

## **Let your estate plan say: “I want to live...forever!”**

*“Is anyone among you suffering? He should pray...Is anyone among you sick? He should summon the presbyters [priests] of the Church, and they should pray over him and anoint him with oil in the name of the Lord, and the prayer of faith will save the sick person, and the Lord will raise him up. If he has committed any sins, he will be forgiven.” (Jas. 5:14-15)*

Often, Catholics forget that one important aspect of an estate plan is to order their affairs according to living a Sacramental life. Although most people have a Will or Trust, and Powers of Attorney (Health, Mental Health, and Financial), generally Catholics forget to express their faith in estate documents. Perhaps this is because we have a tendency to compartmentalize our faith so that our “life of faith” does not involve our gym workout, our eating out at a restaurant, the medical treatment we receive, or our estate planning. But, this is a far cry from the call of the gospel.

## **The Law and Catechism**

In Arizona, an adult can execute a Health Care Power of Attorney in order to appoint an Agent (surrogate decision maker or proxy) to make medical decisions when the adult is incompetent or unable to make or communicate a decision. (*See* A.R.S. §36-3221). Of all legal documents, it is the Health Care Power of Attorney which can protect the life and dignity of a person if the document vests legal authority to make medical treatment decisions in a trusted fiduciary or family member who will follow the adult’s wishes.

Indeed, the Catechism of the Catholic Church (CCC §2278) considers this issue concerning the administration of medical treatment head-on because the Church teaches that medical, “*...decisions should be made by the patient if he is competent and able or, if not, by those legally entitled to act for the patient, whose reasonable will and legitimate interests must always be respected.*”

For the most part, medical decisions for an incompetent adult can be controlled by a Health Care Power of Attorney (A.R.S. §36-3223). So too, this same document can also include express provisions requesting among other things, to receive the Sacrament (Mystery) of Anointing of the Sick. In fact, the Holy Catholic Church emphasizes this same point again in the Code of Canon Law § 1006, which states that “*the sacrament [of anointing of the sick] is to be conferred upon sick persons who requested it at least implicitly when they were in control of their faculties.*”

Accordingly, a Health Care Power of Attorney can only be signed by someone who is of sound mind and free from duress at the time of signing the document. (A.R.S. §36-3221(A) (3)). It follows then that when Church teaching is integrated into health proxy civil laws, a person can expressly request the Sacrament of Anointing of the Sick during a time when the person is competent. In taking this action, the adult can reasonably ensure the Sacrament will be

administered to him during a period of illness, near death, or even soon after death. (See Canon Law §1005 - *This sacrament is to be administered when there is a doubt whether the sick person has attained the use of reason, whether the person is dangerously ill, or whether the person is dead*).

## **Our Life in Christ**

So, what will you do in your estate planning? Absolutely we must trust in Christ and His Church that without a doubt the Sacrament of Anointing of the Sick completes our conformity to the death and Resurrection of Christ, just as Baptism began it. (CCC §1523 – *Council of Trent*). Certainly, it is countercultural to think that an estate planning document can be used as a final expression of your faith. Nevertheless, as Catholics, our life's goal is not to conform to the world; instead we must conform our life to Christ at every step of our journey. (Romans 12:1-2). Glory to Jesus Christ! Glory to Him forever!

*Robert Michael Way, Esq. is an attorney with The Way Law Firm, P.C., 1990 N. Kolb Road, Tucson, Arizona, whose practice focuses on estate planning, elder law, and Catholic End-of-Life planning. He is a 2012 board member of Fatima Women's Center and the past president of the National Academy of Elder Law Attorneys (NAELA). Most importantly, he is married, has five children, and is a parishioner at St. Melany's Byzantine Catholic Church. Mr. Way can be contacted at (520) 445-6556 or on the web at [www.wayfirm.com](http://www.wayfirm.com).*

© Robert Michael Way and The Way Law Firm, P.C.  
All Rights Reserved