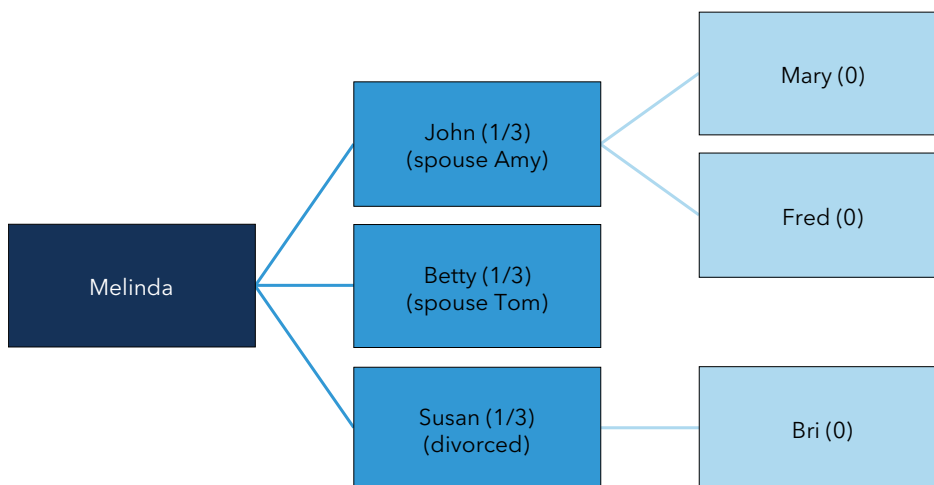


Figure 1 depicts a hypothetical example of an individual's (Melinda) desire to have her life insurance proceeds distributed equally among her three children. This assumes that Melinda did not consider the possibility of one of her children predeceasing her and was not aware of *per capita* or *per stirpes* options and, therefore, made no such selection.

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, the simplistic beneficiary designation that Melinda intended becomes much more complicated.

Per Stirpes

If Melinda had been aware of the *per stirpes* beneficiary option when listing her three children as the primary beneficiaries and made this selection, and if John alone predeceases his mother, then his one-third share is divided equally between his heirs, Mary and Fred. The share of the proceeds received by Melinda's other two heirs does not change. Each still receives one-third of the proceeds. In other words, with *per stirpes*, Betty and Susan would receive the one-third they would have received, even if John had not predeceased his mother. However, John's portion is passed on to his children, even though his children (Mary and Fred) are not specifically listed as beneficiaries. Figure 2 shows this distribution.

Figure 2: Named Primary Beneficiaries with *Per Stirpes* (with one primary beneficiary predeceased)

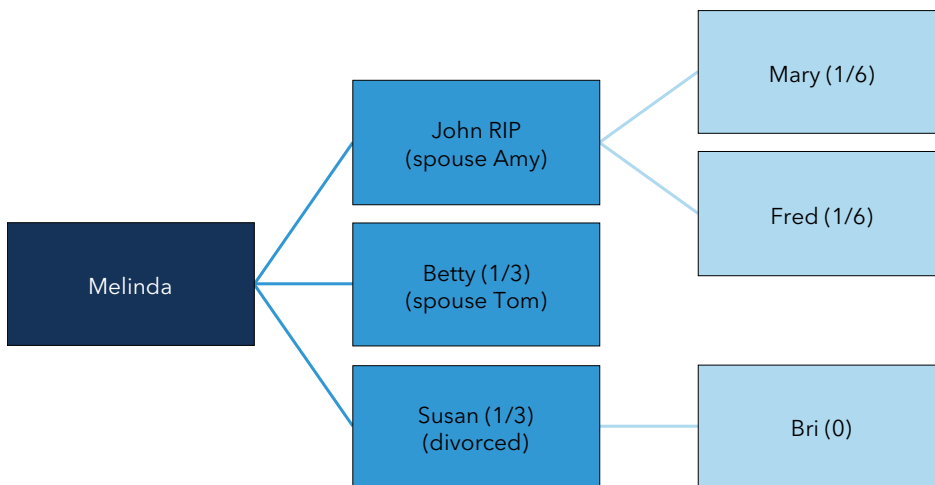


Figure 2 depicts Melinda's beneficiary designation option of naming her three children (John, Betty, and Susan) with a *per stirpes* option. This example has one child (John) predecease her. In this case, John's share is passed to his children (Mary and Fred), and they share it equally. John's spouse, Amy, and Betty's spouse, Tom, do not inherit any share as they were not listed as beneficiaries.

