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## Estate Planning Seminar

- Power of Attorney
- Health Care Proxy
- Wills
- Planned Giving

ATTORNEY  
**MATTHEW S. RAPHAN**

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# POWER OF ATTORNEY

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**A Power of Attorney (POA)** is a legal document that allows someone else to act on your behalf.

**POA for finances:**

Gives a designated person the authority to make legal/financial decisions on behalf of the person.

**POA for healthcare:** Gives a designated person the authority to make health care decisions on behalf of the person.

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# POWER OF ATTORNEY

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A POA is very important, and almost essential, if you become incapacitated.

**Powers:** You can grant your agent authority to handle your **banking transactions**, your personal affairs, the ability to hire and fire care takers, make gifts, or to handle your real estate matters

**Selecting your Agent:** Since you are granting substantial financial powers to your Agent, you must select your Agent carefully. Needless to say, the Agent must be **trustworthy and honest**.

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# TYPES OF POWERS OF ATTORNEY

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- ❖ **Non-Durable Power of Attorney.** This becomes effective immediately when it is signed by the Principal. A Non-Durable Power of Attorney terminates automatically if the Principal becomes incompetent. *This is not an effective tool when planning for incapacity.*
  
- ❖ **Durable Power of Attorney.** This is similar to a Non-Durable Power of Attorney but it remains effective if the Principal subsequently becomes incompetent. This is typically the best form of Power of Attorney to use for seniors.
  
- ❖ **Springing Power of Attorney.** This is a Durable Power of Attorney that becomes effective upon the happening of a future event, usually the certification by a doctor that the Principal is incompetent.



# HEALTH CARE PROXY

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**A Health Care Proxy** allows you to appoint someone to decide about your medical treatment if you are unable to do so yourself.



# HEALTH CARE PROXY

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The person you select as your Health Care Proxy has *no authority* to act on your behalf until the doctors decide that you are not able to make your own health care decisions.





# DISPOSITION OF REMAINS

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This document allows a person to designate who will handle their remains after death.

According to New York law, there is an order of those who have control over the disposition of your remains if you do not designate someone:



# DISPOSITION OF REMAINS

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## The order is:

- (1) the surviving spouse
- (2) the surviving domestic partner
- (3) any surviving children eighteen years of age or older
- (4) either surviving parent
- (5) any surviving siblings eighteen years of age or older
- (6) a Guardian appointed by the court
- (7) any person eighteen years of age or older who would be entitled to share in the estate of the decedent as specified in NY law, with the person closest in relationship having the highest priority
- (8) a duly appointed fiduciary of the estate of the decedent.





# WILLS

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**Your Last Will and Testament** says who gets your property upon your death and how they get that property.

*You decide*

*‘who gets what’.*



# WILLS

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**One of the most common things that people seem to procrastinate about is the preparation of a Last Will and Testament.**

- Having a Will can expedite the handling of your estate and ensure that those dear to you inherit *your* estate, based on your wishes, upon your death. Expenses of your estate can also be reduced.
- A Will gives **YOU** control of your assets post death.  
If you die without a Will, your estate, which includes the contents of your home, will be distributed in accordance with the laws of the State of your residence at death, by a court appointed administrator.



# WHAT IF YOU DIE WITHOUT A WILL?

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- To make matters even worse, the people who inherit from you MAY NOT BE the people who you would want to get your estate.
- That means that remote relatives whom you haven't spoken to in years may inherit.
- If the Public Administrator is appointed for your estate, they will go through and dispose of or auction your intimate and treasured personal property and family heirlooms.



# WHAT IF YOU DIE WITHOUT A WILL?

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- Your estate will be distributed according to the laws of the State of New York

## **This includes your:**

- Bank Accounts
- Stocks
- Bonds
- Contents of your home
- And all other property you have



# WILLS – EXECUTOR

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**A Will also allows you to nominate an Executor of your estate -- the person responsible to collect all of your assets, pay your bills, and distribute your remaining assets to the beneficiaries YOU select.**

- The Executor is often also responsible to clean out and dispose of your home, if nobody will remain. If you have the right Executor, your estate should move swiftly, and with little complication.



# WILLS – CHOOSING AN EXECUTOR

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Any person can usually serve as your Executor, provided they are a legally competent adult. However, an Executor must be a citizen of the United States.

- Before choosing someone to serve as your Executor, you should give serious consideration to how well he or she will be able to handle the rigorous duties and responsibilities of the job. For example, does he or she have the available time to complete the job? Does he or she have the required abilities? Will he or she be able to deal with sometimes difficult family members or beneficiaries? Can they handle the stress of the task? Is he or she a good record keeper? A procrastinator? Or does he or she *get the job done!*



# WILLS – CHOOSING AN EXECUTOR

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People who have never served as an Executor frequently do not realize what they are getting into when they agree to serve.

- They often find themselves overwhelmed by the duties, or they simply don't have the time to devote to the job. Certainly if someone is not organized and diligent in their own affairs, they would probably not make a good choice as your Executor.
- Administering an Estate can be tedious and frustrating. You may want to ask yourself if you want a novice responsible for your estate. Although you have wide choices in selecting your Executor, you may give consideration to naming a professional, such as an accountant or a lawyer, that has experience with this task.





# WHAT IS A PLANNED GIFT?

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- A planned gift is a commitment to stewardship and a reflection of one's faith.

Independent Methods	Guided Methods
<ul style="list-style-type: none"><li>• Stocks</li><li>• IRAs</li><li>• Life Insurance</li><li>• Retirement</li></ul>	<ul style="list-style-type: none"><li>• Bequests</li><li>• CGAs</li><li>• Charitable Remainder Trusts</li></ul>



# BEQUESTS

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- A bequest is a gift made through your will.
- There are three kinds of bequests:
  - Residual
  - Percentage
  - Specific



# BEQUESTS

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- **What do you need to make a bequest?**
  - Donative Intent
    - Prioritize Self and Family First
  - Legal representation
    - Wording to use:
    - LANGUAGE FROM PDF



# WHO BENEFITS FROM PLANNED GIFTS?

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- **Beneficiaries Include**
  - Parishes
  - The Archdiocese of New York
  - St. Joseph's Seminary
  - The Egan Pavilion for Retired Priests



# PARISH BENEFITS

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- Allow the parish to continue for generations to come
- Allows parish priorities to be funded
- Guarantees the financial wellbeing of the parish
- Unrestricted bequests
  - Allows the parish to use where the need is the greatest



# PARISHIONER BENEFITS

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- Allows the parish to recognize and thank parishioners individually
  - Allows you to decide your legacy and show the importance of your faith
- Sets an example for others
- Fulfills the obligations of stewardship
- Estate tax benefits
- Legacy of Faith Membership



# LEGACY OF FAITH SOCIETY

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- **Membership**

- No fees or dues necessary
- Multiple ways to become a member

- **Benefits**

- Recognition in the Catholic New York and Website
- Invitation to Exclusive Events





# BEQUEST DOCUMENTATION

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- Why is it important to document the bequest intent?
  - Donor recognition
  - Long-term parish financial security
- Why bring this up now?
  - Broaden the opportunities for parishioners to participate
  - Archdiocesan priority



# NEXT STEPS

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- Contact NYC Bar Association
  - [www.nysba.org](http://www.nysba.org)
- Contact your pastor and inform him
- Contact the Development Office

# THANK YOU

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