

TRUSTEES AND CANON LAW

An Increasingly Lay Leadership in Catholic Health Care Must Remember Its Responsibilities to the Church

Some 17 years ago, shortly after the 1983 *Code of Canon Law* was promulgated, CHA asked me to prepare a brief study of the administration of ecclesiastical goods; the resulting article, "Canonical Duties, Liabilities of Trustees and Administrators," appeared in *Health Progress* in 1985.¹ Although many of the points made in that article remain valid today, some do not because, in the intervening years, the canons have been applied and interpreted so as to adapt the law to new situations. I would, therefore, like to address a number of the newer issues, especially those that apply to members of boards of trustees, who must make decisions affecting the future of the health care apostolate. In canonical literature, such persons are usually referred to as "canonical stewards." In this article, I will limit my remarks to the temporal dimension of the trustee's role, leaving the spiritual dimension, which is equally important, for another occasion.

In his first letter to the Corinthians, St. Paul reminds his listeners that they are to be regarded as Christ's subordinates and as stewards of the secrets of God. Stewards are expected to show themselves trustworthy, he says (1 Cor 4:2). The call to be trustworthy is fundamental to any type of stewardship, spiritual or temporal. We can therefore ask ourselves, "What *is* an attitude of 'trustworthy stewardship' as it affects the administration of temporal goods belonging to the church or to one of its juridic persons or recognized entities?"

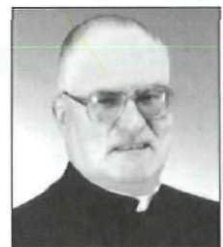
Many persons are selected for board membership or stewardship positions, not because of their knowledge of Catholic teachings and laws, but rather because of their esteemed places in the community and their expressed interest in a particular apostolic undertaking. It would not be fair to expect such people to have, at the time of their appointment, the knowledge and experience that

comes from years of involvement in Catholic health care. Even those who are familiar with church teachings need to keep updated. For instance, Pope John Paul II's August 29, 2000, address on cloning and transplants to the International Congress on Transplants provided the church's position regarding those issues an update that has not yet appeared in textbooks.² The recent announcement of human cloning raises further questions for which we do not yet have all—or perhaps any—of the answers.³ Although these issues do not relate directly to canon law, they do have serious implications for the continuing Catholic identity of our health care institutions.

Because of the close relationship between "members" of the corporation and "trustees," I will be using the terms interchangeably, although I recognize that in many instances a clear distinction is made between the two levels of involvement, particularly concerning canonical sponsors and civil trustees, but also in the secular sphere, where we have multitiered structures. Different systems assign responsibilities to one level or the other; there is no hard and fast rule concerning which responsibility is exercised at a particular level. What counts most is that the duties be faithfully carried out, whether by the "members" or by the "trustees" who serve on the board. Although we don't find the word "trustee" in the *Code*, we do find a number of other expressions, such as "steward," "administrator," and "council member," which give us sufficient insight into what is expected of a "trustee." Similarly, because we deal more frequently today with health care systems than with single institutions, I will refer more directly to systems. What applies to the whole can also be applied to the parts, with the appropriate adaptations.

In a recent *Health Progress* article, I traced the development of various structures used in con-

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temporary health care.⁴ In the present article, we should, when distinguishing between “members” and “trustees,” keep in mind the evolution of works that were once totally controlled by the leaders of religious institutes into works that today are directed by multitiered boards. In the same vein, we should not forget the notion of separate and distinct civil corporations, with the appropriate reserved powers. Catholic health care is in the midst of a lengthy process of change; and it is possible that the structures we use today to respond to needs of the apostolate might, at some future date, be replaced by other structures, considered to be more appropriate to the world in which we will then be called to exercise our mission. (New tax laws and antitrust regulations could, for example, have a significant influence on our structures). If such changes were to occur, our understanding of the role and mission of “members” and “trustees” might have to be reconsidered in light of the new circumstances.

