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**SPONSORSHIP OF CATHOLIC INSTITUTIONS,
PARTICULARLY HEALTHCARE INSTITUTIONS,
BY THE SISTERS OF PROVIDENCE IN THE WESTERN UNITED STATES**

by
Beverly Kathrine DUNN, S.P.

A dissertation submitted to the Faculty of Canon Law,
Saint Paul University, Ottawa, Canada, in partial
fulfillment of the requirements for the degree of
Doctor of Canon Law



Beverly K. Dunn
Ottawa, Canada
Saint Paul University
1995



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**SPONSORSHIP OF CATHOLIC INSTITUTIONS,
PARTICULARLY HEALTHCARE INSTITUTIONS,
BY THE SISTERS OF PROVIDENCE IN THE WESTERN UNITED STATES**

Beverly Kathrine Dunn, SP

ABSTRACT

This dissertation investigates the canonical implications of sponsorship, neither a civil law nor a canon law concept, as it has developed over the last three decades with the Sisters of Providence in the western United States, particularly as it relates to healthcare institutions. Through sponsorship, a group of people take responsibility for an institution of the apostolate of the Catholic Church, assuring that its fundamental directions, structures, and activities conform to its initial purposes. Though the sponsoring group may not take part in all the activities of the institution, but it does exercise oversight and control in critical areas. It provides a structural link to the local and universal Church and guarantees an institution's catholicity.

The Sisters of Providence provide a suitable subject for studying sponsorship. As sponsor of a larger Catholic healthcare system in the United States, its history illustrates many aspects of sponsorship's evolution. The sisters operate through two groups in the West, Sacred Heart Province, a highly urban province, and St. Ignatius Province, a smaller more rural one. The differences between these two entities' approaches to sponsorship further demonstrates the dimensions of the topic.

The document tells the story of the founding of the Sisters of Providence and its establishment in the United States up to the period of the Second Vatican Council. Then it recounts the development of the practice of sponsorship through three phases roughly corresponding to the decades of the 1970s, 1980s and 1990s. The first era focused on control of property and assets and issues arising from the McGrath/Maida debate. The second stage concentrated on the incorporation of co-workers into responsibility for the mission, Catholic identity, and governance structures of the institutions. The third and present stage involves the challenges to Catholic identity accompanying collaboration with other healthcare providers in response to current healthcare reform activities. The general conclusion offers recommendations for sponsors, institutions and eventually, the Church's universal legislation.

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ABBREVIATIONS

AA	<i>Apostolicam actuositatem</i>
AAS	<i>Acta Apostolicae Sedis</i>
ASS	<i>Acta Sanctae Sedis</i>
c.	canon
cc.	canons
CCHC	Consolidated Catholic Health Care
CD	<i>Christus Dominus</i>
CHA	The Catholic Health Association of the United States
CIC 1917	<i>Codex iuris canonici, Pii X Pontificis Maximi iussu digestus, Benedicti Papae XV auctoritate promulgatus</i>
CIC 1983	<i>Codex iuris canonici, auctoritate Iohannis Pauli PP. II promulgatus</i>
CICLSAL	Congregation for Institutes of Consecrated Life and Societies of Apostolic Life
CLD	<i>Canon Law Digest</i>
CLSA	Canon Law Society of America
EcE	<i>Ex corde Ecclesiae</i>
LG	<i>Lumen gentium</i>
MR	<i>Mutuae relationes</i>
NCCB	National Conference of Catholic Bishops (United States)
PC	<i>Perfectae caritatis</i>
Prot. N.	Protocol Number
SCRel	Sacred Congregation for Religious
SCRIS	Sacred Congregation for Religious and Secular Institutes
SP Corp, SHP	Sisters of Providence Corporations, Sacred Heart Province

INTRODUCTION

During the nineteenth century, the Catholic Church in the United States developed a vast number of institutions to aid it in accomplishing its mission. Often bishops would establish parishes, then invite religious congregations to staff schools, hospitals, orphanages, and other social service organizations. Today, Catholic elementary and high schools educate 45% of the students in non-public schools, and Catholic healthcare institutions provide 10% of the total healthcare delivered in the United States.¹

In 1856, Bishop A.M.A. Blanchet brought the Sisters of Providence from Montreal to what is now the Pacific Northwest of the United States.² The sisters literally initiated the health and social welfare system of the region by founding and managing Catholic institutions. The congregation grew with the region, so that by the time of the Second Vatican Council, it had established an extensive array of schools and hospitals throughout the states of Washington, Oregon, Idaho, Montana, Alaska, and California.

The Sisters of Providence did not conduct its work alone. As a congregation founded on the constitutions of St. Vincent de Paul, it valued working with the local population. However, as a rule, its members held the positions of top management in its institutions. Eventually, with the expansion of those institutions, there came a point when its members could no longer fill all such positions. This marked the beginning of a profound change in the congregation's relationship with its institutions. Within ten

¹*The Official Catholic Directory*, Willmette, IL, P.J. Kenedy & Sons, 1994, Supplement, pp. xix-xxii.

²The public has always referred to the companions of Emilie Gamelin as the Sisters of Providence. However, the Holy See did not recognize the name until it approved the 1970 version of its constitutions. Until then, canonical documents named the Sisters of Providence as the Daughters of Charity Servants of the Poor.

years after the Council, it had closed or transferred to dioceses the responsibility for the administration of most of its schools. It also had begun to engage others than its own members as administrators of some of its hospitals.

As the congregation became less directly involved in the day-to-day administration of its institutions, it characterized its relationship to them in terms of sponsorship. This provided a way of assuring the continuance of the Catholic mission and identity of the institutions bearing its name. It worked diligently so that those institutions would operate in a manner consonant with its charism of compassionate love of those in need, even if congregational members could not always act as the administrators. Other religious congregations throughout the country were undertaking a similar course of action.

Among other things, this dissertation examines the concept and use of "sponsorship" of Church institutions, particularly healthcare institutions, by the Sisters of Providence over the last thirty years. Sponsorship has served as a mechanism allowing an institution to continue its apostolic mission in the midst of changes in its governance structures. It did not arise from either canon law or civil law. Instead, it developed as a practical response to changing circumstances.

The Sisters of Providence provide a suitable subject for studying sponsorship. As operators of one of the larger, though not the largest, Catholic healthcare systems in the United States, its history illustrates many aspects of sponsorship's evolution. Its size and resources have allowed it often to make proactive choices concerning its future. The congregation operates through two groups in the West, Sacred Heart Province, a highly urban province, and St. Ignatius Province, a smaller more rural one. The differences in these two entities further demonstrate the range of the application of sponsorship.

This work represents the first systematic canonical study of the development of sponsorship in a Catholic healthcare system in the United States since the close of the

Second Vatican Council. Before that, in 1964, M.G. Doyle wrote on the canonical situation of Catholic hospitals in Canada.³ In 1984, A.J. Maida, now cardinal archbishop of Detroit, MI, and N. Cafardi wrote on sponsorship from the perspective of canonical issues related to Church property, finances, and Church-related corporations.⁴ C.A. Boyle conducted a study of sponsorship programs in healthcare institutions managed by religious in 1983. At that time, such programs consisted of mission education programs.⁵ Recently, two publications have considered sponsorship in a healthcare context, one by the Catholic Health Association of the United States and the other by Consolidated Catholic Health Care.⁶ Works of the last few years that have examined aspects of sponsorship in a Catholic education context include those by L. Bordonaro, J.J. Conn, B.A. Cusack, B.J. Dunn, D.M. O'Connell and L. Örsy.⁷

³M.G. DOYLE, *The Catholic Hospitals of Canada*, JCD dissertation, Ottawa, University of Ottawa, 1964, vii-345p.

⁴MAIDA, A.J., and N. CAFARDI, *Church Property, Church Finances, and Church Related Corporations: A Canon Law Handbook*, St. Louis, MO, The Catholic Health Association of the United States, 1984, xvii-339p.

⁵C.A. BOYLE, *Sponsorship Programs in Health Care Institutions Managed by Religious Women: Beginning Research*, MA thesis, Berkeley, CA, Graduate Theological Union, 1983, 240 p.

