



Fr. Francis G. Morrissey,
OMI, PhD, JCD

Editor's Note: Leaders of Catholic health care organizations differ from leaders of other-than-Catholic ones in that their work is bound by both civil law and the canon law of the Catholic Church. Because this is so, leaders of Catholic organizations should know something about canon law.

Toward this end, Health Progress is offering its readers a series of articles on canon law under the general editorship of a well-known expert in the field, Fr. Francis G. Morrissey, OMI, PhD, JCD, professor of canon law, Saint Paul University, Ottawa, Ontario.

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People form communities or societies in order to accomplish together things that they cannot accomplish alone. Human beings have an innate inclination to form communities in order to strive for goals that they cannot accomplish through solitary efforts.



By FR. KEVIN
O'ROURKE, OP, JCD, STM
Fr. O'Rourke is professor
of bioethics, Stritch School
of Medicine, Loyola
University Chicago.

Thus, forming communities is entirely natural. In order to achieve the goals for which they are formed, communities or societies need customs, rules, or directives. If the community is small—for example, a family—it may not need written rules in order to achieve its goals. But when a community is larger, it must write down its rules in order to provide continuity and inculcate knowledge of the methods it employs in striving for its goals.

When rules or directives are written, they are called “norms” or “laws.” Clearly, norms, rules, or laws are necessary because they help communities achieve their goals. Nowadays, because individualism is overemphasized, laws tend to be considered a necessary evil at best. We often hear that laws should be limited in order to protect individual freedom. Clearly this is a shortsighted vision, but it is all too common. Of course, laws that are unnecessary or useless are burdensome. But the idea that all laws are burdensome is counterproductive to the development of a successful community. Good laws are a necessary asset for any community.

People involved in the ministry of Catholic health care in the United States

realize that two sets of norms or laws concerning their activity have been formulated by the church. There is the *Code of Canon Law of the Catholic Church*, usually referred to as “the Code,” and the *Ethical and Religious Directives for Catholic Health Care Services*, usually referred to as the ERDs.¹ The Code applies to the entire Western church, and it is instituted by the Holy Father. Pope John Paul II approved the Code in its present form in 1983.² The ERDs, the latest version of which was approved in 2001, are instituted by the U.S. Conference of Catholic Bishops, and are concerned only with Catholic health care services in the United States. Explaining the relationship of these two sets of norms will be the purpose of this brief essay.

THE CODE AND HEALTH CARE

The Catholic Church is a community with goals; therefore, it needs laws. The primary goal, “the final aim,” of the church and its law is the salvation of souls.³ This generic wording simply means that the first and foremost purpose of the church is to instill and develop the virtues of faith, hope, and charity in the minds and hearts of its members. Another expression of this primary goal says: The church exists to enable people to become friends of God, through the ministry of Jesus Christ.

If the people in the church were angels, this primary goal could be achieved through intuition and exhortation; no laws or other subsidiary institutions would be needed. But because members of the church are human beings, obtaining its primary goal requires many activities and organizations that must be regulated through law.

For example, the sacraments, which are directly ordered to instilling and sustaining faith, hope, and charity, must be

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administered in a worthy and efficacious manner. This requires laws concerning the ministers of the sacraments, the requirements for worthy reception, and fitting places for reception.

Moreover, there are a series of organizations, known as "juridic persons," that also enable people to strive for the church's primary goal. These juridical persons are considered in different sections of the *Code*. Hence sections consider parishes, schools, and religious communities. In order to help these juridical persons function effectively, there are sections of the *Code* that consider the teaching authority of the church, administration of temporal goods, election and appointment to offices, and the proper method of settling disputes, as well as other pertinent matters.

Although several sections of the *Code* consider juridical persons, none, surprisingly, is specifically directed to health care institutions. The Catholic Church is the largest sponsor of health care facilities in the world. Why is this important apostolic work not covered, at least in general, in the *Code*?

There seem to be three reasons. **Facilities Formerly Were Guided Directly by Religious** Until contemporary times, most of the church's health care facilities were sponsored exclusively by religious communities. Thus the general norms for religious were sufficient to give guidance for sponsorship and the proper management of those facilities. Schools, hospitals, and social agencies sponsored by religious communities did not need a special act of jurisdiction to give them legal standing in the church, that is, to constitute them as juridical persons. Such facilities participated ipso facto in the juridical person-

ality of the religious community.

However, with the transfer, partial or complete, of the sponsorship and management of Catholic health care facilities to the laity, the church may need a new method of granting juridical personality to these facilities. Indeed, some health care corporations involving the laity have received such recognition by a special act of the Holy See. But, as yet, there is no recognition of this form of sponsorship recognized in the *Code*.

Health Care Is Diverse throughout the World

The provision of health care differs from country to country. Some countries have universal health care and control all health care institutions. In these countries, the church has no direct influence on the delivery of health care. In a few countries that have universal health care, such as Australia and Canada, the church is allowed to sponsor semiautonomous health care facilities. In those countries, the Catholic bishops have promulgated norms that are similar to the *ERDs*.

In the United States, the church is allowed to sponsor health care facilities that are more or less autonomous. In order to maintain the Catholic identity of these facilities, comprehensive *ERDs* have been promulgated. Because the provision of health care differs so greatly throughout the world, it would be difficult for the church to formulate general norms for its health care facilities.

The Code and the ERDs Deal with Different Matters Perhaps the most significant reason why health care is not specifically mentioned in the *Code of Canon Law* is that the *Code* and the *ERDs* deal with different matters. The *Code* is concerned primarily with discipline and order in the church. The *ERDs* are

concerned primarily with "a body of moral principles that expresses the Church's teaching on medical and moral matters."⁴

Moral norms for medical care have never been considered in canon law. Rather, they are stated in other documents, such as the Catholic catechism, papal encyclicals, allocutions, and instructions. Hence the *ERDs* are a collection of moral norms concerning the provision of health care, collected from various acts of the church's magisterium. These moral norms receive their validity from the original act of the papal magisterium, rather than from inclusion in the *ERDs*.

Because of the source from which they emanate, both the laws of the *Code* and the directives of the *ERDs* oblige in conscience. But the primary concern of each document is different. The *Code* states legal norms needed for discipline and order in the church. The *ERDs* state moral norms pertaining to the provision of health care. ■

NOTES

1. *Ethical and Religious Directives for Catholic Health Care Services*, U.S. Conference of Catholic Bishops, Washington, DC, 2001.
2. See Kevin O'Rourke, "Three Questions Concerning Canon Law," *Health Progress*, May-June 2005, p. 45.
3. Pope John Paul II, "Address to the Canon Law Society of Great Britain and Ireland," in Canon Law Society of Great Britain and Ireland, *The Canon Law: Letter and Spirit*, Liturgical Press, Collegeville, MN, 1995, pp. xvii-xix.
4. *Ethical and Religious Directives*, Preamble, p. 1.