Note that John's spouse, Amy, does not inherit his share of the life insurance proceeds. Instead, the proceeds pass to the next generation, and John's share is divided equally between his heirs (Mary and Fred).

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 predeceased)

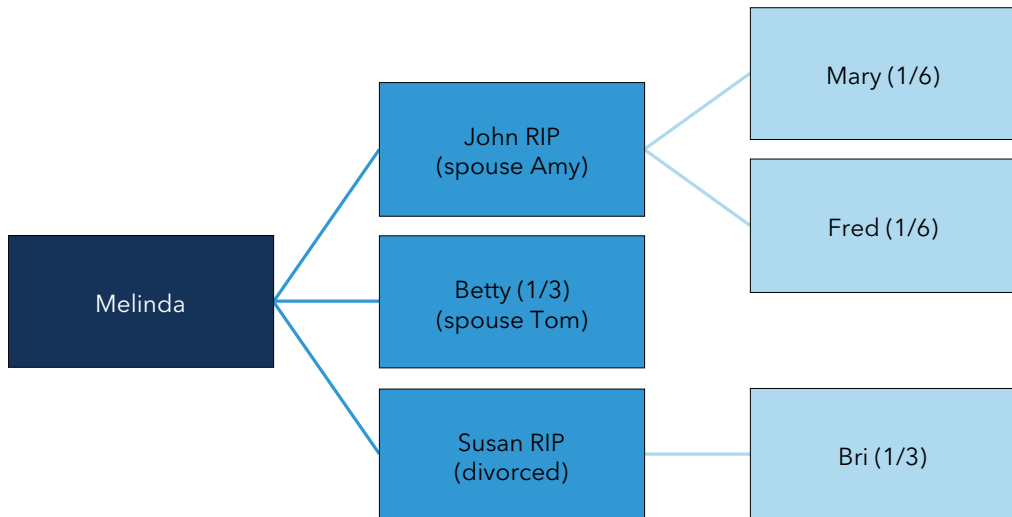


Figure 3 depicts Melinda's beneficiary designation option of naming her three children (John, Betty, and Susan) with a *per stirpes* option. This example has two children (John and Susan) predecease her. In this case, John's share is passed to his children (Mary and Fred), who share it equally, and Susan's share is passed to her child (Bri). Again, Betty's spouse, Tom, does not inherit any share as he was not listed as the beneficiary.

It is important to note that all source materials reviewed for this article explain the *per stirpes* method of distribution in this manner (e.g., Thomas, 2022; Kaplan, 2017; Black et al., 2015). In contrast, the *per capita* method, as we show in the next section, has different explanations depending on the source used, and, if relied upon, may cause a failure to meet policyowner objectives.

Per Capita

The second option we will discuss, which could lead to multi-generational transfer, is *per capita*. *Per capita* is a beneficiary designation whereby if one of the primary beneficiaries passes away before the insured, the proceeds would be distributed evenly amongst the surviving beneficiaries (Hicks, 2022). Existing literature states that "by choosing *per capita*, you are ensuring your money goes to your primary beneficiaries only" (Schulte, 2020) or "*per capita* distribution is fairly simple" (Benzinga, 2018). With varying and vague explanations of *per capita* in resource materials and limited instructions on the distribution, it may not be this simple, and there may be confusion among policyowners.

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.