⁶THE CATHOLIC HEALTH ASSOCIATION OF THE UNITED STATES (= CHA), *The Search for Identity: Canonical Sponsorship of Catholic Healthcare*, St. Louis, MO, CHA, 1993, xi-88p., and CONSOLIDATED CATHOLIC HEALTH CARE (= CCHC), *Critical Choices: Catholic Health Care in the Midst of Transformation*, Oak Brook, IL, CCHC, 1993, 55p.

⁷L. BORDONARO, *Separate Schools in Ontario, Canada: Their Canonical Status and Relationship to the Church According to the 1983 Code of Canon Law*, Romae, Pontificia studiorum universitas a S. Thoma Aq. in Urbe, 1989, vii-196p.; J.J. CONN, *Catholic Universities in the United States and Ecclesiastical Authority*, JCD dissertation, Roma, Editrice Pontificia Università Gregoriana, 1991, xv-346p., *Analecta Gregoriana*, no. 259.; B.A. CUSACK, *A Study of the Relationship Between the Diocesan Bishop and Catholic Schools Below the Level of Higher Education in the U.S.: Canons 801-806*, Washington, DC, The Catholic University of America, 1988, xi-308p., *Canon Law Studies*, no. 525.; B.J. DUNN, *Catholic Schools in Newfoundland: An Investigation into their Nature According to the Code of Canon Law*, JCD dissertation, Ottawa, Saint Paul University, 1991, xxvi-356p.; D.M. O'CONNELL, *An Analysis of Canon 810 of the 1983 Code of Canon Law and its Application to Catholic Universities and Institutes of Higher Studies in the United States*, Washington, DC, The Catholic University of America, 1990, iv-292p., *Canon Law Studies*, no. 536; and L. ÖRSY, *The Church: Learning and Teaching*,

The present study traces the evolution of canonical concerns about sponsorship, particularly as it relates to the Sisters of Providence. The first chapter recalls the beginnings of the Sisters of Providence, the congregation's arrival in the western United States in the mid-nineteenth century, the development of its institutions, and its canonical situation at the time of the Second Vatican Council.

The second chapter examines the first stage of the development of sponsorship for the Sisters of Providence, focusing on issues surrounding the identity, financial administration, and control of its institutions as ecclesiastical property once it has been civilly incorporated. In these concerns, the congregation was living out the Maida/-McGrath debate which was raging in the United States at the time.

The third chapter explores the second stage of the development of sponsorship, in which the congregation began to involve laity other than its own members in the governance of its Catholic institutions. The chapter includes congregation's contemporary expression of its mission and its education of others into that mission; its creation of governance structures for the institutions distinct from those governing the religious congregation, which include others than its members, yet which remain under its ultimate control; the juridic status of institutions separated from religious congregations and entirely under lay governance.

The fourth chapter investigates the current issues in sponsorship in the face of healthcare reform. The emphasis on regional healthcare delivery systems is bringing about new sponsorship configurations, broader than individual religious congregations and often including other than Catholic entities. This is leading to a focus on the fundamental elements of the Catholic identity of Catholic institutions and their relationships with the local bishop. However, legislative texts and other documents do

not treat Catholic identity for charitable institutions directly. The chapter presents a model for Catholic identity of healthcare institutions analogous to that developed for Catholic education. It also includes discussion of mergers and stable patrimony, two issues of contemporary concern. Since the Sisters of Providence is participating in these evolving developments as one of several actors, the chapter looks to the congregation to illustrate the events, rather than as a source of information about them. The work concludes with recommendations for Catholic sponsors, Catholic institutions, and eventually, for the Church's legislation.

CHAPTER ONE

THE SISTERS OF PROVIDENCE IN THE WESTERN UNITED STATES AT THE TIME OF THE SECOND VATICAN COUNCIL

This first chapter presents the origins and spirit of the Sisters of Providence, both in Montreal and in the early Oregon Country.¹ It traces the development of its institutional works in the West as a way of living out that spirit. Then it looks at the congregation's canonical status under the 1917 *Code of Canon Law*, the law in effect at the time of the Second Vatican Council.² Finally, it examines some of the driving forces of the period leading to fundamental change in the way the sisters would relate to their institutional works in the future. The stage once set, this study will follow the history of the development of the concept and practice of canonical sponsorship of institutions of charity by the Sisters of Providence in the western United States.

I. THE SISTERS OF PROVIDENCE

A. *The foundation and charism of the Sisters of Providence*

The Sisters of Providence traces its origins to Montreal in the first half of the nineteenth century and to the works of charity of a remarkable woman, Emilie Tavernier

¹The Oregon Country extended from Spanish-held California to the south, to Russian-held Alaska to the north, from the Pacific Ocean to the west, to the crest of the Rocky Mountains to the east.

²*Codex iuris canonici, Pii X Pontificis Maximi iussu digestus, Benedicti Papae XV auctoritate promulgatus* (= *CIC 1917*), Civitate Vaticana, Typis polyglottis Vaticanis, 1933, xlvii-786p. (English translations of the canons are from S. WOYWOD, *A Practical Commentary on the Code of Canon Law*, rev. by C. Smith, New York, J.F. Wagner, Inc., 1948, 2 vols.). Henceforth, c. = canon, and cc. = canons.

Gamelin (1800-1851) and her companions. Both the city and Emilie suffered repeated tragedies. D. Robillard describes the harsh realities of Montreal life in the late 1820s:

Life was a struggle; a political one for the men, and a social one for the women. Begging had become a fast developing phenomenon as a result of the crisis in agriculture, increases in immigration, and a series of epidemics. In fact, it had reached the proportions of a plague and measures had to be taken to overcome it.³

Emilie's life in Montréal likewise involved struggle. She came from comfortable circumstances and moved in the upper reaches of the city's French Canadian society. Between 1825-1828, she suffered the loss of her husband and her three children.

In her grief, she turned to Our Lady of Compassion as her patron, spending her energy in responding to the needs of her city's poor through membership in various charitable associations sponsored by lay women of the diocese of Montreal, many of them her relatives and friends.⁴ These groups of women established a network of social services in a society that had none for responding to the needs of the poor, the sick, the mentally ill, and aged and infirm women.⁵ In addition to belonging to these societies,

³D. ROBILLARD, *Émilie Tavernier-Gamelin*, Montréal, Éditions du Méridien, 1988, p. 96 (English translation, *Émilie Tavernier-Gamelin* [= *Émilie Tavernier-Gamelin* (Eng.)], L. Gaudette, trans., Montreal, Éditions du Méridien, 1992, p. 96). This recent biography of Emilie Gamelin for the first time includes an extensive treatment of the social, economic, and religious milieu of her age.

⁴T. FRIGON, *Marianopolitana canonizationis servae Dei Aemiliae Tavernier, viduae Gamelin, fundatricis Congregationis Sororum a Providentia (1800-1851): positio super fama sanctitatis et virtutibus* (= *Positio super fama sanctitatis*), Prot. N. 1320, Romae, Congregatio pro causis sanctorum, 1989, pp. 54-63 and 290. This *Positio super fama sanctitatis*, prepared as part of the documentation for the cause of the beatification of Emilie Gamelin, collects the primary documents of her life and the beginnings of the Sisters of Providence. Pope John Paul II declared Emilie Gamelin venerable on 23 December 1993. Some of the charitable and pious associations Emilie belonged to included *Société des Dames de Charité*, *Confrérie du Bien public*, *l'Asile pour Filles repenties*, *l'Association bienveillante St-Jacques*, *Confrérie de la Sainte-Famille*, *Confrérie de la Bonne Mort*, and *Confrérie du Sacré Coeur de Jésus*. Members of these societies offered monetary and direct service in institutions and in the homes of the poor.

⁵In ROBILLARD, *Émilie Tavernier-Gamelin* (Eng.), p. 96. The author discusses how Montreal women carried out these activities not simply as philanthropy, but as the establishment of the social service mechanisms of an ordered society. Experience with these prototypes would serve the Sisters of Providence well when the congregation reached the Pacific Northwest of the United States, where again, no social service structures existed.

