

WHAT IF YOU SUSPECT YOUR SIBLING OF UNDUE INFLUENCE

This blog post addresses concerns regarding the potential undue influence your sibling may be exerting on your parents to alter their last will and testaments. Undue influence occurs when a person uses their confidential relationship with another to manipulate them into making decisions they would not otherwise make. This blog outlines how you can protect your parents' interests and ensure their will reflects their true intentions.

I. Understanding Undue Influence: Undue influence arises when a person uses their position of power over another to persuade them to make decisions against their free will. For undue influence to exist, there must be the existence of a confidential relationship, i.e., the influencer has a special relationship with the influenced. Additionally, there needed to be an opportunity to exert influence, i.e., the influencer had the chance to manipulate the situation. Finally, there would need to be a suspicious circumstance such as resulting inequity, i.e., the changes in the will benefit the influencer disproportionately.

II. Steps to Take

Document Your Concerns: Keep detailed records of any conversations or actions that suggest your sibling is influencing your parents. Note dates, times, and specifics of the discussions. Collect evidence of any changes in your parents' behavior, health, or mental capacity that coincide with your sibling's involvement.

Communicate with Your Parents: Approach your parents respectfully and express your concerns about their well-being and the implications of changing their will. It's essential to do this sensitively to avoid alienating them. Encourage them to discuss their wishes openly, ensuring they are aware of the implications of any changes. **Consult with a Legal Professional:**

Engage an estate planning attorney to discuss your concerns. They can provide in depth guidance on the legal framework surrounding wills and undue influence. The attorney can also help assess the validity of the current will and whether it reflects your parents' true wishes.

If you believe your parents may not be in a position to make informed decisions, suggest a capacity assessment by a qualified professional. This assessment can help determine their mental competency.

If you have evidence of undue influence and believe it is necessary to contest any changes made to the will, you may consider filing a petition in the Chancery Division, Probate Part. Consult your attorney to discuss this option thoroughly.

III. Conclusion

It is essential to act thoughtfully and respectfully when addressing concerns about potential undue influence affecting your parents' will. Document your observations, communicate with your parents, consult a legal professional, and consider mediation before resorting to legal action. Protecting your parents' interests should be the primary goal, and careful navigation of this sensitive issue is crucial.