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OUR SPONSORS
Yesterday, Today and Tomorrow

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How can we speak of canonical issues relating to sponsorship, when the *Code of Canon Law* does not even refer to the term? Because of this, it is not possible to quote canons that refer directly to our topic, although I intend to review some of the present norms that could show us how a sponsored work should be seen. In relation to sponsorship itself, we will have to base our thoughts on the life of the church and the situations that had to be faced as time moved on.

What do we mean by "sponsorship"? There are many possible meanings, such as paying for an activity, being identified as a promoter of an activity, or standing in for someone else. However, rather than trying to give a definition of the term, we could say that, no matter how it is understood, in the context of canon law, canonical sponsorship entails the use of a church entity's name and the exercise of certain stewardship responsibilities that arise from this use. It often also entails elements of quality control or mission effectiveness. It is this last dimension — mission effectiveness — to which I wish to direct my attention. The mission of health care entails some form of sponsorship relationship.

In a Catholic context, sponsors must be able to articulate what they consider to be the nonnegotiable for the Catholic ministry, yet be flexible enough to choose between total control and having some presence with the power to influence. The process of finding a happy medium demands a commitment to collaboration with others in order to make the transition to new forms of health care delivery.

To understand better where we are heading, let's go back in history some 50 years to see how we have reached the sponsorship situations we are living today. From there, we will turn our attention to some newer challenges and to new forms of relationships with others. Then I will raise some issues relating to the future of sponsorship, though I make no pretence at being a prophet.

SPONSORSHIP YESTERDAY

When we look at the evolution of forms of sponsorship in the 50 years since the Second Vatican Council, we tend to take it for granted that these were normal developments. Yet, each of these, in one way or another, called for lengthy deliberations, study and prayer. Even though we are now relatively at ease with the present-day situation, we must not forget that the evolving decisions were all taken, in one way or another, to ensure that the church's health care mission could continue, while taking new situations into account.

The most common form of sponsorship in the past derived from direct ownership of the property and the active presence of many persons identified with the sponsor (for instance, religious women on staff). Most of our hospitals in the 1950s and early 1960s fell under this category. The name of the sponsoring institute often was found in the name of the institution. In a sense, the sponsored work operated as though it were a family business. We often referred to these works as "stand-alone" health care institutions. The sponsors — that is, the religious sisters or brothers — also were directly involved in the actual delivery of health care.

Then, after Vatican II, more emphasis began to be placed in church circles on the dignity of the baptismal vocation, moving away from an almost exclusive reliance on the vocations of

priesthood or religious consecration. This change in thinking opened the doors for more and more laypersons to become involved, at least initially, as members of advisory boards. At the same time, the number of available members of religious orders began to decline.

With time, and also because of the declining numbers, the duties of sponsorship became more identified with serving on the board of directors and establishing policy, rather than with actual delivery of health care services.

Later, certain works acquired a civil recognition distinct from that of the sponsoring religious community.[1] This led to the distinction between "members" of the corporation, and the "directors," and to the establishment of separate boards of directors, with the "membership" often being identified with the leadership of the sponsoring religious community.

Then, a further separation came about as a two-tiered structure was put in place making a clear distinction between the members of the corporation and the board of directors. Relations between the members and the board were governed by the use of reserved powers, meaning that certain board decisions were reserved to the members or to some canonical authority for confirmation before the board could put the decision into effect.

Although the *Code of Canon Law* makes little reference to what are now known as reserved powers, when these were first being considered as an acceptable mode of operation, some 14 or so powers were considered to be essential, since institutes did not feel that they could or should let go of their institutions too easily. Among such powers at the time, we found: approval of the operating budgets, the ratification of appointments to various offices (and not just the appointment of the CEO and of board members), approval of the auditor, etc.[2]

With time, however, the number of essential reserved powers diminished as sponsors became more comfortable with the idea of having others directly involved in their ministry. The powers now focused on documents (corporate documents, bylaws, mission statements), on persons (CEO and board) and on property (alienation, mortgages, bond issues). We often refer to these categories as the three P's — paper, persons, property.