Emilie cared for elderly destitute women in her own home. As the number of Emilie's elderly women grew, they moved into increasingly larger quarters which began to take on the character of an institution of charity, the House of Providence.

In 1841, Emilie and the Ladies of Charity petitioned to have the house civilly incorporated. The Legislative Assembly of the Province of Canada, meeting in Kingston on 18 September 1841, granted the request by incorporating them as "The Montreal Asylum for Aged and Infirm Women", "so that it can provide relief and support to aged, infirm, sick, and poor women of the said City."⁶ T. Frigon suggests that the women's desire to incorporate the house came from the lessons they learned from another of their houses, the Asile for Orphans, also incorporated that same day. The Asile had not been able to receive a legacy from its principal benefactress because it did not possess legal status.⁷ Emilie's new corporation, meeting for the first time on 6 October 1841, determined a number of issues: 1) in the public sphere it would continue to use the name, the House of Providence; 2) the corporate seal would include the images of Our Lady of Compassion, St. Elizabeth, and St. Vincent de Paul, as well as the motto, *Charitas Christi urget nos*, patrons and motto of the present Sisters of Providence; and 3) the Bishop of Montreal would act as its principal patron and protector.⁸

⁶"Acte pour incorporer l'Asile de Montréal, 18 September 1841", in FRIGON, *Positio super fama sanctitatis*, pp. 115-119. On p. 115, read: "...à l'effet de pourvoir au soulagement et au soutien des femmes de la dite Cité, âgées, infirmes, invalides et sans moyens de subsistance." The House of Providence received the official civil name of "The Montreal Asylum for aged and infirm women", because when it was incorporated in 1841, one year after the union of Upper and Lower Canada, only English was recognized as an official language. In French the name became *l'Asyle (l'Asile) des femmes âgées et infirmes de Montréal*. This act served to incorporate civilly the Sisters of Providence upon its foundation in 1843. As such it was only the seventh congregation of women to be civilly incorporated in Canada, either under the French or the English. See J. MONCION, *L'incorporation civile des instituts religieux au Canada*, JCD dissertation, Ottawa, Saint Paul University, 1978, pp. 242-263.

⁷FRIGON, *Positio super fama sanctitatis*, p. 115.

⁸"Acte de l'Établissement de la Corporation de l'Asyle des femmes âgées et infirmes de Montréal, 6 October 1841", in *ibid.*, pp. 120-122.

Emilie and her works had always enjoyed the patronage of Montreal's bishops, Jean-Jacques Lartigue, first bishop of Montreal, whom she had known from childhood; after 1840, Ignace Bourget. Bishop Bourget displayed special concern about the stability of the House of Providence, particularly as a work of the Church. On the occasion of his first *ad limina* visit to Rome in 1841, he made it a point to visit various houses of charity in Europe, especially those operated by the Daughters of Charity of St. Vincent de Paul in France. In Paris he requested that some of these sisters come to Montreal to administer Emilie Gamelin's House of Providence, a request he sincerely believed the congregation would answer affirmatively.⁹

In a decree of 6 November 1841, Bishop Bourget established Emilie and the Ladies of Charity as what would now be called an association of the faithful, "a diocesan and regular institute, with the object of introducing therein, later, the admirable service of the Sisters of Charity, daughters of the immortal St. Vincent de Paul."¹⁰ The document also expressed Bishop Bourget's fundamental motive for this action, one that remains a basic inspiration for the Sisters of Providence:

We have turned our attention upon the various establishments of charity now existing in Ville Marie, and have seen with much consolation, numerous hospitals opened to the sick and the infirm, to the aged, and to forsaken children, but we have been obliged to admit that by their number and objects they do not correspond to all necessities, nor to all classes of evils and misfortunes.

We have therefore, especially thought today of founding in your midst a pious and permanent establishment, which should be a safe

⁹ROBILLARD, *Émilie Tavernier-Gamelin* (Eng.), pp. 136-137.

¹⁰"Mandement d'Institution des Dames de la Providence pour l'Asile des femmes âgées et infirmes, 6 November 1841", in FRIGON, *Positio super fama sanctitatis*, pp. 123-125 (English translation, *Monseigneur Ignace Bourget and the Works of Providence* [= *Monseigneur Bourget* (Eng.)], Montreal, Providence Mother House, 1918, pp. 8-12).

Asylum for all the victims of infirmity or suffering, of ignorance or poverty, who look to religion for comfort or relief.¹¹

To this day, the Sisters of Providence judges the suitability of its works by the twin criteria of the presence of a social need, to which it can respond in the name of God, and the absence of others to address those needs. Immediately after establishing the Ladies of Charity as a diocesan organization, Bishop Bourget recommended its cause to the public through a pastoral letter encouraging them to donate to a fund-raising drive.¹² Such public involvement and funding also remain a characteristic of the institutional works of the Sisters of Providence.

In February 1843, the Daughters of Charity of Paris informed Bishop Bourget that it would not be sending sisters to Montreal. He responded by founding his own diocesan religious congregation of simple vows, with the intention of uniting it to the Daughters of Charity upon the latter's arrival, in a manner similar to Mother Elizabeth Seton's group in Emmitsburg, Maryland.¹³ Seven women, not including Emilie Gamelin, began an "improvised" novitiate on 13 March 1843, under the direction of Canon Jean-Charles Prince.¹⁴ Upon the departure of one of the original seven novices from the novitiate in July 1843, Emilie petitioned to replace her.

Bishop Bourget wanted his sisters to follow the spirit and life of the daughters of St. Vincent de Paul, whose works of charity he so admired. However, he possessed no

¹¹*Monseigneur Bourget* (Eng.), p. 9.

¹²"Lettre pastorale de Mgr l'Évêque de Montréal au clergé et aux fidèles de la Ville et Paroisse de Montréal, pour recommander à leur charité l'Asile de la Providence des femmes âgées et infirmes, 8 November 1841", in *Monseigneur Ignace Bourget et l'Oeuvres de la "Providence"*, Montréal, Providence Maison Mère, 1910, pp. 11-23 (English translation in *Monseigneur Bourget* [Eng.], pp. 13-25).

¹³For a history of the Daughters of Charity and its establishment in the United States through St. Elizabeth Ann Seton, see M.M. CONSIDINE, "Daughters of Charity of St. Vincent de Paul", in *New Catholic Encyclopedia*, vol. 3, New York, McGraw-Hill Book Co., 1967, pp. 470-473.

¹⁴ROBILLARD, *Émilie Tavernier-Gamelin* (Eng.), pp. 157-164.

copy of their constitutions to use in instructing the novices. Before Emilie entered the novitiate, he sent her to Mother Seton's sisters, charging her to obtain a copy of St. Vincent de Paul's original constitutions for the Daughters of Charity. She succeeded in bringing to Canada an autographed copy, dated 1672.¹⁵ Canon Augustin Magloire Alexandre Blanchet, diocesan treasurer, copied the manuscript for the new community.¹⁶

St. Vincent de Paul and his Daughters of Charity initiated a revolution in religious life during the 17th century. At that time, religious life for women required strict cloister.¹⁷ However, M. Vincent wanted to respond to the needs of the poor in their homes, the hospitals, and on the streets. If religious women could not enter into such activities, then his daughters would not be religious women.¹⁸ The first two articles of his constitutions describe the purpose and the nature of the life of the Daughters of Charity:

¹⁵T. LANG and D. LENTZ, *History of the Constitutions of the Daughters of Charity Servants of the Poor*, 2nd printing, Montreal, Providence Mother House, 1979, Collection Providence, vol. 10, pp. 6-8. Obtaining any copy, much less an original copy, of the Constitutions of St. Vincent de Paul presented no small challenge to Bishop Bourget. The Daughters of Charity had not come to Canada. Even if it had come, its inflexible practice of never allowing outsiders to see its constitutions would have presented difficulties. Emilie convinced the sisters of her sincerity and strength of purpose to serve the poor in the tradition of St. Vincent. As a result, they loaned her probably the only original autographed copy of his constitutions in North America at the time.