Table 1: *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 Betty and Susan, with each of them now receiving one-half of the proceeds of the life insurance. This depiction of *per capita* is shown in Figure 4. Notice that Melinda's grandchildren receive no proceeds from the policy. As indicated in Table 1, this expla-

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).

Figure 4: *Per Capita* by All Surviving Beneficiaries - Named Primary Beneficiaries (with one primary beneficiary predeceased)

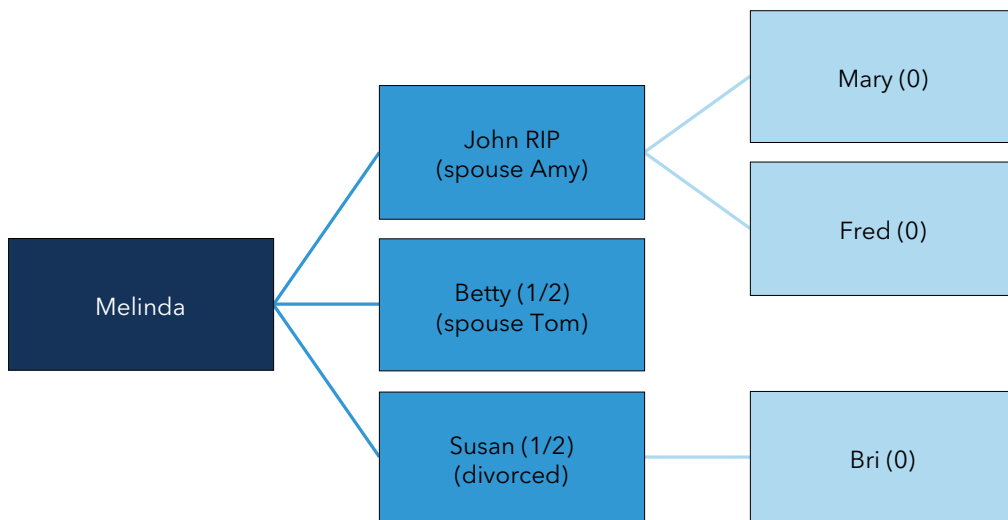


Figure 4 depicts *Per Capita* by All Surviving Beneficiaries as mentioned in Table 1. This example has one child (John) predecease Melinda. In this case, John's share is not passed to his children and is instead divided between all other named primary beneficiaries (Betty and Susan).

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

¹⁰ If all three of Melinda's children predecease her, then upon Melinda's death the proceeds of the policy would be paid to secondary beneficiaries, if any are listed, or to Melinda's estate per her domiciled state's laws. In this case, it is possible that Melinda's grandchildren may receive all or a portion of the proceeds.

Figure 5: *Per Capita* by All Surviving Beneficiaries - Named Primary Beneficiaries (with two primary beneficiaries predeceased)