Then, to facilitate coordination and to reduce expenses, systems began to be established grouping several institutions sponsored by the same religious institute. This resulted in a further refinement of reserved powers, with some being operative at the level of the board (in the case of subsidiaries), others at the level of the membership of the entity, and still others at the appropriate canonical level. (For instance, subsidiaries were sometimes authorized to spend up to $1 million; the board, up to $5 million; and certain expenditures beyond that amount were reserved to the canonical authorities).

Not surprisingly, as a next step, a number of religious institutes came together to sponsor their works jointly through an intercongregational system. When these types of systems first came into being, the reserved powers often were initially exercised separately for institutions originally owned by one institute, as distinct from those under another sponsor. Later, because this arrangement proved to be quite cumbersome, many of the reserved powers were delegated jointly on a permanent basis to the new board governing the jointly sponsored works, with only the property issues, such as ownership, alienation and stable patrimony, being reserved to the original sponsors.

With time, however, the number of essential reserved powers diminished as sponsors became more comfortable with the idea of having others directly involved in their ministry.

Today, canonists are still struggling to refine thinking about what is required relating to property ownership and stable patrimony. Before 1983, the concept of stable patrimony was not in general use. So, while previously, buildings as such were considered to be the equivalent of stable patrimony, today they are often considered to be liabilities because of insurance payment plans, etc. Also, closer investigations showed that many of the funds identified with a hospital were not congregational funds as such, but rather were trusts from the public administered by the sponsors.

A further step occurred when certain dioceses asked if they could become partners in the systems, particularly in relation to charitable activi-

ties and to subsidized and long-term housing units they sponsored. It became important, then, to make clear that the diocese came in as one equal partner, not as a superior one. This called for delicate crafting of the governing documents.

As a consequence, once institutes and dioceses came together to operate institutions and works jointly, it became appropriate to establish new distinct church corporations — known as juridic persons — to assume sponsorship of the joint works. The works then took on a life of their own, distinct from that of the original sponsoring entities.

Because such systems often overlapped diocesan limits, it eventually became necessary to have a higher authority grant canonical recognition: thus, the involvement of the Holy See in granting new types of recognition, commonly known as public juridic persons or PJPs. These are the canonical equivalent of corporations.[3]

At the same time as these developments were taking place, other factors began to make themselves felt. For instance, partnerships were no longer exclusively with Catholic providers. Sometimes they were with other faith-based providers; sometimes, with community organizations that had no particular religious traditions in their background.

Under these arrangements, at times the Catholic sponsors were but a small factor in a large system; at other times, the size factors were rather equal; at times, the Catholic system predominated. The arrangements varied from place to place.

As Catholics began to partner more and more with groups that were not Catholic, the issues revolving around moral theology began to take on more importance, since the major canonical issues (relating to the three P's) had pretty much been resolved for the time being. The moral questions were simply taken for granted when all partners adhered to the same teachings and practices. As partnerships began to include other-than-Catholic entities, the agreements had to include positive commitment toward a number of values, many of which were enshrined in what has come to be known as the *Ethical and Religious Directives for Catholic Health Care Services* (ERDs).

Although Catholic undertakings would not enter into partnership agreements with providers that offered abortions, end-of-life-hastening procedures and the like, there was not the same general agreement when other partnerships were considered, as, for instance, in relation to sterilizations and to other means of contraception. To a certain extent, practices are now becoming more and more harmonized from diocese to diocese in relation to what is deemed to be an acceptable form of partnership. Yet, just as one point seems to be settling down, new issues are arising that have not yet been fully addressed, such as cloning, *in vitro* fertilization, gene experimentation and so forth. These, too, will have to be considered delicately, yet clearly.

We are now on the verge of even newer structures, as some of our present ones seem to become rather dated in their approach.

In addition to establishing alliances with providers who were not Catholic, there was also the pressure of entering into agreements with providers who were operating on a for-profit basis, thus risking a change in the nature of the work from that of an apostolate to a business. Various combinations of this approach are now found, sometimes with the Catholic system setting up its own for-profit subsidiary or activity.