CANON LAW AND HEALTH CARE

For some unknown reason, there is no reference in the *Code* to health care and its various institutions. Likewise, this most important apostolate was very rarely mentioned explicitly in Vatican Council II. Yet the Catholic Church is the largest provider of health care in the world. In one sense, this lack of reference is good because the law does not accordingly establish a number of restrictions on the health ministry, as it does for schools. On the other hand, we must recognize that, practically speaking, Catholic health care institutions are much more closely governed by the church’s ethical teachings than by its laws. Thus, in one very restricted sense, trustees do not *have* to know much about canon law, provided that they are aware of the church’s moral teachings. But, if their mission is to be apostolic, then the provisions of the law do come into play.

For this reason, the canons on apostolic activities and on the ministry of religious are applicable to health care institutions. Also, and perhaps more directly, the norms relating to temporal goods (Book V of the *Code*) are those with which canon law is most identified in our institutions. However, as is often the case with the ethical and religious directives issued by the church in different countries, people tend to note the things the church forbids rather than those it promotes.

The canon law governing health care institutions can be of three types:

- Common or universal law, binding on all Catholics. This is the law found in the *Code* and subsequent universal legal texts.
- Particular law, relating to territory, such as the diocese or the territory of the nation’s confer-

ence of bishops.*

• Proper law, relating to religious institutes and their members; this is usually found in the constitutions and rules of the various institutes.

Because these three types of law often overlap, their interpretation can vary from place to place, just as civil law varies from state to state. The law is also interpreted differently over time.[†] Matters considered vital in the early 1980s might now be seen as less important than other concerns, such as protection from terrorism.[‡] The same tendency can be seen in the ethical world: Questions relating to cloning were not primary in the early 1980s, for instance, but they certainly are today.[§] Might the same soon be said about end-of-life issues?[¶] New situations call for new approaches.

I mention this point so that we will not be surprised to find that things are done somewhat differently in different places, depending on the time and the circumstances. A medical procedure considered extraordinary just 20 years ago may well be seen as routine today.[§] We must keep in mind that, because of this and similar changes in the church, not every Catholic health care institution operates in the same way. The general principles of the law must be tempered by concrete policies and practices.

THE TRUSTEE

Because of the emphasis the *Code* places on temporal goods and their proper administration, a number of the canonical obligations of trustees that I will mention here are derived from Book V of the *Code* (on temporal goods). However, this does not mean that other duties, arising from

* For the United States, see the National Council of Catholic Bishops, *Implementation of the 1983 Code of Canon Law*, Washington, DC, 1991. For Canada, see the Canadian Conference of Catholic Bishops, *Complementary Norms to the 1983 Code of Canon Law*, Ottawa, 1996.

† Following the 1983 promulgation of the *Code*, for example, church leaders focused on “bricks-and-mortar” issues concerning church property; today the focus is much more on mission than buildings, because buildings, unlike mission, eventually become obsolete and must be replaced.

‡ After the promulgation of Pope Paul IV’s apostolic exhortation *Evangelica Testificatio* (June 29, 1971), for example, church leaders paid much attention to differences among religious institutes’ charisms. However, the identification of particular charisms has since become less important as institutes have begun to work more and more closely together, pooling their resources and focusing more on the apostolic work than on their various heritages.

§ For instance, the progress made in dealing with AIDS and HIV. See John Paul II, “Message to U.N. Session on HIV/AIDS,” *Origins*, August 2, 2001, pp. 186-187.

other sources, such as papal allocutions, are not as important.⁷

The Basic Principle Canon 1279 sets out the general principle: "The administration of ecclesiastical goods is the responsibility of the individual who immediately governs the persons to whom the goods belong," unless otherwise provided in law or custom. This individual is usually called a "canonical steward." When we speak of "ecclesiastical goods," we refer to those temporal goods that belong either to the church as a whole or to one of its public juridic persons. At times, goods are simply "entrusted" to a juridical person for a specific purpose, but are not "owned" by it. In such instances, the goods are not ecclesiastical goods but would be subject to general norms governing proper administration.