¹⁶Ibid., p. 8. Later, as Bishop of Nesqually, A.M.A. Blanchet would bring the Sisters of Providence to the United States.

¹⁷Not until Pope Leo XIII's apostolic constitution, *Conditae a Christo*, 8 December 1900, in *Acta Sanctae Sedes* (= ASS), 33 (1900-1901), pp. 341-347 (English translation in D.I. LANSLOTS, *Handbook on Canon Law: For Congregations of Women Under Simple Vows*, 4th enl. ed., New York, Fredrick Pustet & Co., Publ., 1910, pp. 246-258), did communities of women with simple vows who did not live in cloister receive the status of religious women.

¹⁸The requirement of cloister played a role even in Bishop Bourget's time. When the Daughters of Charity decided not to come to Canada, it recommended that he entrust his work to another religious congregation already in Montreal. However, when he attempted to do so with the Grey Nuns, those with the most similar charism, he met the response that the sisters could not visit the poor in their homes because of the requirement of cloister (ROBILLARD, *Émilie Tavernier-Gamelin* [Eng.], pp. 163-164).

1. The principal end for which God has called and united the Daughters of Charity is to honor our Lord Jesus Christ as the source and model of all charity, serving Him corporally and spiritually in the person of the poor: be they sick or children or prisoners or others reluctant to make known their needs. To correspond worthily to so holy a vocation and to follow so perfect an example, they should strive to live holily and work with great care toward their perfection, uniting the interior practices of spiritual life to the exterior observance of Christian charity toward the poor.

2. Conformably to these rules which they will endeavor to faithfully observe as the proper means to this end, they will bear in mind that although they are not in a religious order, this state not being suitable to the employments of their vocation, they nevertheless are much more exposed to danger than cloistered religious; their monastery, at times, is but the homes of the sick; their cell a rented room; their chapel, the parish church; their cloister, the city streets or hospital wards; their enclosure, obedience; their grate, the fear of God; and saintly modesty, their only veil.¹⁹

Bishop Bourget saw that this spirit and way of life remained as valid for the mid-nineteenth century as it was for the mid-seventeenth.

On 29 March 1844, the feast of Our Lady of Compassion, the seven novices made their profession. Within the ceremony Bishop Bourget canonically erected the community.²⁰ On that day he also approved the constitutions of St. Vincent de Paul as its rule of life.²¹ The public ceremony of profession symbolically spoke of the sisters' values. Each novice processed into the chapel preceded by a little girl dressed in white, representing an orphan. On her right, the novice supported an elderly woman and a Lady of Charity accompanied her on her left. The sisters promised to devote their lives

¹⁹*Règles communes et particulières des Filles de Charité, Servantes des Pauvres établies à Montréal*, (ms), Montréal, 1850, pp. 1-2 (English translation in *Constitutions and Rules: Sisters of Providence*, Montreal, 1985, pp. xiii-xiv). This 1850 document began as the hand-written copy of the 1672 edition of the *Règles communes* for the Daughters of Charity.

²⁰"Mandement d'Institution des Soeurs de Charité, 29 March 1844", in FRIGON, *Positio super fama sanctitatis*, p. 150 (English translation in *Monseigneur Bourget* [Eng.], pp. 66-73).

²¹"Acte d'approbation et d'acceptation des Règles, 29-30 March 1844", in *Positio super fama sanctitatis*, pp. 154-155 (English translation in LANG and LENTZ, *History of the Constitutions*, pp. 12-13).

to the care of the poor, widows, and orphans in the company of the laity. The next day, the new community elected Emilie Gamelin as its first superior.²²

As the congregation matured, it undertook the canonical steps required for papal approval.²³ It received the Decree of Praise from Pope Pius IX on 25 April 1860.²⁴ The same Pope granted it papal approbation on 7 June 1867.²⁵ Finally, after a long and at times difficult process, Pope Leo XIII signed the Decree of Approbation of the Constitutions on 12 September 1900.²⁶

The congregation grew rapidly. Even at the time of the first profession, seven others were making their novitiate, including a young woman from the country, Esther Pariseau. The story of the Sisters of Providence in the West will continue with her. In 1851, the year of Emilie's death from cholera, the congregation celebrated a seventh year jubilee. The sisters had founded seven houses, cared for the elderly, orphans, elderly and infirm priests, deaf-mutes, the mentally ill; and they also taught in schools. They visited the sick and dying in their homes and cared for immigrant typhus victims, losing

²²ROBILLARD, *Émilie Tavernier-Gamelin* (Eng.), pp. 181-183.

²³See C.R. ORTH, *The Approbation of Religious Institutes*, Washington, DC, The Catholic University of America, 1931, 166p., Canon Law Studies, no. 71, for a history of the papal approbation process for such communities. For an account of this process with the Sisters of Providence, see LANG and LENTZ, *History of the Constitutions*, pp. 23-50.

²⁴"Decree of Praise of the Institute, April 25, 1860", in *Monseigneur Bourget* (Eng.), p. 292.

²⁵"Approbation of the Institute by His Holiness, June 7, 1867", in *Monseigneur Bourget* (Eng.), pp. 395-396.

²⁶"*Décret d'approbation*", in S. BENEDICT, *Mère Marie-Antoinette: Soeur de Charité de la Providence Montréal, Canada 1854-1939*, 2nd ed., Montréal, Providence Maison Mère, 1945, p. 157 (English translation, S. BENEDICT, *Mother Mary Antoinette, Sister of Charity of Providence, Montreal, Canada 1854-1939*, Montreal, Providence Mother House, 1942, pp. 167-168).

three sisters to the disease.²⁷ Truly, they responded to the diverse needs of their day, at times heroically.

B. *Expansion into western North America*

Like the Sisters of Providence, the Catholic Church of the former Oregon Country, traces its roots to the Province of Quebec.²⁸ From 1818-1846, England and the United States jointly occupied this land. The British chartered Hudson's Bay Company, located on the north shore of the Columbia River at Ft. Vancouver, provided quasi-governmental structures. The treaty of 15 June 1846 divided the territory between the two countries at the 49th parallel.²⁹

About 1830, retired Catholic French Canadian fur trappers, with their Indian wives and children, began to take up farming on land south of the Columbia River, thereby becoming some of the first permanent settlers of the Oregon Country. In 1834, they sent a petition to Bishop Joseph Norbert Provencher of Red River (St. Boniface, Manitoba), Auxiliary of Bishop Joseph Signay of Quebec and later Vicar Apostolic for the District of the Northwest, asking for priests to instruct their children and themselves. Because no one knew the exact extent of the "District of the Northwest", and because

²⁷ROBILLARD, *Émilie Tavernier-Gamelin* (Eng.), pp. 187-309.

²⁸See W.P. SCHOENBERG, *A History of the Catholic Church in the Pacific Northwest 1743-1983*, Washington, DC, Pastoral Press, 1987, xi-883p., for a comprehensive ecclesiastical history of the United States portion of this area.

