



Fr. Francis G. Morrissey,
OMI, PhD

CONCERNING CANON LAW

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 offers the first in a series of columns on canon law. The column, which will be the work of different writers, will be under the general editorship of a well-known expert in the field, Fr. Francis G. Morrissey, OMI, JCD, PhD, professor of canon law, Saint Paul University, Ottawa, Ontario.

This issue's column is by Fr. Kevin O'Rourke, OP, JCD, professor of bioethics, Stritch School of Medicine, Loyola University Chicago.

FOR MANY YEARS NOW, the Catholic Health Association (CHA) has had a Canon Law Committee working in direct contact with the association's officer responsible for sponsorship and mission. Over the years, the committee has helped organize an annual Canon Law Forum, has contributed to the preparation of various publications, and has offered assistance as required.

However, something seems to have been missing along the way. Canon law affects many practical matters, and from time to time health care administrators have questions about such matters—but direct or immediate answers have not always been available.

For this reason, the Canon Law Committee, in close cooperation with CHA staff, thought it would be helpful to publish in *Health Progress* a regular column answering general questions relating to the church's law. For this column, the members of the committee would be asked periodically to prepare an answer to a spe-

cific question or topic.

A list of possible column topics has been drawn up, but the list is by no means complete. The committee would be pleased to receive additional questions from CHA members and would try to reply to them. Questions should be addressed to:

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It is fitting that Fr. Kevin D. O'Rourke, OP, JCD, who has been involved in CHA canonical functions for many years, be asked to write the first of these columns. We are grateful to him for accepting this task, and we hope that he will agree to write others in the future.

—Fr. Francis G. Morrissey,
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THREE QUESTIONS

1 What is canon law?

In order to attain its goals, every human community needs rules or norms of behavior governing both private and public life. Although the Catholic Church is of divine origin and depends upon divine guidance to accomplish its goal of salvation, it is also a very human community. From its earliest days, the church has referred to its norms for private and public behavior as canon law.

"Canon" comes from the Greek word *kanon*, which means reed, rod, or ruler. Originally, it meant a ruler or gauge used by a carpenter to measure the proper length of a piece of wood. In time, the word was used to describe a measure for human behavior, such as law. Canon law is primarily concerned with private or public behavior, not with articles of faith or morals. Official church teaching is contained in publications such as the *Catechism of the Catholic Church* (1994) or the *Documents of the Second Vatican Council* (1965).

In the long history of the church, canon laws multiplied, and, as they did, the study of them became a significant specialty at university level. Collections of canon law soon had an important role in the life of the church. The first collections of canons were regional. But, during the Middle Ages, collections were published pertaining to all churches that used the Latin rite for Liturgy (see below for the canon law for Eastern rite churches).

In 1917, the many collections of church law were combined into one compilation entitled *The Code of Canon Law*. In 1959, when Pope John XXIII called an ecumenical council to renew the life of the church, he also stated that, after the council adjourned, the laws of the church should be renewed as well. The result of a long process of study came to an end in 1983, when a revised *Code of Canon Law* was promulgated by Pope John Paul II.

2 Is canon law the same for everybody, or does it differ for different people?

As indicated above, the *Code of Canon Law* pertains to the Latin church—churches that at one time celebrated the Liturgy in the Latin language. But there are also, in union with the bishop of Rome, the Holy Father, 21 churches known as "Eastern Rite" churches because they were originally founded in the Near East. These churches have spread throughout the world, especially in

modern times. These Eastern churches possess a *Code of Canon Law* that is distinct from that of the Latin church, but not unrelated to it. When Pope John Paul II promulgated the Code of Canons for the Eastern churches in 1990, he referred to the two codes as "two lungs for the same body."

Although many of the laws are the same in both Codes, a good example of the difference between the two is found in the discipline of celibacy for priests. In the Eastern church, a priest may be married; in the Latin or Western church, a priest must remain celibate unless he receives a special dispensation from the Holy Father.

A source of difference within the Latin rite arises from the canons that concern dispensation and privilege. These canonical entities are derived from the Roman law; their purpose is to ensure that the law does not become oppressive for individuals or communities. In general, the Holy See or the diocesan bishop will grant dispensations or bestow privileges. For example, dispensations are often granted from some impediments to marriage, or to allow people to eat meat during Lent on days of special observance, such as the feasts of St. Patrick or St. Joseph.

3 Are there any connections between civil and canon law?

The most significant fact to remember about canon law is that it is *not* similar to Anglo-Saxon law, which is the basis for the legal system in the United States. Rather, canon law was originally developed in imitation of Roman law. Both Roman law and Anglo-Saxon law have their roots in natural law. But, because they originated in different cultures, they have different manners of composition, interpretation, and application. Canon law does seek to protect the rights of individuals and juridical persons, but it is less responsive to changes in public opinion than civil law is, especially civil law in the United States.

Some sections of church law do recognize civil law, as long as the civil law is not contrary to divine law. For example, the civil law of particular countries concerning contracts is recognized as binding upon individual and juridical persons in the church. ■



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