From a canonical perspective, what is interesting is the fact that canon law did not directly provide for most of these structures — except possibly the original stand-alone facilities. They were the result of constructs with which people became more familiar and at ease. We are now on the verge of even newer structures, as some of our present ones seem to become rather dated in their approach.

OUTGROWING PJPS?

For the past 10 or 15 years, it looked as though the PJP approach was one that would provide a sound canonical basis for sponsorship, at least for the foreseeable future. Many different approaches were taken in this regard, according to local situations.

However, I wonder if we are not already starting to show signs that we are growing out of the PJP model? In practice, our present pontifical PJPs were recognized by the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life. As long as the original sponsoring religious institutes remained involved to some

extent, the congregation had jurisdiction to oversee these groups. However, lately, some of the original PJPs have now petitioned the Holy See to transfer to self-perpetuating boards. If a religious institute is no longer in any way involved, which Vatican department will be in a position to exercise oversight on the works? This question is being studied at the present time. This takes on particular significance today, given the fact that there are now new persons in charge of the congregation who may need time to become more familiar with the historical background of our current structures.

Also, it is important to keep in mind that this is not just a U.S. problem. Besides the fact that, already, some U.S. PJPs operate outside the country (as, for instance, in the Caribbean), we should remember that pontifical PJPs also have been set up in Canada, Ireland, England and Australia — to mention but some places. And they are not all for health care, either. Some are multipurposed (health care, education, social services); others are limited to one specific area of the apostolate (education, health care, etc.). Solutions that the Holy See would eventually wish to adopt would have to be applicable throughout the entire church, at least as far as the general principles are concerned.

There is a second factor to consider. Because, in the United States, the ERDs call for the intervention of the diocesan bishop when new partnerships are being envisaged, this has led to a whole new dynamic in relation to these prospective partnerships. I am taking for granted — subject, obviously to correction — that it will become more and more difficult, if not impossible, for Catholic stand-alone institutions to continue functioning. Indeed, some are even saying that if a system does not have annual revenue of $4 to $5 billion, it is not going to be able to withstand the current and foreseeable market pressures. In other words, for our institutions, some form of partnership is or soon will be a necessity. But there are not that many acceptable partners to choose from, especially in certain geographical areas. In other words, new arrangements will call for direct collaboration on the part of diocesan authorities.

A third complication arises from the fact that as new partnerships are being developed today, the place of the PJP is causing concern. It is not considered appropriate for a PJP (or one or more church entities) to sponsor directly activities that are not in conformity with the ERDs — or the applicable similar document in other countries. So, then, what does the PJP actually sponsor?

Various solutions have been considered in recent months. Many of these models have received the *nihil obstat* of the diocesan bishop of the place where the system has its headquarters. But, as with so many other arrangements, they depend to a great extent on the persons involved. A change of leadership at diocesan or system levels can often bring with it diverging views, causing arrangements that are presently in place to have to be reconsidered. In other words, back to the drawing boards!

For sponsorship models involving a partner that does not wish to observe the ERDs in their entirety, there seem to be about five general variations in use at the present time and either approved or tolerated by diocesan bishops.

SOME NEW MODELS

Catholic systems planning on merging or setting up joint operations with other Catholic systems will not face the ERD issues that other forms of alliances must address. However, experience shows that there still can be delicate issues to addressed, some of which are local in their scope, and, consequently, they take on a political dimension. Also, some of the smaller Catholic systems feel it is important for them to remain locally based, and they are afraid if they merge with a larger or more powerful system — even a Catholic one — the smaller hospitals will be closed before too long because they are not profitable. (Of course, this issue could be addressed in any eventual negotiations).