²⁹J.M.L. BLANCHARD, *L'Institut de la Providence: Histoire des Filles de la Charité servantes des pauvres dites Soeurs de la Providence*, (= *Histoire de l'Institut*), vol. V, Montréal, Providence Maison Mère, 1937, pp. 425-426 (English translation, J.M.L. BLANCHARD, *The Institute of Providence: History of the Daughters of Charity Servants of the Poor Known as the Sisters of Providence*, (= *History of the Institute*), Montreal, Providence Mother House, 1949, vol. V, pp. 375-376). After the treaty of 1846, England organized its holdings into colonies: Vancouver Island in 1849, and the mainland in 1858 as New Caledonia, uniting them in 1866 as British Columbia, and making it a province of Canada in 1871. The United States portion became the states of Oregon (1859), Washington (1889), and Idaho (1890).

two different countries claimed political jurisdiction to the Oregon Country, its ecclesiastical jurisdiction also lay in dispute. Pope Gregory XVI's response of 28 February 1836, confirmed Bishop Provencher's jurisdiction as including the entire territory, though he would not be able to send any priests to Oregon for another two years.³⁰

In 1838, Bishops Signay and Provencher sent two French Canadian priests to Oregon, Francis Norbert Blanchet, appointed as vicar general, and Modeste Demers.³¹ By documents dated 1 December 1843, Pope Gregory XVI erected the Oregon Country as a vicariate apostolic, raised F.N. Blanchet to the episcopacy, and placed him over the new vicariate.³² Amazingly, on 24 July 1846, before Blanchet returned from his episcopal ordination, Pope Pius IX raised Oregon City to the status of an archdiocese, the second in the United States, named Blanchet as its archbishop, and established the dioceses of Walla Walla and Vancouver Island, with five more dioceses in the planning stages. The decision came at the initiative of Blanchet, despite the fact that at the time he could only claim a total of sixteen priests and six thousand Catholics. As Schoenberg points out: "There was not a single city, there were no roads, no postal service, not even

³⁰SCHOENBERG, *A History of the Catholic Church in the Pacific Northwest 1743-1983*, pp. 16-17, 22. The Bishop of Quebec, in line with the British claim, and the Bishop of St. Louis, in line with the United States claim, both claimed ecclesiastical jurisdiction over the territory.

³¹Ibid., pp. 26-41. Blanchet left from Montreal with a Hudson's Bay Company brigade on 3 May 1838. He joined Demers at Red River, then proceeded to Ft. Vancouver, arriving 24 November 1838. He traveled mostly by boat and canoe for 5,325 miles in 6 months, 21 days, including delays.

³²Ibid., pp. 77-82. It appears that these actions occurred more by default than as the result of orderly growth. Oregon's location placed it too far away for either of the bishops of Quebec or St. Louis to feel that they could adequately care for it. At one point Bishop Signay seriously suggested it be placed under the jurisdiction of the Sandwich Islands (Hawaii).

a sovereign government."³³ F.N. Blanchet's brother, Canon A.M.A. Blanchet, was named Bishop of Walla Walla and consecrated by Bishop Ignace Bourget in Montreal, 27 September 1846. At that time he was serving as chaplain to the House of Providence. He had known and worked with Emilie Gamelin since the 1830s.³⁴

During 1851-1852, Bishop A.M.A. Blanchet left Ft. Vancouver for an extended time to raise funds in Mexico, visit Montreal, attend the Second Council of Baltimore, and return by way of Mexico for more fund raising. While staying in Montreal, he requested that the Sisters of Providence send a foundation to the West. Five sisters made the long trip to Oregon, crossing the Isthmus of Panama on muleback, but they arrived before Blanchet had returned from Mexico. Much of Oregon's population had left the area for the California gold mines. After two months, the sisters decided to return to Montreal, only this time they would sail around South America. Weather required them to put into harbor at Valparaiso, Chile, beginning the story of the Sisters of Providence in Chile, a story that continues to this day.³⁵

In 1856, Bishop A.M.A. Blanchet once again prevailed upon the Sisters of Providence to send a delegation of sisters to the West, this time escorting them himself to ensure their safe arrival. They crossed the Isthmus of Panama now by rail, arriving in Ft. Vancouver on 8 December 1856. When they reached Ft. Vancouver, not a single

³³Ibid., pp. 94-95. Oregon City, a small settlement located south of the Columbia River at Willamette Falls on the Willamette River, served as the western terminus of the Oregon Trail. In August 1868, F.N. Blanchet transferred the seat of the diocese about 10 miles north to Portland, Oregon. Walla Walla is located in southeast Washington State. At this same period, Modeste Demers was named as bishop of Vancouver Island. See BLANCHARD, *History of the Institute*, vol. V, pp. 352-355, 357.

³⁴BLANCHARD, *History of the Institute*, vol. III, pp. 514-515. On 31 May 1850, the diocese of Walla Walla was suppressed, and replaced by the diocese of Nesqually, named for a small village which never served as the bishop's residence. He lived at Ft. Vancouver instead. The diocese was transferred to Seattle in 1907. Walla Walla remains as one of the few titular sees in North America.

³⁵See BLANCHARD, *History of the Institute*, vol. III, for an account of the Sisters of Providence in Chile.

building could receive the sisters. They stayed in an unfurnished attic loft of the bishop's small house, the humble beginnings of their first foundation, Providence of the Holy Angels.³⁶

Esther Pariseau (1823-1902), i.e., Mother Joseph of the Sacred Heart, served as superior of the little band. At the time of her entrance into the Sisters of Providence in 1843, her father had spoken of her to Emilie Gamelin:

Madame, I bring you my daughter Esther, who wishes to dedicate herself to the religious life... It is a great sacrifice for me to part with Esther, but if you will accept her into your company, you will find her able to give you valuable assistance... She can read and write and figure accurately. She can cook and sew and spin and do all manner of housework well. She has learned carpentry from me and can handle tools as well as I can. Moreover, she can plan and supervise the work of others, and I assure you, Madame, she will some day make a very good superior.³⁷

Indeed, Esther did make a good superior. She played a role in the development of the Sisters of Providence in the West not unlike that of Emilie Gamelin in Montreal.³⁸

Bishop A.M.A. Blanchet gave a formal mandate to the Sisters of Providence on 31 December 1856, outlining his vision and expectations for its works, including

the civil and Christian education of the young, as well as the care of the poor and the sick... to carry to (the Indians), along with the knowledge and love of their Creator and Redeemer, the way to live honestly among themselves and with their neighbors... and having the care of our mission and of the sacristy of our Cathedral.³⁹

³⁶BLANCHARD, *History of the Institute*, vol. V, pp. 25-44.

³⁷M. McCROSSON, *The Bell and The River*, Palo Alto, CA, Pacific Books, 1957, pp. 42-43.

³⁸For a recent survey of Mother Joseph of the Sacred Heart's life and her place in the history of the Sisters of Providence in the West, see M. GLEASON, *He Has Given Me a Flame: A Sketch of the Life of Mother Joseph of the Sacred Heart 1823-1902*, Montreal, Sisters of Providence, n.d., 111p., Collection Providence, vol. 14.

³⁹"Mandate to the Sisters of Charity, December 31, 1856", in BLANCHARD, *History of the Institute*, vol. V, pp. 47-52.

Beginning all these works would take time. For the first four months the sisters' primary activities consisted in the bishop's domestic work and in visiting the sick in their homes. Soon came the request to open a boarding school and to take in orphan girls.

Obviously, the sisters needed buildings and land. However, a major controversy centered around church land. The bishopric and cathedral were located in a mission compound on a section of land which included most of present downtown Vancouver, Washington. An 1848 act of Congress made the title of this mission land available to the diocese. Nonetheless, when Bishop Blanchet filed a claim, various opponents, including the army, objected, succeeding in delaying its confirmation.⁴⁰ To avoid possible problems, Bishop Blanchet wanted the Sisters of Providence to own land in its own name and outside the disputed claim, which required the congregation first to receive legal identity through incorporation. Thus, on 28 January 1859, the Sisters of Providence, in the name of Sister Joseph, became the second entity to be incorporated in Washington Territory, the railroad being the first. The act lists the purpose of the corporation as: "The relief of the needy and suffering humanity, in the care of the orphans, invalids, sick and poor, and in the education of youth."⁴¹ Perhaps as a result of the lessons she learned from Bishop Blanchet at this time, Mother Joseph always insisted on herself or the diocese possessing clear title to property involved with the sisters' works.⁴²

⁴⁰SCHOENBERG, *A History of the Catholic Church in the Pacific Northwest 1743-1983*, pp. 219-224, gives a good overview of the story of the St. James Mission Land Case, settled in the army's favor in 1895. The act referred to is, "An Act to establish the Territorial Government of Oregon, August 14, 1848."

⁴¹"An Act to incorporate an Institution of Learning and Charitable purposes in the County of Clark, January 28, 1859", Providence Archives, Seattle. This corporation, under a new name and reorganized, continues to serve as the legal entity of the Sisters of Providence Health System in Washington State.