When we speak of "public juridic persons," we must keep in mind that these are the church's equivalent of corporations or similar entities found in the secular world. A public juridic person is usually established to further a recognized apostolic endeavor. Dioceses, parishes, religious institutes (and many of their component parts), and institutions that have been granted such personality by the canonical legislator—all these are public juridic persons. Although a public juridic person exists and has perpetual succession, its functions are carried out by physical persons who have been formally designated to see to its interests. These representatives are often referred to as "trustees." They are not the juridic person itself but its canonical representatives.

It is not easy to distinguish between canonical "stewards" and canonical "administrators." Only in canon 1273 is the word "steward" used. Therefore, one must go beyond the letter of the law to discover its spirit and intent. It seems to me that the term "steward" has a more spiritual side, whereas "administrator" focuses more on the material dimension of the office.

However, the administrator does not carry out the office alone. There are usually others who, to various degrees, assist in the operations. It is here that "trustees" often come into play.

The Term "Trustee" The term "trustee" could have many meanings. It could be used, as it is in secular law, to designate the person appointed or required by law to execute a trust. Another meaning of the term would be: "A person who holds title to property and administers it for the benefit of another."⁸

In a strict sense, a trustee is one who holds the legal title to property for the benefit of another; in a broad sense, however, the term sometimes is applied to one who is the agent or attorney of another. The word is also used to refer to company directors who are "trustees" for the shareholders.

In canon law, the term is applied more particularly to those persons who administer goods

bequeathed for pious causes (c. 1302). The word, however, is also understood, less precisely, to refer to those persons who are members of boards governing juridic persons and other church entities. The term "trustee" will be used here in this broader canonical sense.

Acting together, trustees represent the interests of a juridic person or church entity, even though the actual board they sit on might not be the board of a public juridic person itself.⁹ For instance, a trustee of a hospital that does not have distinct canonical recognition might think that his or her trusteeship responsibilities are operative only in the secular sphere and that the facility's religious sponsors should look after matters relating to the church. But such is not so, especially if, as is often the case today, a number of canonical functions have been delegated by the religious sponsors to the board of trustees.

The person who shares in the superior's office also shares in the responsibilities. Treasurers and trustees must, therefore, act with the diligence of a good householder (see c. 1284, para. 1). Not surprisingly, then, they must answer for their actions.

SPECIAL DUTIES OF TRUSTEES RELATING TO ADMINISTRATION

For reasons of convenience, the duties of administrators or trustees can be considered under a number of particular headings. There is no particular order to these headings.

In Relation to the Governing Canonical "Statutes" From a canonical perspective, the primary duty of trustees is to ensure that the institutions under their supervision operate in accordance with the teaching, discipline, and laws of the Roman Catholic Church. This is to be done, however, taking into account the mission, vision, and values of the system they represent.¹ These values are usually spelled out in the corporate docu-

* In canon law the term "public juridic person" refers to a group of persons or things (property) dedicated to helping the church achieve its mission. In North America it could, somewhat improperly, be described as an "internal church corporation." For more on this concept, see J. Hite, *A Primer on Public and Private Juridic Persons*, Catholic Health Association, St. Louis, 2000, p. vii.

† These terms are used, for example, in Article 2 of the approved (July 7, 2000) canonical statutes of Hope Ministries in its relationship to Catholic Health East: "As such [Hope Ministries] ensures that each institution sponsored by [it] operates in conformity with the Mission, Vision and Values approved by Members of Catholic Health East, consistent with the teachings and laws of the Roman Catholic Church appropriate to health care."

ments or statutes governing the institution and its sponsors.

