

What is estate planning, who needs it and how do you get it?

By Jennifer Williams

jwilliams@catholicreview.org

Nobody *has* to do estate planning, but everyone would be wise to do it.

Those are the words of advice of Stephen Bailey, an estate planning lawyer with the Law Office of Stephen Bailey in Baltimore.

Bailey, 49, is a former deputy state's attorney with 19 years of experience as a criminal prosecutor. He went to work as an executive for Erickson, which runs retirement communities in the area, before deciding to return to the practice of law. Instead of helping victims of crime, he now helps individuals with estate planning.

"Usually, there are three main components to someone's estate plan," Bailey said.

First, he said, is a set of instructions for what should happen to your "stuff" when you're no longer here to enjoy it.

"We all accumulate things during our lifetime," he said.

A will or trust will provide guidelines as to how real estate, tangible items such as cars and jewelry or intangible assets such as bank accounts and investments will be distributed.

“We all want our stuff to go to the right person or organization,” Bailey said. “Sometimes it’s as simple as ‘I want it to go to my spouse or if my spouse is not here I want it to be divided equally among my children,’ or it can be much more complex. Who can receive a gift outright and who has strings attached?”

Next, Bailey said an individual should choose who will manage his or her affairs or property if he or she should ever lose that ability or reach a point where he or she does not want to be bothered with it.

A third aspect to consider is health care decisions. What are your wishes and who will provide informed consent if you are unable?

“Nobody is going to force you to have a financial power of attorney or health directive,” Bailey said. “If you don’t, there are mechanisms in place where if you die without a will, the state determines who gets your property. But it may not be in the amounts or the way you would want it.”

He said the website of the Maryland Attorney General provides links for health directives, which can be printed.

“I’ve sat down with clients in their late 70s or early 80s who have never had a will, and I think it’s better late than never, but you’re still taking a risk,” Bailey said.

Bailey encourages an individual to select one person to handle his or her financial matters and another to look at health care.

“For the financial side, you want someone who has demonstrated an ability in his or her life to be a good steward of his or her own resources and who has your best interests at heart,” Bailey said. “On the health care side, it’s important to have someone who you’ve had some good conversations with on health care. The goal isn’t to pick someone who will make a decision based on what they would do, but

what Mom would want if she were able to tell you.”

Sometimes people don't want to leave anyone out, Bailey said, so they want everyone to have a role.

“Committees do a little,” Bailey said. “Individuals do a lot. Instead of making things easier, naming people jointly can make things more difficult.”

Here are some additional tips Bailey offers:

- It's never too early to get started. A lot of people wait for some life event to spur them to action. “Everyone could possibly be in a car accident and we're told that none of us is guaranteed tomorrow,” he said. “I think a lot of people fear it, but I think it's a healthy process. It really can be a healthy conversation for families.”
- Shop around for your lawyers. “Not everybody charges the same price,” he said. “Ask your lawyers lots of questions. Make sure you understand everything before you sign it. An agreement with the lawyer should be in writing.”
- Bailey suggests updating a will every three to five years. Relationships with people, financial circumstances and estate tax implications may have changed, he said.
- Seniors planning to move into a retirement community need to understand exactly how signing a contract will impact their estate planning.
- Before meeting with a lawyer, you should know how your assets are titled, what your beneficiary designations are and where your accounts are held. Have photocopies of important documents prepared.

Contact Bailey's law office at 410-828-8787.