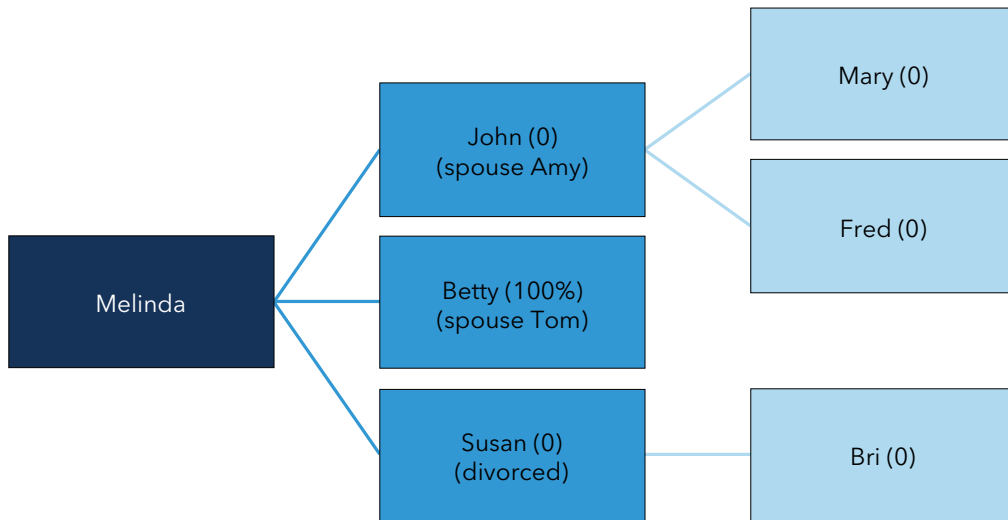


Figure 5 depicts *Per Capita* by All Surviving Beneficiaries as mentioned in Table 1. This example has two children (John and Susan) predecease Melinda. In this case, John's and Susan's share are not passed to their children. Instead, all life proceeds are paid to the sole living primary beneficiary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

Without specifically referring to *per capita*, Thompson (1927) provides an example of the beneficiary designation as provided in Figures 4 and 5. Simpson and Rosenfeld (2017) provide a similar description and simply state that this distribution is *per capita*.

Using our example, in her research to determine the appropriate beneficiary designation, had Melinda referred to Dalton (2022) or Keir (2016), she would have noted that *per capita* provides benefits for her grandchildren if one of her children predeceases her. Specifically, the example provided by Dalton (2022) and Keir (2016)¹¹ is depicted in Figure 6. However, each resource simply defines it as *per capita* rather than *per capita* by all surviving descendants.

In this example, if John alone predeceases Melinda, then upon Melinda's passing, John's children (Mary and Fred) are elevated to equal shares with John's siblings, Betty and Susan. In other words, Betty, Susan, Mary, and Fred each receive one-fourth of the proceeds. Note that in this example of *per capita*, Betty and Susan go from receiving one-third of the proceeds each to a reduced fraction of one-fourth.

11. As shown in Table 1, these resources are primarily geared to the financial planning industry.

Figure 6: *Per Capita* by All Surviving Descendants - Named Primary Beneficiaries (with one primary beneficiary predeceased)

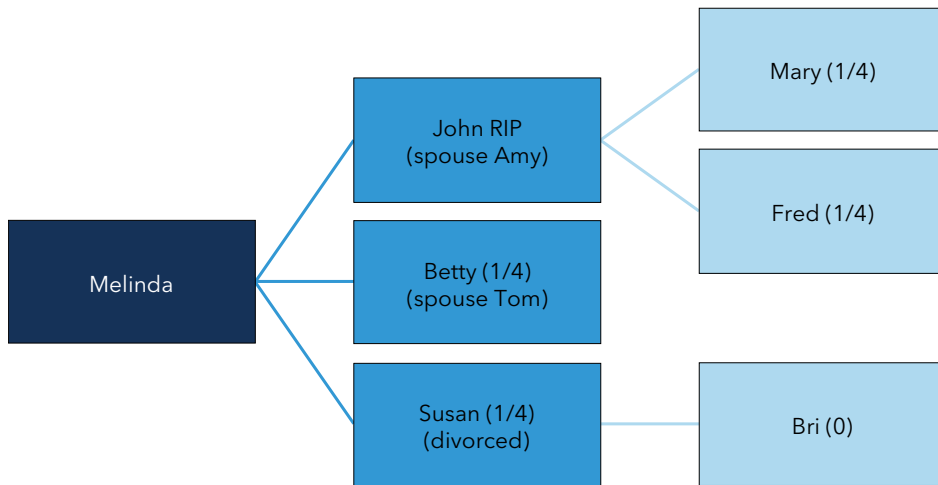


Figure 6 depicts *Per Capita* by All Surviving Descendants, as mentioned in Table 1. This example has one child (John) predecease Melinda. In this case, John’s children are elevated to the level of the surviving primary beneficiaries and share equally with them. In other words, the proceeds are divided equally among John’s children (Mary and Fred) and the other surviving primary beneficiaries (Betty and Susan).