⁴²GLEASON, *He Has Given Me a Flame*, pp. 53-54.

In the meantime, Bishop Blanchet repeatedly rearranged his own living space and had small buildings built to accommodate the growing works of the sisters. In April 1857, the sisters began their first school, took in seven orphans and received their first elderly hospital patient. St. Joseph Hospital, the first hospital in the Pacific Northwest of the United States, temporarily located in a 16 foot by 20 foot log cabin, opened in 1858. It stands at the head of a list of 31 institutions of learning, healthcare, and other social services radiating from Providence of the Holy Angels and established under Mother Joseph's leadership.⁴³ At the same time, women of all faiths, in fact most of the women of Ft. Vancouver, formed an Association of Charity. They furnished the hospital and took on the support of indigent patients.⁴⁴ This both continued the practice of Emilie Gamelin and set a precedent for all Sisters of Providence foundations in the West: working in association with the laity.

In 1863, the Sisters of Providence began expanding beyond Ft. Vancouver with a boarding school in Ft. Steilacoom, Washington Territory. Its foundations followed the pattern of major settlements, which at first followed the placement of Hudson's Bay Company forts, such as Fts. Steilacoom, Walla Walla, Cowlitz, and Colville. The Company chose the location of these forts for the purposes of fur trading and, as such, they did not always prove to be the sites of permanent population growth with the greatest need. This explains why the opening and closing of the foundations of the Sisters of Providence chronicles the growth of Washington State.⁴⁵

⁴³Ibid., pp. 25-26. See Appendix A, p. 203, for a listing of these foundations.

⁴⁴BLANCHARD, *History of the Institute*, vol. V, pp. 77-78. Catholics have always comprised a minority portion of the population in the Pacific Northwest.

⁴⁵M. JAMES, *Providence: A Sketch of the Sisters of Charity of Providence in the Northwest 1856-1931*, Seattle, Sisters of Charity of Providence, 1931, pp. 54-55.

In 1864, at the request of Fr. Pierre De Smet, S.J., the Sisters of Providence opened St. Ignatius Indian School in the eastern Rocky Mountains of Montana Territory, marking its first move out of the old Oregon Country. The founding sisters rode on horseback from Walla Walla to St. Ignatius over LoLo Pass, a trip lasting more than 30 days, the first white women ever to make such a trip.⁴⁶ In 1886, the congregation founded St. Mary Hospital, New Westminster, British Columbia, its first foundation in western Canada.⁴⁷ It organized its houses into provinces in 1891. Eventually the western divisions and their headquarters would include chronologically: Sacred Heart Province (Vancouver, WA; Seattle, WA); St. Ignatius Province (Missoula, MT; Spokane, WA); and Holy Angels Province (Vancouver, BC; Cranbrook, BC; Midnapore, AB; Edmonton, AB).⁴⁸

Any account of the Sisters of Providence in the West can hardly overstate the role of Mother Joseph. She served for the first ten years as superior of the western missions, then as treasurer and a general consultant for the establishment of new missions. Her spirit of courage, reliance on Providence, and unswerving concern for the poor set the tone for all subsequent activities of the sisters. She combined her idealism with a remarkable array of practical skills. Her judgement helped to determine which works would be established and where; how they would be housed, on which plots of land and

⁴⁶For an account of the Sisters of Providence in the Montana missions, now St. Ignatius Province, see M. LAPORTE, *St. Ignatius Province: Journey of Love 1891-1991*, Spokane, Sisters of Providence, St. Ignatius Province, 1991, 33p.

⁴⁷For an outline of the history of the western Canadian missions, now Holy Angels province, see *Le fruit de ses mains: Aperçu historique de L'Institut de la Providence durant son premier siècle d'existence 1843-1943*, Montreal, Providence Maison Mère, 1943, 92p. (English translation, *The Fruit of Her Hands: Sketches from the History of the Institute of Providence During the First Century of its Existence 1843-1943*, Montreal, Providence Mother House, 1943, pp. 63-70). See also *The Sisters of Providence in Western Canada 1912-1987: Missions of Holy Angels Province*, Edmonton, AB, Providence Centre, 1987, 60p.

⁴⁸LANG and LENTZ, *History of the Constitutions*, pp. 59-72.

how they would be acquired. Her financial acumen never let her remain naive, despite her continual policy of going ahead on behalf of the poor, placing matters in the hands of Providence when the treasury counselled otherwise. With her architectural abilities she drew up the plans and supervised the construction of new buildings.⁴⁹ At times, she would tear apart the crew's work to do it herself in order to avoid shoddy construction.⁵⁰ Many times she undertook begging tours, often on horseback, in western mining, military, railroad, and lumber camps to raise funds for the sisters' works. Usually, she took a young and pretty sister with her, in order to improve her chances of success! Often they would sell future medical coverage in return for current contributions to the hospitals, a fascinating precursor to contemporary health maintenance organizations.⁵¹

At the time of her death in 1902, Mother Joseph counselled the sisters regarding a request to open a hospital in Oakland, California: "If in making a foundation we wait until we do not have to deny ourselves, we shall never take on a new work, for we shall never be without work."⁵² Her last words reflected her life's concerns:

My dear Sisters, allow me to recommend to you the care of the poor in our houses, as well as those outside. Take care of them...do not be afraid of so doing. Help them... and I assure you that you will have no regrets. Never say that such does not concern you, or let others see to them. Sisters, whatever concerns the poor is always our affair.⁵³

⁴⁹In 1953 the American Institute of Architects recognized Mother Joseph as the Pacific Northwest's first architect in wood (GLEASON, *He Has Given Me a Flame*, p. 103).

⁵⁰JAMES, *Providence*, p. 83.

⁵¹GLEASON, *He Has Given Me a Flame*, p. 78.

⁵²*Ibid.*, p. 90.

⁵³*Ibid.*, p. 94. In 1980 the State of Washington, in recognition of her role in the development of the state, selected Mother Joseph as one of its two distinguished persons whose statue could be placed in the National Capitol Building's Statuary Hall in Washington, DC.

With Emilie Gamelin and Mother Joseph as their founders, today's members of the Sisters of Providence in the West never have to search very far for a knowledge of their purpose. However, they must struggle as hard to implement it today as the founders did in their days.

Between Mother Joseph's death in 1902 and the Second Vatican Council the Sisters of Providence in the western United States continued in the paths which she had initiated. In 1902, the congregation established itself in two new states, California and Alaska.⁵⁴ Indeed, the sisters did go to Oakland. However, over the years their challenges shifted from opening pioneer establishments in the wilderness to developing professional excellence in their institutions. In the earlier days, they often responded to situations of nearly absolute privation, using what talents and skills they possessed, learning on the job. As settlements matured, such an approach proved inadequate.⁵⁵ Heroines of these years include Sisters Mary Loretta Gately and John Gabriel Ryan. The first led in the development of a truly excellent education system among the schools of the Sisters of Providence, while the latter did the same for its hospitals and schools of nursing.⁵⁶ Beginning in the 1950s, the congregation participated very actively in the Sister Formation Conference, a movement for the professional education of new members, especially for the fields of education and healthcare.⁵⁷

⁵⁴Providence Hospital, Oakland, California and Holy Cross Hospital, Nome, Alaska.

⁵⁵GLEASON, *He Has Given Me a Flame*, pp. 77 and 87-88.

⁵⁶*Ibid.*, pp. 87-88. For an account of Sister Mary Loretta Gately's life, see MARGARET AGNES, "In memoriam: Sister Mary Loretta (Georgia Gately)", in *Petit Journal de la Providence*, Montréal, Providence Maison Mère, 1946, pp. 977-991. Similarly, for Sister John Gabriel Ryan, see MIRIAM THERESA, "In memoriam: Sister John Gabriel (Mary Ann Ryan)", in *Petit Journal de la Providence*, 1952, pp. 505-519.