This duty implies six elements, three of which are somewhat on a philosophical or spiritual line, whereas the other three are on a more practical one:

- The (1) mission, (2) vision, and (3) values of the system
- The (4) teaching, (5) discipline, and (6) laws of the Catholic Church

To carry out these duties, the trustees usually exercise certain powers that relate directly to the philosophy and mission of the system or the institution. Sometimes these powers are reserved to other persons, depending on the way in which the organization has been set up. For instance, in some systems, a sponsor's council assumes direct responsibility for the mission and vision and for ensuring compliance with the applicable ethical and religious directives.

In some cases, a system's trustees also exercise a sponsorship role. In such instances, the trustees serve as canonical stewards, dealing more with ideas than with operations, which are the responsibility of the system's various officers. Thus, for instance, the members of Covenant Health Systems, Lexington, MA, are the members of the civil board; they wear both the secular hat and the sponsorship hat and carry out their responsibilities accordingly.⁹ In other instances, and perhaps even more frequently today than in the past, there exists a clear distinction between the members of the civil corporation and those of the canonical entity that has been established to ensure Catholic identity.*

Of course, if the trustees are also functioning on the secular level, then they must also observe the obligations arising from the corporate documents. But, from a canonical perspective, the trustees, to exercise their responsibilities relating to *mission, vision, and values*, must themselves keep abreast of the teaching, discipline, and laws of the Roman Catholic Church and apply these to the best of their ability. Trustees can usually count on the system's mission integration department for assistance with this. Nevertheless, they have ultimate responsibility for the decisions they make and will most likely have to arrange periodically for some form of ongoing formation in these three areas, possibly using the expertise of the system's members. For health care institutions, the *teachings* dimension will be expressed mostly in moral and ethical matters; the *disciplinary* aspect can be found in the various diocesan

regulations and policies relating to apostolic activities carried out in the diocese, and the *laws* will be those promulgated either by the Holy See or some other competent legislator, such as the diocesan bishop.

In Relation to Temporal Goods My remarks concerning canonical documents and a system's mission apply also to matters relating to temporal goods. Trustees can either exercise both canonical and civil responsibilities or function exclusively on a single level. I will focus here on the canonical obligations in this area.

The goods owned by a public juridic person are ecclesiastical goods. It will thus be important to determine precisely, in each case, whether a given system owns its institutions or works absolutely, on one hand, or has been entrusted with them for administrative purposes only, on the other. Since the presumption of the law would be that, in the case of public juridic persons, the goods involved are ecclesiastical goods, a public juridic person should, when accepting a work for sponsorship, issue a clear statement concerning the canonical "ownership" of those goods. If the goods are not ecclesiastical goods, then the norms governing administration and alienation do not apply in the same way. For this reason, it is essential that complete and accurate inventories be kept, distinguishing clearly between those goods owned by a church juridic person or entity, on one hand, and those entrusted to its care by some other person or body, on the other (for instance, a municipally owned or public institution that the church has been asked to operate). Following this principle becomes even more important in cases involving a freestanding entity that has no previous church relationship but now wishes to be sponsored or operated by a Catholic system. The mere fact of operation, or even sponsorship, does not entail that the goods by that very fact become ecclesiastical goods, subject to all canonical regulations governing the same.

In Relation to the Diocesan Bishop All apostolic works are under the direction of the diocesan bishop (see c. 394, paragraph 1). The way bishops decide to exercise their responsibilities will vary from diocese to diocese.

Whether the establishment of these forms of relationship with the diocesan bishop is the prerogative of the canonical sponsors or of the trustees will depend on the way the system operates. We can assume that, in either case, the trustees would be part of the process. In particular, we know that the diocesan bishop should be involved in matters relating to chaplaincy services ("care of souls" and the "liturgy") and to the apostolic work itself (see c. 394, and, by analogy, c. 678). Also, it is the diocesan bishop who

* This is the case with Catholic Health East, Hope Ministries, and others.

applies in his diocese the *Ethical and Religious Directives*. We must remember that just because a policy exists in *one* diocese where a system exercises sponsorship, this does not necessarily mean it applies in *all* dioceses in which the system carries out its mission.