Following this example further, if John and Susan both predecease Melinda, then upon Melinda’s death, Bri is also elevated to equal shares. In this case, there remain four total beneficiaries, Betty, Mary, Fred, and Bri, and therefore, each would receive one-fourth of the proceeds. Refer to Figure 7. Although Melinda had originally intended for Betty to receive one-third of the proceeds, she will now settle for a reduced portion of the proceeds.

Figure 7: *Per Capita* by All Surviving Descendants - Named Primary Beneficiaries (with two primary beneficiaries predeceased)

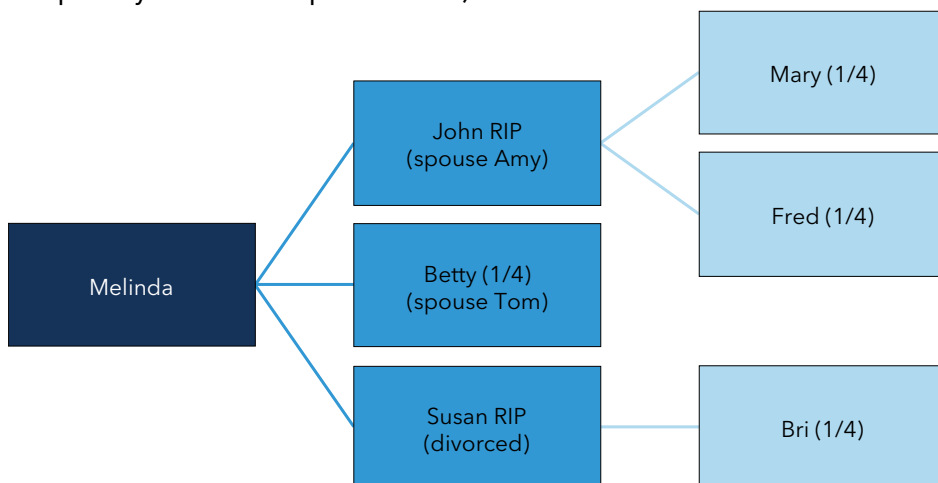


Figure 7 depicts *Per Capita* by All Surviving Descendants, as mentioned in Table 1. This example has two children (John and Susan) predecease Melinda. In this case, both John’s and Susan’s children are elevated to the level of the surviving primary beneficiary (Betty) and share equally with her. In other words, the proceeds are divided equally among John’s children (Mary and Fred), Susan’s child (Bri), and the only surviving primary beneficiary (Betty).

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.)

Figure 8: *Per Capita* at Each Generation - Named Primary Beneficiaries (with one primary beneficiary predeceased)