⁵⁷See *Sister Formation Bulletin: Official Publication of the Sister Formation Conference*, Milwaukee, Marquette University Press, 1954-1962, vols. I-VIII, for a history of the Sister Formation Conference and the Sisters of Providence role in it. The congregation adopted a policy of sending new members into the

In 1965, at the close of the Second Vatican Council, the Sisters of Providence of Sacred Heart Province operated one college for the education of sisters, three girls' high schools, fourteen hospitals, four nursing homes, one social service center, and eleven parish grade schools. Sisters also taught in four diocesan high schools. St. Ignatius Province operated one college, two girls' high schools, nine parish grade schools, eight hospitals, two nursing homes, and one children's home. In addition sisters taught in two diocesan high schools.⁵⁸

The years of the Second Vatican Council began a continuing process of change in the Church and with the Sisters of Providence in the western United States, occasioning profound challenges to the canonical relationship between the congregation and its institutions. The next section examines the principles of that canonical relationship as it existed at the time of the Second Vatican Council.

II. CANONICAL SITUATION OF THE INSTITUTIONS OF THE SISTERS OF PROVIDENCE

Because the Sisters of Providence began its institutions in the mid-nineteenth century, it has functioned under three eras of canonical history: prior to 1917, from 1917-1983 under the 1917 *Code of Canon Law*; and since the promulgation of the 1983 *Code of Canon Law*.⁵⁹ Studying the canonical situation of the institutions of the Sisters

field only when professionally qualified, thereby extending the time of formation by three years. It also built Providence Heights College, an intercongregational college for the education of sisters, which operated from 1961-1968 as one of the colleges of the Jesuit university, Seattle University.

⁵⁸See Appendix A, p. 205, for a list of Sisters of Providence institutions in the West in 1965.

⁵⁹*Codex iuris canonici, auctoritate Ioannis Pauli PP. II promulgatus: fontium et indice analytico alphabetico auctus* (= *CIC 1983*), Città del Vaticano, Libreria editrice Vaticana, 1989, xxxii-669p. (American version of English-language translation, *Code of Canon Law*, Latin-English ed., translation prepared under the auspices of THE CANON LAW SOCIETY OF AMERICA [= CLSA], Washington, DC, CLSA, 1983, xiii-668p.).

of Providence in 1965, requires examining it in the light of the 1917 Code. While the 1917 Code did not treat extensively charitable institutions as such, it did address them in the context of at least three interrelated topics: pious works of a religious institute; ecclesial status/juridic personality; and ownership of ecclesiastical property. An examination follows for each topic as it relates to institutions of the apostolate of lay religious congregations of pontifical right with simple vows.

A. *Pious works of a religious institute*

Legislation on religious houses in the 1917 Code, cc. 496-498, provided one context for looking at the institutions of a religious institute. Apostolic congregations like the Sisters of Providence established institutions within the context of a religious house within which sisters lived the religious life. While living the religious life required a physical structure, the term "house" related more directly to the community than it did to a building. B.J. Flanagan, following Pejška, defines a religious house as

a permanent and legitimately established foundation, where the religious practice the common life, in accordance with the constitutions of their institute and under the direction of their proper superiors.⁶⁰

The constitutions of a congregation identified the kind of works proper to itself. Establishing or suppressing a religious house required the consent of the local bishop (cc. 497 and 498).⁶¹ His written consent to establish a religious house gave a

⁶⁰B.J. FLANAGAN, *The Canonical Erection of Religious Houses: An Historical Synopsis and Commentary*, Washington, DC, The Catholic University of America Press, 1943, p. 25, Canon Law Studies, no. 179.

⁶¹CIC 1917, c. 497, §1: "Ad erigendam domum religiosam exemptam, sive formatam sive non formatam, aut monasterium monialium, aut in locis Sacrae Congregationi de Prop. Fide subjectis quamlibet religiosam domum, requiritur beneplacitum Sedis Apostolicae et Ordinarii loci consensus in scriptis darus; secus, satis est Ordinarii venia.

§2: "Constituendae novae domus permissio facultatem secumfert... pro omnibus religionibus pia opera exercendi religionis propria, salvis conditionibus in ipsa permissione appositis."

congregation the right to exercise its proper works, barring any restrictive conditions. A superior of a local house served for a limited term of no more than three years, renewable once (c. 505).⁶² For the Sisters of Providence, the office of superior usually included administering any institutional works attached to the house.

For the most part, the congregation established its institutions at the pleading of bishops, not simply with their consent. Even a cursory look at the two ledgers, *Foundations* and *Foundations Denied*, shows how frequently and persistently the bishops of the West asked it to come to specific areas to establish schools and hospitals.⁶³ More often than not, the sisters were forced to decline such requests.

A bishop was not to approve a religious house and its attendant works unless he prudently judged that it could "support itself properly, either by a fixed income, or the usual alms, or by other means" (c. 496).⁶⁴ The congregation never enjoyed the luxury of possessing a fixed income for its institutions. From the beginning it operated by charging fees for its services, begging and other fund-raising, or through public funding,

Paragraph 1 requires that houses of territories under the jurisdiction of the Congregation for the Propagation of the Faith receive the *beneplicium* of the Holy See. This requirement first came into effect with a 7 December 1901 letter from the Congregation of the Propagation of the Faith, see ASS, 34 (1901-1902), p. 659. Pope Pius X's apostolic constitution, *Sapienti consilio*, 3 July 1908, in *Acta Apostolicae Sedis* (= AAS), 1 (1909), pp. 7-19, removed the United States from that category.

CIC 1917, c. 498: "Domus religiosa,...si ad Congregationem iuris pontificii non exemptam, supprimi potest a supremo Moderatore, consentiente Ordinario loci..."

⁶²CIC 1917, c. 505: "...Superiores autem minores locales ne constituentur ad tempus ultra triennium; quo exacto, possunt ad idem munus iterum assumi, si constitutiones ita ferant, sed non tertio immediate in eadem religiosa domo."

⁶³*Foundations and Foundations Denied*, Ledgers, Providence Archives, Seattle, n.d., two hand-written early twentieth century ledgers, provide information about an initial request, the action taken, the names of the founding sisters if the invitation was accepted, or the reasons for refusing the request.

⁶⁴CIC 1917, c. 496: "Nulla religiosa domus erigatur, nisi iudicari prudenter possit vel ex redditibus propriis vel ex consuetis elemosynis vel alio modo congruae sodalium habitationi et sustentationi provisum iri."

always caring for those who could not pay as well as those who could. While the details in 1965 may have differed from 1865, the essence remained the same. The sisters no longer went begging on horseback to the mines. However, auxiliary organizations, the contemporary Ladies of Charity, still conducted fund-raising activities. Public funding, fees, and donations generated the rest. Since Providence and over 100 years of prudent management had provided in the past, the sisters believed it would in the future. Clearly, the bishops of the West believed that the works of Sisters of Providence houses served as an asset in accomplishing the Church's mission.

B. *Ecclesial status/Juridic personality*

Another aspect of charitable institutions in the 1917 Code concerned their juridic status, as in cc. 1489-1494. Charitable institutions could differ in their juridic standing, and thereby their rights and obligations, depending on the circumstances of their origins. A 1940 A. Jullien, a judge of the Roman Rota, presented a typology of possible juridic states for such institutions:

A hospital...can be cast into different juridical states according to the circumstances, namely, according to those things which make for a declaration of its proper species, it can assume the nature of: 1° a profane thing; 2° a pious institute or place; 3° an ecclesiastical institution; 4° a pious foundation.⁶⁵

These four categories concerned the manner and the juridic effects of an institution's initial establishment, not the motivations or the quality of the service rendered by people

⁶⁵coram JULLIEN, 11 July 1940, in *Sacrae Romanae Rotae Decisiones seu sententiae*, no. 3, 32 (1940), p. 533: "Hospitale in quo infirmi recipiuntur... statum iuridicum sortiri possunt pro adiunctis diversum, ut puta, iuxta ea quae ad speciem illam declarandam propius faciunt, possunt induere naturam: 1° rei profanae; 2° instituti seu loci pii; 3° instituti ecclesiastici; 4° piae foundationis" (English translation in M.G. DOYLE, *The Catholic Hospitals of Canada*, p. 197).