For sponsorship models involving a partner that does not wish to observe the ERDs in their entirety, there seem to be about five general variations in use at the present time and either approved or tolerated by diocesan bishops. It follows that no one system would necessarily be expected to fit into any one of these following categories. There could even be certain combinations of approaches, although this might become rather cumbersome and complicated to adminis-

ter. Within this varied context of "cooperation," here are some general views:

1. A model based on control and stewardship

The members of the PJP (or the sponsors' council where there is no distinct PJP) have membership control and stewardship of the entire system. The members of the PJP are the sole members of the system, with the appropriate canonical reserved rights. The system itself is Catholic and is listed in the *Official Catholic Directory*. The example of Leaven Ministries in relation to Exempla Health in Denver illustrated this type of arrangement. However, as sometimes happens with variations of this more traditional model, some of the subsidiaries of the system might become involved in activities which are not in compliance with the ERDs. The moral issue of "material cooperation" then comes to the fore. By this we mean that a Catholic entity would be directly involved in activities that are forbidden for Catholic institutions. ("Formal cooperation" applies when an immoral act is being directly carried out by Catholics or by a Catholic entity. "Material cooperation" usually consists in allowing someone else to carry out certain proscribed procedures.) To what extent can a PJP exercise control and stewardship over facilities where such proscribed procedures are taking place? Is a diocesan bishop willing to tolerate such a situation for a greater good? The responses have been varied.

2. A model based on stewardship but without direct control of the system

A second model surrenders some form of control over subsidiaries that are not ERD-compliant. The sponsor's relationship with the health system remains, but it is realigned so that its influence does not create a problem of "material cooperation." Canonical stewardship remains for all Catholic facilities, as does Catholic identity and ERD compliance. The model could allow for the integration of a Catholic mission and traditions across the whole health system, or it could have separate arms.

In such an arrangement, the system itself is no longer identified as Catholic; only the Catholic facilities would retain this quality. It follows, then, that the canonical reserved powers of the sponsor(s) are exercised directly over the Catholic facilities, rather than through the parent corporation. An example: the new arrangements for San Francisco-based Dignity Health would fit under this general heading.

Another example can be found in the relationships between the University of Pittsburgh Medical Center and Mercy Health System of Pittsburgh, where Mercy remains fully Catholic and ERD-compliant; the Diocese of Pittsburgh, which is the Catholic sponsor, is given a variety of oversight and influence rights, but only over certain aspects of Mercy's operations.

It has become rather common now to develop what has been called a "Statement of Common Values" to provide for common ethical concerns over the entire system. The statement usually does not make reference to sterilizations and related procedures, although, for much of the rest, it mirrors the ERDs.

Also, the establishment of an ethical practices committee, by whatever name it is called in practice (mission oversight committee, etc.), allows for ethical oversight over all the facilities of the system — be they Catholic or not. Sometimes, the PJP (or the sponsors' council) assumes this role. But, under this arrangement, the PJP is not a formal member of the Catholic hospitals.

3. A model based on dual membership

In a third model, the sponsor's relationship is redirected so that its influence does not create a problem of material cooperation with respect to participation by non-Catholic entities.

As with the second model, the health system would cease to be Catholic. The PJP would exercise the reserved powers only over the Catholic entities. These powers would, most likely, relate to acts regarding stable patrimony, ERD compliance and Catholic identity.

The equivalent of a statement of common values would apply to all facilities, in addition to

VARIATIONS OF SPONSORSHIP MODELS INVOLVING A PARTNER THAT DOES NOT WISH TO OBSERVE THE ERDs IN THEIR ENTIRETY

- A model based on control and stewardship
- A model based on stewardship but without direct control of the system
- A model based on dual membership
- A model based on Catholic presence and practices
- A model based on segregating proscribed procedures

the ERDs which are applicable in the Catholic facilities.

In such an arrangement, the PJP loses direct influence over the entire system board, but it would become a second-tier sponsor of the Catholic entities.

Sometimes, there can be two distinct entities, one Catholic, the other not. But, there could be mirror boards; in other words, the same persons would serve on the board of the Catholic entities and the board of the other ones. This provides for unity of approach, but it could lead to material cooperation. A delicate point calling for clear discussion with the diocesan bishop is whether the members of the PJP board could also, as individuals, compose the board of the second, parallel entity.

Or, going even further, if, as individuals, the PJP members were also to constitute the board of the parallel entity, to what extent could religious then be directly involved? Is there a risk of potential scandal here?