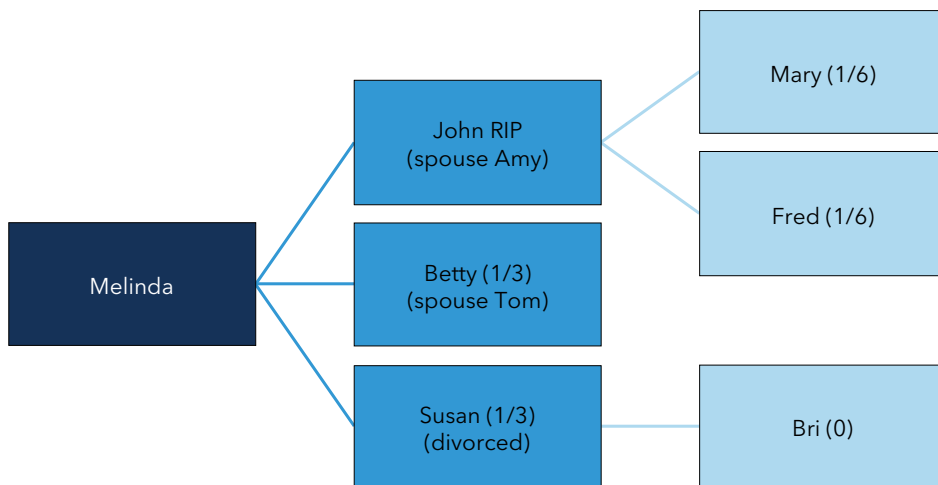


Figure 8 depicts *Per Capita* at Each Generation as mentioned in Table 1. This example has one child (John) predecease Melinda. In this case, the calculation is determined by calculating the amount of proceeds available from predeceased shares. The one-third that was to go to John is passed to his children (Mary and Fred) and is the same as if Melinda had chosen the *per stirpes* method of distribution (see Figure 2).

Although the previous example is the same as *per stirpes*, the similarities end when two of Melinda’s children predecease her. In this case, when John and Susan predecease Melinda, then Betty retains her one-third of the life insurance proceeds. However, the remaining two-thirds is divided equally among all three grandchildren, resulting in a two-ninths share for each. Refer to Figure 9 for this distribution.

Figure 9: *Per Capita at Each Generation - Named Primary Beneficiaries (with two primary beneficiaries predeceased)*

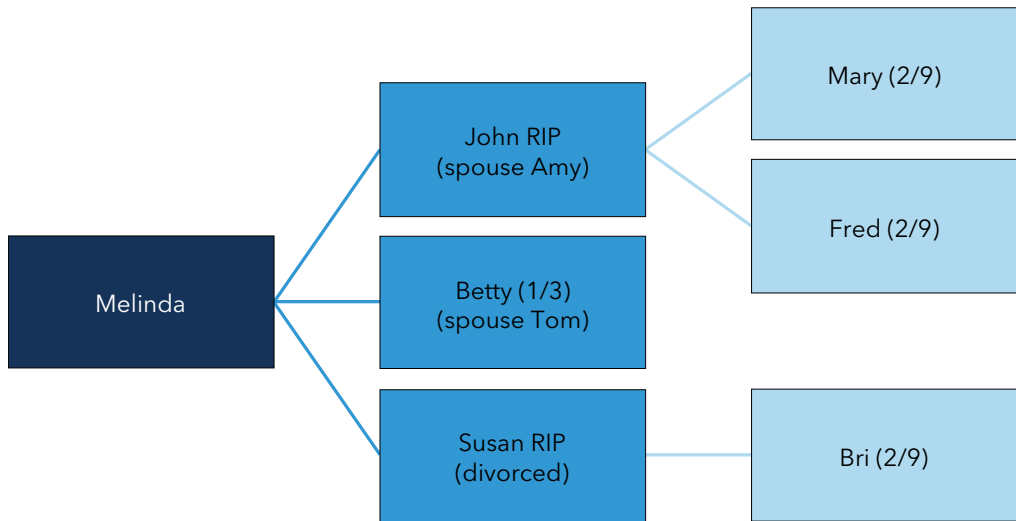


Figure 9 depicts *Per Capita at Each Generation*, as mentioned in Table 1. This example has two children (John and Susan) predecease Melinda. In this case, the calculation is determined by calculating the amount of proceeds available from predeceased shares. There is one-third available from John and one-third available from Susan for a total of $\frac{2}{3}$ of the proceeds. This two-thirds is divided equally between John's and Susan's children (Mary, Fred, and Bri). Therefore, each gets two-ninths of the proceeds.

Per stirpes and *per capita* are the two main beneficiary choices to address multi-generational transfer through life insurance. Although *per stirpes* appears to be rather uniform in its explanation and the examples provided for consumers and financial advisors, as can be seen from the various scenarios of *per capita*, the concept is vague, and the descriptions provided vary. Given that financial advisors use these examples to educate clients and consumers use them to make decisions regarding the transfer of wealth through life insurance, it is concerning that further guidance is not provided at the time of life insurance purchase and, again, each time the owner changes and uses either a *per stirpes* or *per capita* selection.