As public juridic persons assume the sponsorship of more and more works, they will have to develop good protocols for relating with the bishops of the dioceses where they carry out their missions. In fact, in certain areas, diocesan authorities still do not see lay people as "official" representatives of the church; the health care ministry may therefore need to establish some type of mediation procedure between public juridic persons and dioceses. This may be necessary in some cases despite the fact that a system's designation as a public juridic person of pontifical right provides for lay involvement at the membership level.

Public juridic persons should keep the relevant bishops informed of the progress of the apostolate, difficulties encountered, and challenges expected in the future. The ministry finds itself in a period of revision and restructuring; it should therefore take special care to establish strong relations with the bishops or their health care delegates.

In Relation to Sponsorship Boards that exercise canonical sponsorship roles should keep the following points in mind:

- They should consider developing criteria for the selection of members or trustees of the system. Are success in business and reputation in the community more or less important than knowledge of Christian moral principles? How can a balance be effected in membership composition? The board should create an appropriate formation program for new members and encourage them to follow it.

- No single "Catholic" approach applies to the application of some of the moral teachings of the church. Many issues are still open for discussion; it is impossible, in those issues, to say which opinion will eventually prevail and become the accepted one. Providing hydration and nutrition to comatose patients is a question for which we find different approaches; the same can be said for certain organ transplants. Some people prefer

Public juridic persons should keep the relevant bishops informed of progress.

to take the safest position in regard to such questions. But if a question has not yet been resolved by a formal church declaration, the safest approach to it is not always the one needed. The moral theology of St. Alphonsus Liguori has provided many valuable insights for those entrusted with resolving disputed matters. The fact that there are still many unanswered questions should not be a source

of scandal or wonderment, but rather an occasion for considering the different facets of a situation and for reflecting on personal attitudes. It would not be good for the church to pronounce too soon on new situations; we also have to wait to see what the long-term consequences are going to be. In the meantime, one should avoid taking extreme positions in matters that have not yet been officially settled.

- What can board members do to make certain that they are involved in a ministry and not simply in a business in which financial issues prevail? This should be the object of a periodic, perhaps annual, evaluation.

- To what extent is the system answering a true need? Is there a place for charity care in its structures? If so, how can this best be offered, taking into account, as noted above, the fact that sponsorship does not necessarily entail operations?

ORDINARY DUTIES OF THE ADMINISTRATOR AND TRUSTEE

The *Code of Canon Law* outlines a number of duties for those who have assumed responsibility for the administration of ecclesiastical temporal goods. Although these duties are not all equally important, they nevertheless are of particular significance if the steward's trustworthiness and the church's credibility are to be maintained.

The Role According to canon 1282, all persons—clerics or laity—who, through a legitimate title take part in the administration of ecclesiastical goods, are bound to fulfill their duties in the church's name and in accord with the norm of law. Because such duties are to be carried out in the church's name, they can be considered a form of apostolate (c. 298). As an apostolate, those who share in these duties do so by virtue of their baptism and share in the church's royal mission, the mission of serving (cf. c. 204).

This presupposes a basic knowledge of

Catholic doctrine relating to baptism and its consequences as well as an understanding of the notion of apostolate and its implications for the life of the church. A sense of mission would have to underlie this knowledge. This is something that must be updated regularly because of new understandings and developments.

Administrators of church goods at all levels are to have an attitude that may differ from that of persons entrusted with the administration of secular temporal goods. Their purpose is not primarily to make a profit but to provide resources for the pursuit of the church's proper ends, such as the ordering of divine worship, providing decent support for the clergy and pastoral workers, and performing apostolic and charitable works, especially toward the needy (c. 1254). Thus the temptation to evaluate an administrator's performance simply by looking at a balance sheet should be avoided.