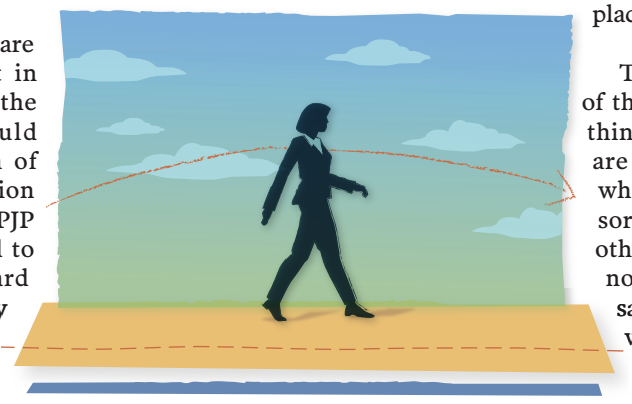
The new arrangements with Providence Health & Services, based in Renton, Wash., and Swedish Health Services, based in Seattle, have carefully addressed some of these elements.

4. A model based on Catholic presence and practices

In the fourth type of model, the organization ceases to be a formal part of the Catholic Church, but a Catholic tradition is continued, at least in some of the facilities. In such an instance, the Catholic entities would all be alienated, but they would retain their Catholicity through the terms of an agreement with the sponsor. The example of Steward Health System (formerly Caritas Christi) in Boston illustrates elements of this approach.

The relationship with the original sponsor, such as a PJP, would be contractual. One term of the contract, for instance, could be compliance with the ERDs.

If all the works are being carried out in compliance with the ERDs, there would not be a problem of material cooperation if members of the PJP were to be invited to serve on the board of the new entity and they were to accept the invitation. But, if the new sponsor also had other facilities, then this board membership would have to be examined closely.



None of the former Catholic entities would be listed in the *Official Catholic Directory*, unless the diocesan bishop wished otherwise. That means each of the institutions would require its own tax recognition.

The very practical question that has arisen concerns the long-term eligibility of such institutions for membership in the Catholic Health Association of the United States. This and other related questions are still under study.

5. A model based on segregating proscribed procedures

An often-used model refers to carve-outs, or what is sometimes now called segregation. Under this model, certain procedures that might raise concerns about material cooperation at the other-than-Catholic facilities would be moved to an unrelated entity. The procedures would continue to be carried out in the geographical area, thus eliminating certain political concerns. Theoretically there would not be material cooperation.

What has been important in such instances was to determine clearly that no revenues from the segregated procedures would benefit the Catholic provider. However, we had to keep in mind that if there were complete physical segregation, then patient service, clinical care and the like might be affected because patients would have to be moved to other premises.

Although, in theory, this approach should work well, practical difficulties have sometimes arisen when it came to coordinating the activities of the segregated entity and the institution to which it is somehow related. To what extent, for instance, could Catholic providers be involved in sponsoring or governing works that, in turn, spin off other entities where proscribed procedures are taking place?

The various approaches of these models have one thing in common: They are trying to find ways whereby Catholic sponsors can cooperate with other providers who do not share exactly the same values, especially when it comes to certain sexual issues. Of

course, none of the models is ideal or perfect. Also, much depends on the geographical area where the ministry is taking place. For instance, in a state where there is only a minimal Catholic presence, possibilities for cooperation with another Catholic provider are more limited than elsewhere.

SPONSORSHIP TODAY

Leaving aside for the moment issues relating to the ERDs, we can look at what the current legislation might have to say in relation to works that are operating under Catholic auspices.

With time, the distinctions among [various dimensions of sponsorship] have become more and more blurred. For instance, we can have sponsorship with or without ownership; ownership with or without control, or with very little control; and degrees of control with various forms of sponsorship.

It has generally been held that, for a work to be able to be identified as Catholic, it must, in one way or another, be related to a church entity, such as a diocese, a religious institute, one of its provinces or even one of its established houses. While, in general, this statement is obviously true, we must keep in mind that, indeed, there could be exceptional situations in which no formal canonical entity is involved and yet the work is considered by the diocesan bishop to be Catholic, and it is listed in the *Official Catholic Directory* (again, the former Caritas Christi example could be considered). In spite of this possible and rather rare exception, we can nevertheless proceed today under the general presumption that, indeed, there is to be a canonical sponsor in order for a work to be considered as fully within the ambit of the church's mission.