The impacts of the various explanations of *per capita* on the life insurance proceeds distribution are summarized in Table 2. In either case, the distribution of life insurance proceeds to the surviving primary beneficiaries is significantly reduced if we use *per capita* by all surviving descendants or *per capita at each generation*. Without carefully explaining the definition of *per capita* used in a life insurance contract, policyowners who would like to divide life insurance proceeds among the children of predeceased beneficiaries and other surviving beneficiaries might end up with *per capita* choice and leave nothing to the children of predeceased beneficiaries.

Table 2: 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

Recommendations

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 forms are strongly recommended to highlight the specific version(s) of *per capita* available in the policy, accompanied by explicit definitions to minimize ambiguity in the designation process.

Given the difficulty, or perhaps impossibility, of monitoring or controlling this, we make the following recommendations. First, either an existing Consumer's Guide to Life Insurance should be updated to include illustrative charts of how proceeds will be distributed 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.^{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.

Conclusion

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 accounts, certificates of deposit (CDs), and other investment accounts. It is vital to have a uniform understanding of *per capita* across all financial plans to reduce the likelihood of failure to meet an individual's financial objectives.

12. Given the breadth and complexities of the beneficiary options available, as well as the examples of the various *per capita* distributions covered in this paper, a separate Buyer's Guide to Beneficiaries may be more useful as it can focus on the initial beneficiary designation as well as subsequent beneficiary changes.

13. Although this paper focuses on life insurance, beneficiaries are also necessary for annuities, 401(k)s and other types of financial instruments.

References

- American Council of Life Insurers (ACLI). *Life Insurers Fact Book*. Washington, D.C.
- Black, K., Jr., Skipper, H. D., & Black, K., III. (2015). *Life Insurance* (15th ed.). *Lucretian, LLC*, 126.
- Dalton, M. A. & Langdon, T. P. (2022). *Estate Planning* (13th ed.). Money Education.
- Hau, A. (2000). Liquidity, estate liquidation, charitable motives, and life insurance demand by retired singles. *The Journal of Risk and Insurance*, 67(1), 123-141.
- Kaplan (Second Edition), 2017. *Life and Health, License Exam Manual*: 158-159.
- Keir, J. (2016). *Risk management and insurance planning*. Keir Educational Resources, 28.27-28.28.
- Kimball, 1969. The Function of Designations of Beneficiaries in Modern Life Insurance: U.S.A., in *Life Insurance Law in International Perspective*. 74, 75-76 (J. Hellner & G. Nord eds. 1969).
- Leslie, M. B. & Sterk, S. E. (2015). Revisiting the revolution: Reintegrating the wealth transmission system. *Boston College Law Review*, 56(1), 61-119.
- LOMA (Life Office Management Association, Inc.) Education and Training, 2017, *Principles of Insurance, Second Edition*: 9.2-9.3.
- National Alliance (2012). *Life & Benefits Essentials*: 1-4. NAIC (National Association of Insurance Commissioners, 2020. *Life Insurance Awareness Month*, Sept. 2020.
- Schulte, T. (2020). *These 2 words could send your retirement money to the wrong beneficiary*. Kiplinger. Retrieved October 3, 2022, from <https://www.kiplinger.com/retirement/estate-planning/601148/avoid-sending-your-retirement-money-to-the-wrong-beneficiary-with>.
- Simpson, D. M. & Rosenfeld, C. M. (2017). Developing best practices: Beneficiary designations. *Journal of Financial Service Professionals*. 71(6), 74-79.
- Thompson, L. E. (1927). Beneficiary provisions under modern life insurance policies. *The Annals of the American Academy of Political and Social Sciences*, 130, 86-96.
- Vance, W. (1922). The beneficiary's interest in a life insurance policy. *Yale Law Journal*, 31(4).
- Why should I buy life insurance?* (2022). Insurance Information Institute (III). Retrieved September 10, 2022, from <https://www.iii.org/article/why-should-i-buy-life-insurance>.