Specific Duties¹⁰ The *Code* lists a number of duties or obligations of administrators of temporal goods. These can be shared with the trustees.

- To take an oath of office to be efficient and faithful (c. 1283, section 1).
- To prepare a detailed inventory of the juridic person's goods (c. 1283, section 2); this would distinguish between those goods that are owned outright and those entrusted to the administrator on behalf of another entity.¹¹
- To respect the intentions of donors (c. 1267, para. 3); this is a principle of natural law.
- To observe civil laws in matters relating to the hiring of personnel (and payment of salaries), as well as observing the church's social teachings (c. 1286); usually the ethical and religious directives applicable in the territory refer explicitly to such matters.
- To ensure that goods are not damaged and that appropriate insurance coverage is arranged (c. 1284, para. 2, section 1); of course, the type of insurance will vary according to the type of work undertaken.
- To use civilly valid methods to protect ecclesiastical ownership (c. 1284, para. 2, section 2); in North America this generally entails establishing separate corporations and carefully maintaining the distinctions between them.
- To observe civil and canon law in all transactions (c. 1284, para. 2, section 3).
- To collect revenues (c. 1284, para. 2, section 4).
- To repay debts, both capital and interest, in a timely manner (c. 1284, para. 2, section 5); sometimes it is preferable to retain some debt, particularly if it is at a more favorable rate of interest.
- To invest funds securely (c. 1284, para. 2,

section 6); in canon law, an "investment" is a long-term placement sufficient to make the funds part of the stable patrimony; it does not refer to ordinary banking practices.

- To keep books in order (c. 1284, para. 2, section 7).
- To prepare annual reports (c. 1284, para. 2, section 8); this is an exercise of accountability.
- To keep documents secure in archives (c. 1284, para. 2, section 9).
- To prepare annual budgets (c. 1284, para. 3).
- To present to the faithful an account of the use made of donations received (c. 1287, para. 2).
- To secure the bishop's permission before initiating or contesting law suits in secular courts (c. 1288).
- To observe testamentary clauses when goods are left to the church (c. 1300).

PARTICULAR CONCERNS IN TODAY'S WORLD

Several contemporary concerns should be mentioned here.

Liability Issues It is important to keep in mind issues relating to responsibility. I refer here to canonical liability, but the overlap with civil liability is evident.

Administrators who carry out acts that are invalid canonically, even though they might be valid civilly, are, according to canon 1281, paragraph 3, liable for such acts. Among such invalid acts are selling property or contracting major debts without the proper canonical authorizations; using funds for purposes other than those for which the money was originally donated, without authorization of the donors; not consulting appropriately those who have a direct interest in the undertaking.

The juridic person is not liable in such cases unless it derived benefit from the transaction. If the act is valid but illicit, however, the juridic person is responsible. Among the latter we could mention the sale of property or assets without obtaining the required canonical authorizations and performing acts of extraordinary administration without the proper canonical consents.

Indeed, of all the responsibilities incumbent upon administrators, the area in which liability is high is that involving the sale of property and the signing of contracts without observing the proper canonical formalities (consent, for example). If an administrator were to sell personal goods (i.e., patrimony), a suit to recover damages could be introduced before the church tribunals or even before civil tribunals. Such a procedure is extremely rare, however.

For religious institutes, canon 639 describes a number of instances involving liability for actions. For instance, if a juridic person that is part of a

religious institute has contracted debts and obligations, even with the appropriate permissions, it must answer for them. Thus a province of a religious institute would be responsible for its debts, but the entire institute would not be responsible.

The institute is not responsible for contracts made by a member concerning personal patrimonial goods. If, however, a duly authorized religious enters into contracts regarding goods belonging to the institute, then the institute itself is responsible for the consequences, not the individual religious. But, if a religious without authorization enters into a contract regarding patrimonial goods or goods belonging to the institute or one of its parts, then the religious is liable if he or she has personal patrimony. If the religious does not have personal goods, little can be done. If the matter were extremely serious—if, for example, a religious were to sign labor contracts without authorization or enter into business dealings for which permission was not asked or was refused—dismissal from the institute could be considered. Of course, this does not apply in the case of lay persons working for a religious institute; in those cases, other provisions would be included in policy manuals or contractual agreements.

