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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. Morrisey, OMI, PhD, JCD, professor of canon law, Saint Paul University, Ottawa, Ontario.

What Are “Indults” and “Dispensations”?

Canon law, like the health care profession itself, lays claim to its own unique jargon. But whereas medical acronyms and abbreviations can be translated into terminology that the nonprofessional can understand, oftentimes a canonical concept has no corresponding counterpart in everyday English. Part of this ambiguity is due to the fact that canon law, which is rooted in theology, is only analogous to civil law. In addition, legal comparisons are oftentimes tenuous between canon law, which is based on Roman law, and the Anglo-Saxon system of law that underpins our American judicial system.

Two terms that are sometimes heard in relation to Catholic health care but are unique to canon law are *dispensation* and *indult*. In the United States, we are not accustomed to ask for a dispensation from the requirement of paying income tax or from having our cars inspected. We seldom, if ever, discuss the implications of indults that we have received. These words are not part of our common American legal vocabulary.

To better understand the meanings of dispensation and indult, the terms need to be placed in appropriate contexts. Canon law is universal, and at times situations arise that call for responses different from what the law anticipates. Dispensations and indults allow adaptations of the law in particular situations for the good and spiritual well-being of those concerned.

Both dispensations and indults are what canon law refers to as singular *administrative*



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acts. Singular administrative acts are not the same as acts of administration that are commonly or routinely performed by administrators. Rather they are acts, executed by one who possesses the appropriate executive authority, that impact the juridic status of an individual or of a juridic person. A singular administrative act may take the form of a decree, regulation, response to a request, granting of a privilege, or dispensation. Although executive authority is vested in the pope and bishops, others (priests, leaders of religious communities, and lay women and men) share in this power through the particular offices they hold in the church or by delegation. Singular administrative acts are significant since ecclesiastical law does not rely on jurisprudence. Each case is considered individually and regarded on its own merits.

A dispensation is the relaxation of an ecclesiastical law in a particular case. For example, if a hospital or other entity is celebrating its 50th anniversary on a Friday during Lent, someone connected with it might request a dispensation from the requirement of abstinence from the diocesan bishop. Dispensations, which require a just and reasonable cause for not observing a specific law, allow for pastoral adaptation to the needs of the people. They are commonly given for some marriage impediments, observance of holy days or days of penance, and similar matters.

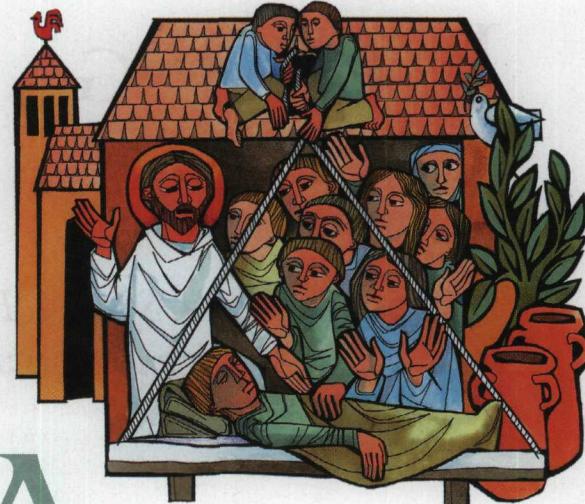
Whereas dispensation is clearly defined in canon law and is regularly used in certain situations, the concept of “indult” is more fluid. The *Code of Canon Law of the Catholic Church* uses the word frequently yet never delineates its precise meaning. Although the term does not appear in any of the sections of the code that might be particularly related to health care ministry (such as Book V, which deals with temporal goods, or the section of Book I, which treats juridic

persons), nevertheless the validity of certain canonical acts requires that permission or an indult from the Holy See be obtained.

Indult means "granted by way of indulgence." Canonists generally define an indult as a concession granted by the competent superior or authority that permits something contrary to or apart from the law. "Indult" can refer to the act by which some favor or permission is granted, or it can refer to the favor or permission itself. An indult is akin to a dispensation; however, an indult often has a wider scope. Indults are given for a variety of reasons. The U.S. Conference of Catholic Bishops, for example, has received a number of indults from the Holy See that pertain to liturgy. However, a primary and significant use of indult vis-à-vis health care is found in canons 1292, paragraph 2 (which addresses the alienation of all ecclesiastical goods), and 638, paragraph 3 (which applies specifically to the alienation of goods by religious institutes), although the word "indult" is not used in either canon. These canons state that the permission of the Holy See is required for valid alienation of property or goods belonging to a juridic person, the value of which exceeds the maximum amount set by the conference of bishops; or, in the case of religious institutes, the amount determined by the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life.

The purpose of ecclesiastical property and other assets is to be used to continue the mission entrusted to the church by Christ. As such, the pope is "the supreme administrator and steward of all ecclesiastical goods" (canon 1273). Thus permission or an indult for alienation or other acts that might jeopardize the patrimony of the juridic person is essential for validity.

Dispensations and indults are unique to the individual(s) or juridic person to whom they are granted. Because they are singular administrative acts, one cannot presume that one case fits all. ■



A Shared Statement of Identity For the Catholic Health Ministry

We are the people of Catholic health care, a ministry of the church continuing Jesus' mission of love and healing today. As provider, employer, advocate, citizen—bringing together people of diverse faiths and backgrounds—our ministry is an enduring sign of health care rooted in our belief that every person is a treasure, every life a sacred gift, every human being a unity of body, mind, and spirit.

We work to bring alive the Gospel vision of justice and peace. We answer God's call to foster healing, act with compassion, and promote wellness for all persons and communities, with special attention to our neighbors who are poor, underserved, and most vulnerable. By our service, we strive to transform hurt into hope. ☩

As the church's ministry of health care, we commit to:

- Promote and Defend Human Dignity
- Attend to the Whole Person
- Care for Poor and Vulnerable Persons
- Promote the Common Good
- Act on Behalf of Justice
- Steward Resources
- Act in Communion with the Church

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