As various theological and historical studies have shown, the term "sponsorship" is relatively new in church circles.[4] It was originally given wide circulation as part of a threefold approach to health care works: ownership, sponsorship, control. Ownership referred to holding title to the property; sponsorship usually referred to the body under whose name it operated; and control referred to the internal governance.

With time, though, the distinctions among these three dimensions have become more and more blurred. For instance, we can have sponsorship with or without ownership; ownership with or without control, or with very little control; and degrees of control with various forms of sponsorship.

It is rather advantageous for us that canon law does not define "sponsorship," because we are not bound by any special legal parameters. Through the course of time, various forms of sponsorship in the church have been tried and tested. No one form has proven to be the only correct one; the forms are different, and nothing more.

Since it is not possible to quote directly canons that would tell us definitively what is required for a Catholic-sponsored work today, we have to find the seeds of answers in certain canons that are not directly referring to sponsorship. Canon 19 of the *Code of Canon Law* tells us that if, on certain matters, the law does not have a direct provision, then, among other possibilities, we look at laws in place for related matters and at the common teachings and practices of the Holy See and of specialists in the matter.

In this perspective, I have selected canons that I consider to be appropriate for our purposes here. Other canon lawyers and persons involved could certainly come up with different ones.

QUALITIES OF A SPONSORED WORK

A clear distinction is to be made between "Catholic works" and the "works of Catholics." Catholic works are undertaken "in the name of the Church" (c. 116.1), with all the guarantees of the church behind them. On the other hand, works of Catholics are those undertakings of Catholics which might have an ecclesial relationship, or they might be totally secular in their nature. A number of very Catholic activities are, indeed, works of Catholics and not Catholic works as such; I am thinking more particularly about the activities of the St. Vincent de Paul Society, or those of the Knights of Columbus, and so forth.

First of all, a canonically sponsored work must have a spiritual purpose (see c. 114). Such a purpose can be either a work of piety, a work of the apostolate or a work of charity. Canon 676 speaks

of lay religious institutes participating in the pastoral mission of the church through the spiritual and corporal works of mercy. It is not difficult to see how the health care or educational ministries fit into a number of these categories of mercy.

Just as we would not let a physician practice who has not been prepared, so too those in charge of mission and related areas must also be duly prepared and remain well informed.

The words of Jesus and those recorded in the Beatitudes have led to what have been traditionally considered in the church to be the corporal works of mercy:

- To feed the hungry
- To give drink to the thirsty
- To clothe the naked
- To shelter the homeless
- To visit and care for the sick
- To visit those in prison
- To bury the dead

But, if the purpose is purely business, with no apostolic component, then the work should most likely not be sponsored by church-related institutions.

Secondly, a work carried out in the name of the church must answer a need. Canon 114 even speaks of a genuinely useful purpose (when dealing with juridic persons). It could have happened in the past that some Catholic institutions were established, not because there was a real apostolic need, but rather to "fly the flag" because other groups were carrying out a similar mission in the same geographic area. Fortunately, in many places, the time for such undue rivalry and competition has passed. Of course, what was, at one time, a particular need, might not be so today because of changing circumstances.

A third condition mentioned in the *Code of Canon Law* is that the undertaking have sufficient means to achieve its purposes (see cc. 114, sec. 3 and 610). We all know that, in many circumstances, some works were simply unable to prosper because of lack of funding. On the other hand, we are all well aware that there are many instances of foundresses of religious institutes who made do with almost nothing and, through faith, enabled the works to flourish. The necessary means are not limited to financial assets; a spirit of faith and a willingness to work diligently are also part of the necessary means. Likewise, having sufficient qualified personnel is a prerequisite.

Fourthly, works carried out in the name of the church are expected to have a certain perpetuity or stability. We are not involved in fly-by-night operations. It takes a long time to nurture a bud so that it becomes a tree in full bloom. Of course, if the need to which the church has been responding no longer exists, then the principle of sound administration would call for the closure of the work.