What is of the utmost importance, then, is determining clearly whether and when the person involved is the institute's *agent*. It does not seem prudent to state that all religious, or trustees, are at all times agents of the community (even though this might have advantages for tax purposes) because the liability of the sponsoring institute then would be high.

Canon 1289 provides that once an administrator has assumed responsibility for the administration of temporal goods, these duties cannot be relinquished as long as the office is held. If they are relinquished, and the church or one of its entities is subsequently harmed, the administrator must make restitution. The canon does not spell out how such restitution would be effected. Without recourse to the civil courts, it usually is impossible to enforce such regulations in North America.

The Health Care Ministry's Future Viability The church's health care ministry in North America faces many challenges, from without and even from within. These challenges can arise from financial pressures, competition, and ethical positions, among others. Trustees and those involved in sponsorship must be aware of these pressures and not simply wake up some morning to find themselves face to face with something that could have been avoided.

In particular, I am concerned with maintaining the Catholic identity of our institutions, not

just in name but in mission and philosophy as well. We cannot expect the trustees to perform tasks for which they are not suitably prepared or for which no on-site formation was made available. If people have not been suitably formed to take church teachings and discipline into consideration, it is difficult to blame them for their actions; nevertheless, an institution can gradually, imperceptibly slide away from sound doctrinal principles, allowing the pressures of marketing to take over. The Holy See has been willing to grant public juridic status to various health care undertakings and has accepted the risks inherent in such a choice. It is up to us to show that the Holy See was right to approve such undertakings and that we will live up to legitimate expectations.

In addition to the general duties mentioned above, a sound application of the church's canon law would call for trustees to:

- Remain aware of developments in moral and ethical teachings
- Exercise responsible stewardship over the temporal goods entrusted to their care
- Make certain that we are indeed dealing with a recognized apostolate (which calls for communion with the diocesan bishop)
- Make certain that new members and trustees are suitably informed of situations
- Establish good understanding of their civil responsibilities and their canonical duties, particularly when these appear to be in conflict
- Be particularly careful when considering proposed new mergers, amalgamations, joint ventures, and similar arrangements, making certain that the philosophies and values are compatible and that things won't be reduced to their lowest common denominator

ACCOUNTABILITY

Not surprisingly, a number of prescriptions in the *Code* relate to accountability.

First, canonical stewards and those who assist them are bound to some form of internal accountability (c. 1284, para. 2, section 8; 1287; 636, para. 2; and 637). An institution's or system's norms will provide how trustees are to render an account of their activities. Such is usually organized on the civil level. There is nothing preventing the canonical administrators from adopting the same procedures to cover canon law obligations.

Second, a form of accountability to the diocesan bishop exists, not so much for the temporal goods as for the mission of the institution or system. The bishop has the right to determine whether a work undertaken in his diocese is, indeed, in conformity with church teaching and

practice. The diocesan bishop would be involved in the alienation of ecclesiastical property because he must express his opinion on the matter.

Third, accountability to the Apostolic See can be exercised in certain ways. For instance, in cases of alienation of property, the permission of the Apostolic See is required if the transaction exceeds the maximum amount allowed. If the trustees are also canonical stewards (as in the case of some of the juridic persons established for health care), then they must make a regular report to the Apostolic See, detailing:

- The mission
- The people involved
- New undertakings
- Financial situation
- Relations with diocesan bishops

FUTURE CHALLENGES

There will obviously be tensions for trustees and members in the years ahead. These can occur in a number of areas.

Ethical and Religious Directives One area is implementation of the *Ethical and Religious Directives for Catholic Health Care Services*, in the United States, and similar directives in other countries. Implementation could be difficult in cases where the directives become particularly narrow, either in their wording or in their application. Trustees and administrators should focus strongly on the directives' positive elements, not their few negative prescriptions.

Amalgamations We will inevitably see further amalgamations between Catholic health care providers in the years ahead. For this reason, a clear guiding "philosophy" is needed to govern systems and their operations. For instance, questions of justice—as specified in the *Ethical and Religious Directives*—must be kept foremost in mind, even in times of serious budget constraints. Recent groupings have put less emphasis on the particular charism of the original sponsoring religious institute and more emphasis on a general charism related to consecrated life and the service of others in the following of Christ.

Will or Desire Trustees and members must ask themselves whether they truly have the will or desire to carry out a mission in harmony with church teachings.

A Possible Threat "from Within" Choosing trustees thoughtfully, seeing to their ongoing formation, and ensuring their involvement with the teachings of the church are essential if our various institutions are to carry out their missions. Lack of care in doing so is probably the greatest weakness of our present ministry; if appropriate action is not taken, we run the strong risk of losing our

institutions "from within" because we have no consistent plan of action for the trustees.

A SPECIAL GIFT

Rather than taking a somewhat negative approach and considering the duties of trustees from the perspective of possible dereliction of duty, our ministry should approach the issue positively. As stewards, administrators, and trustees, such persons have been entrusted with responsibility. As members of the people of God who are sharing in Christ's royal mission, they must do all they can to be faithful to the trust.

A good administrator or trustee requires a special gift. Those who have received such a gift from the Lord should use it to build up the body of Christ and to allow the church to continue its saving mission in the world. □

NOTES

1. Francis G. Morrissey, "Canonical Duties, Liabilities of Trustees and Administrators," *Health Progress*, June 1985, pp. 47-51, 70.
2. John Paul II, "On Organ Transplants and Human Cloning," *The Pope Speaks*, vol. 46, 2000, pp. 21-24. See also the pope's message of July 1, 2001, to the Pontifical Academy, "Guidelines for Transplants of Animal Organs to Humans," *The Pope Speaks*, vol. 46, 2001, pp. 373-374.
3. See, for example, www.globalchange.com/clonaid.htm, which contains many items related to this relatively recent phenomenon.
4. Francis G. Morrissey, "Toward Juridic Personality," *Health Progress*, July-August 2001, pp. 27-31, 51.
5. See, for example, *Origins*, August 30, 2001, pp. 205, 207-215, concerning the debate on stem cell research.
6. See the letter of the Illinois bishops, "Facing the End of Life," *Origins*, June 21, 2001, pp. 105, 107-109.
7. See, for example, John Paul II, "Pastoral Care of the Sick and Imprisoned," *Origins*, January 24, 1998, pp. 560-561, for a number of practical principles to be applied, particularly with regard to suffering as seen from a Christian perspective.
8. See B. A. Garner, ed., *Black's Law Dictionary*, 7th ed., West Group, St. Paul, MN, 1999, p. 1,519, for various definitions.
9. See *The Canonical Statutes of Covenant Health Systems*, approved by the Holy See, July 15, 1995, Article 5. See also Bob Stephens, "The Public Juridic Person in Action," *Health Progress*, May-June 2001, pp. 21-24, 43.
10. For a practical commentary on this part of the *Code*, see R. T. Kennedy, "The Temporal Goods of the Church," in Canon Law Society of America, *New Commentary on the Code of Canon Law*, Paulist Press, New York City, 2000, pp. 1,484-1,492.
11. For an excellent study of the significance of an inventory and the distinctions to be found in it, see D. C. Conlin, *Canonical and Civil Legal Issues Surrounding the Alienation of Catholic Health Care Facilities in the United States*, Pontifical University of St. Thomas Aquinas, Rome, 2000, pp. 57-72 ("Stable Patrimony and the Need for an Accurate Inventory").