Fifthly, Canon 116 refers to tasks or missions that have been entrusted to those who are to carry out a work. Those who have been so entrusted are to carry out their tasks as good stewards, caring for the work and its assets (see c. 1284, sec. 1). So, the responsible stewardship of the temporal goods entrusted to a work of the church, and the resulting need for appropriate accountability, are major components of good sponsorship.

But, if the people selected for this mission are not given the appropriate preparation, we cannot expect them to approach their work in a spirit of ministry. It simply is not fair to have this expectation without providing means for it to become a reality.

There is a sixth and most important characteristic that we find mentioned in Canon 806. While this canon does not apply directly to health care institutions — indeed, there is no mention of them in the *Code* — it applies directly to educational activities in the church, and, by analogy in accordance with Canon 19 could — and perhaps should — be applied to our various hospitals and related health care institutions, as well as to our social services. With appropriate adjustments, we could say then that the canon notes those in charge of a Catholic work are to ensure that, under the supervision of the local diocesan bishop, the care given in it, or the works being carried out, are in their standards, at least as outstanding as those in other similar institutions in the region. In other words, if the name of the church is to be attached to a specific undertaking, this work must be one of quality.

Indeed, if an activity is not of the highest quality, serious questions ought to be asked about whether or not it should continue. There is no place for second-rate activities. This does not

mean that activities have to have the latest technological instruments and facilities, but what it does mean is that the apostolate carried out there be of fine quality.

In many areas, providing a work of quality calls for special preparation. Canon 231.1 refers indirectly to this. Just as we would not let a physician practice who has not been prepared, duly licensed and who remains up-to-date, so too those in charge of mission and related areas must also be duly prepared and remain well informed. It is difficult to improvise in such situations.

Possibly, today, the one area that is going to call for even greater quality and preparation is the area of ethics, with its various dimensions. As issues become more and more complex, and the pressure rises to regard simply the financial implications of decisions, it is not always easy to have quality ethical decisions in the workplace. A good ethical decision does not necessarily mean the strictest one possible. Rather, it is one that takes into account all of the factors that are operative in the situation.

It is interesting to note that Pope Benedict XVI, in his encyclical, *Caritas in Veritate*, speaks of "inter-generational justice" as one of the facts of ethics to be kept in mind today when making decisions — what impact will our decisions have on future generations?[5]

These principles, found here and there throughout the *Code*, can serve as guidelines for those who are carrying out their mission in the name of the church. This mission is not just a personal activity; rather, it is part of a much larger plan, one that eventually will lead those sharing in it to the fullness of life in faith and in joy.

We will have some messy elements that don't seem to fit into place, but that should not stop us from trying to move forward.

SPONSORSHIP TOMORROW

In the January 2013 issue of *Health Progress*, I published a short column relating to the possible future of Catholic health care, and I asked the very serious question of whether or not we are painting ourselves into a corner.[6]

For many years now, I have been actively engaged in the canonical side of the restructuring of many Catholic health care systems. Indeed, in the coming months and years, in view of what we have already seen with the variety of arrangements being made, we should not be surprised to find that a number of our present systems will be actively seeking new forms of partnership.

However, when considering possible new arrangements, we often come up against the question of sterilizations. This has become, in many ways, the major point to be considered when dealing with new alliances and forms of cooperation. But, I wonder if, instead, it shouldn't be the mission that is of primary importance?

Indeed, by starting from the mission — to imitate Christ who was doing good for others (see Canon 577) — we could then look at what are some of the issues at stake, not forgetting that here we will have some messy elements that don't seem to fit into place, but that should not stop us from trying to move forward.

Fortunately, when dealing with prospective partnerships, we are most clear in regard to forms of affiliation with institutions that offer abortion procedures, *in vitro* fertilization, euthanasia and similar activities. Uniformly, we hold that we will not enter into partnership with groups offering such procedures. This sends a very clear message to others about the stand the church is taking in relation to the protection of human life from conception to natural death.

If our positions become too hardened, then we can readily see the consequences. The most obvious temptation would be to renounce the Catholic identity of the system and its various institutions and become simply a secular undertaking. But the consequences of such a decision would have very long-term negative effects. Through the centuries, the church has struggled much to maintain its health care services, and it should not be expected simply to withdraw from the marketplace today because of certain issues.

We were always taught that a good ethical decision was also judged by its long-term consequences. If there is no proportion between the act and its effects, then it is difficult to say that the act or the decision was good in itself, even though it might have resolved an issue for the moment. If certain ethical decisions lead the church to have to withdraw from health care ministry, we must sit back and ask whether these were, indeed, sound ethical decisions.

I am not an ethicist or a moral theologian, and I don't know all the ins and outs related to some

Would there not be a place today in the church for some type of structured dialogue among church leaders, ethicists, ecclesiologists, canonists and others, to see whether or not we could come up with a new approach that would get us out of the corner into which we seem to be backing ourselves?

of the moral decisions being taken in relation to cooperation. But as a canonist, and keeping in mind the last words of the *Code of Canon Law* — that the supreme law is the salvation of souls — I wonder what type of ecclesial community we are preparing for tomorrow?

Therefore, would there not be a place today in the church for some type of structured dialogue among church leaders, ethicists, ecclesiologists, canonists and others, to see whether or not we could come up with a new approach that would get us out of the corner into which we seem to be backing ourselves? This would be important before it is too late and we have lost systems who have to face all types of legislative and community pressures when offering (or refusing to offer) various types of health care procedures.

Or, perhaps, has the time come when the church in North America can no longer offer acute care services? There would, of course, still be many other health care needs to be met, especially in the areas of senior care, rehabilitation, home nursing, palliative care and so forth.

It would be too bad if we had to withdraw from acute care simply because we were unable to sit down and evaluate possibilities. But this implies beginning with a different starting point.

I have been told that the Holy See intends to publish in 2013 an updated version of its 1995 guidelines for Catholic hospitals, taking into account nearly two decades of technological developments and political trends. These new guidelines would reflect Catholic moral teaching on biomedical issues and Catholic social teachings on the equitable and effective provision of health care.[7] Perhaps the publication of this new document might provide an opportunity for the dialogue I am proposing.

As you can see, yesterday was easier and more directly related to canonical sponsorship. Yet, it had its struggles and its emotional issues. As for today, we have been able to work out some possibilities which enable us to continue. But, when it comes to tomorrow, if we don't do something soon, I wonder if there really will be a tomorrow?

I don't want to sound pessimistic, on the contrary. But there is too much at stake here, and we should be able to come up with solutions that would enable the church's mission to continue through appropriate forms of sponsorship, in spite of the significant pressures that we are facing from all sides.

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NOTES

1. The term "community" is used here to refer to the various types of religious groupings found in the church. Formerly, these were often known as religious orders. Since 1983, the generic term is religious institutes.
2. Adam J. Maida and Nicholas P. Cafardi, *Church Property, Church Finances, and Church-Related Corporations: A Canon Law Handbook* (St. Louis: Catholic Health Association of the United States, 1984) 167-69.
3. In addition, there are examples of private juridical persons being established. These latter do not function in the name of the church, although they are recognized by it, and their temporal goods are not considered to be ecclesiastical goods. In the U.S.A., the only example to date of a private juridical person of pontifical right is PeaceHealth in Longview, Washington.
4. See, for instance, Rosemary Smith, Warren Brown and Nancy Reynolds, eds., *Sponsorship in the United States Context: Theory and Praxis* (Alexandria, Va.: Canon Law Society of America, 2006) vii-141.
5. Benedict XVI, "*Caritas in Veritate*," (June 29, 2009) 48 www.vatican.va/holy_father/benedict_xvi/encyclicals/documents/hf_ben-xvi_enc_20090629_caritas-in-veritate_en.html.
6. Francis G. Morrisey, "Restructuring Systems: A Call for Dialogue. Are We Painting Ourselves into a Corner?" *Health Progress* 94, no. 1 (January-February 2013): 66-67.
7. See, for instance, Sean Keohane, ed., "Agenda for a Year of Faith: Looking Ahead at Pope Benedict's 2013" *Clerical Whispers* (Dec. 31, 2012) http://clericalwhispers.blogspot.com/2012/12/agenda-for-year-of-faith-looking-ahead.html (accessed April 25, 2013).

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