working in it. In 1964, M.G. Doyle used a modified form of this typology, which provides the basis of the following discussion.⁶⁶

1. *Category 1°, A profane (secular) entity*

Category 1°, a profane (secular) entity, concerned an institution, such as a public hospital, established for other than religious purposes. The Church did not act in its establishment, nor was it affected as such by ecclesiastical law. The addition of a chapel or Catholic chaplaincy services brought with it the requirement of the bishop's vigilance and right of visitation as part of the apostolic works of his diocese, but it did not change the juridic relationship of the institution to the Church. The simple act of entrusting the institution to a religious congregation to manage or operate it might change the nature of the services rendered, but not its ecclesial status, which in this case did not exist (cc. 336 and 344).⁶⁷ While in 1965, members of the Sisters of Providence, with the

⁶⁶M.G. DOYLE, *The Catholic Hospitals of Canada*, pp. 197-213. See B.F. FARRELL, *The Rights and Duties of the Local Ordinary Regarding Congregations of Women Religious of Pontifical Approval*, Washington, DC, The Catholic University of America Press, 1941, pp. 118-124, Canon Law Studies, no. 128, for a similar typology and treatment of the topic.

⁶⁷*coram* JULLIEN, 11 July 1940, no. 3, 1°, p. 533: "Domus...absque fine supernaturali, induit respectu Ecclesiae naturam boni mere laicalis et profani; in dominio privatorum remanet nec afficitur legibus ecclesiasticis. Ratio est, quia iuxta voluntatem conditoris nullo modo deputatur ad exercenda opera caritatis. Immo status ille rei profanae non mutatur, si, positus canonice ponendis, tum oratorium...erigatur, tum cura aegrotorum concedatur religiosis, integro Ordinarii seu legitimorum Superiorum iure visitationis et vigilantiae in oratorium et religiosos seu religiosas."

CIC 1917, c. 336, §2: "Advigilent ne abusus in ecclesiasticam disciplinam irrepant, praesertim circa administrationem Sacramentorum et Sacramentalium, cultum Dei et Sanctorum, praedicationem verbi Dei, sacras indulgentias, implementum piarum voluntatum; curentque ut puritas fidei ac morum in clero et populo conservetur, ut fidelibus, praecipue pueris ac rudibus, pabulum doctrinae christianae praebeatur, ut in scholis puerorum ac juvenum institutio secundum catholicae religionis principia tradatur."

CIC 1917, c. 344, §1: "Ordinariae episcopali visitationi obnoxiae sunt personae, res ac loca pia, quamvis exempta, quae intra diocesis ambitum continentur..."

support and approbation of their superiors, may have worked in such entities, the congregation as such did not manage or operate any of them.⁶⁸

2. *Category 2°, The lay pious institution*

In category 2°, the lay pious institution, an individual or group of Catholics founded an institution for specifically religious purposes. However, as no ecclesiastical authority intervened to establish or approve it, it remained the private endeavor of lay Catholics, outside the realm of canonical legislation. Again, the bishop was required to exercise vigilance over such institutions and visit them. Members of religious congregations may have staffed or even established the institution. As long as the congregation did not establish it as a work of a religious house, a province, or the institute, it maintained the status of a lay pious institution.⁶⁹ For the Sisters of Providence in 1965, the same situation existed as with category 1°. Members may have served in such institutions, but the congregation did not manage or operate any of them.

3. *Category 3°, Ecclesiastical institutions*

Category 3°, ecclesiastical institutions, required the formal intervention of an ecclesiastical authority in approving or establishing an institution. With such approval

⁶⁸As an example of this situation a few years later, Sr. Maria of Providence served as the temporary administrator of Maynard McDougall Memorial Hospital in Nome, Alaska (*Caritas* [Sacred Heart Province's newspaper], 8 [1969], no. 9, p. 1).

⁶⁹*coram* JULLIEN, 11 July 1940, no. 3, 2°, pp. 533-534: "Si quis privatus, solus aut aliis benefactoribus cooperantibus, aedes excitet in quibus instituantur hospitale et domus ad spiritualia exercitia peragenda, bona haec a fundatore seu a fundatoribus destinantur ad opera religionis et caritatis, ideoque, per talem deputationem Deo Optimo Maximo dicata, constituunt ad normam iuris canonici institutum pium, seu ut legitur in sacris Canonibus, *locum pium*, vel *piam domum*, *causamve piam*. Verum quamvis dicantur pia, eiusmodi instituta seu loca habentur in iure canonico uti laicalia, nam deficit specialis interventus Ecclesiae quo erigantur in instituta *ecclesiastica*, eorumque bona non sunt legibus ab Ecclesia latis de bonis ecclesiasticis obnoxia, non sunt enim *bona ecclesiastica*. Attamen ex ipsa fundatorum intentione loca pia induunt naturam piarum voluntatum, ideoque iuxta statuta canonum tum veterum tum recens datorum, ad peculiarem Ecclesiae curam per se pertinent, etsi ad eius dominium non spectant." See. M.G. DOYLE, *The Catholic Hospitals of Canada*, pp. 200-202.

or establishment, it acquired the status of an ecclesiastical institution.⁷⁰ For example, a bishop, at least implicitly, gave ecclesiastical approval to institutions of a religious congregation when he gave it permission to establish religious houses, barring any relevant prohibitions. He was not to do this for an institution of charity, either as part of a religious congregation or as a separate entity, unless it served a really useful purpose and could adequately support itself (c. 1489).⁷¹ Such institutions, owned by a religious congregation or some other Church entity, became ecclesiastical property subject to canonical legislation (c. 1497).⁷² In 1965, it would seem that all the institutions of the Sisters of Providence fitted into the category of ecclesiastical institutions.

4. *Category 4°, Ecclesiastical moral persons*

With category 4°, ecclesiastical moral persons, the typology moved into the realm of juridic persons.⁷³ While the 1917 Code never defined a juridic person, G. Michiels composed one, using a variety of canons:

A moral person is anything in the Church, distinct from a physical person (material cause: c. 99), which, for a religious or charitable purpose (final cause: c. 100, §1) has been constituted by public authority

⁷⁰M.G. DOYLE, *The Catholic Hospitals of Canada*, pp. 202-207. Here, Doyle departs in his analysis from the earlier total categories, which placed all institutions with ecclesiastical approbation, erection, and juridic personality in category 3°. Category 4° included all ecclesiastically approved foundations either with or without juridic personality. Rather than using the distinction between institution and foundation as the basis for his categories, Doyle uses the possession of juridic personality.

⁷¹*CIC 1917*, c. 1489, §2: "Locī Ordinarius haec instituta ne approbet, nisi finis fundationis utilis reapse sit, et talis constituta fuerit dos, quae, omnibus perpensis, sufficiat vel sufficiens fore prudenter praevideatur ad illum assequendum."

⁷²*CIC 1917*, c. 1497, §1: "Bona temporalia, sive corporalia, tum immobilia tum mobilia, sive incorporalia, quae vel ad Ecclesiam universam et ad Apostolicam Sedem vel ad aliam in Ecclesiam personam moralem pertineant, sunt *bona ecclesiastica*" (italics in the original).

⁷³The 1917 Code usually uses the term "moral person", while the 1983 Code uses "juridic person". This dissertation uses the term "juridic person" when the two Codes treat the equivalent concept.

(efficient cause: c. 99) into a subject capable of rights and obligations (formal cause: c. 99 together with c. 87).⁷⁴

Either a group of persons acting collegially or an aggregate of things could be constituted a juridic personality. Such an entity corresponded closely, though not exactly, to a civil law corporation.⁷⁵ The extent of the rights and responsibilities of the juridic person depended on its founding purpose, as well as the conditions laid upon it by the law and its constituting authority. In general, those rights and responsibilities, such as the ability to enter into contracts, own property, and stand in court, corresponded to those of a physical person. By necessity, they were exercised through physical persons representing the juridic person.

Besides through divine ordinance, an entity could acquire juridic personality by one of two methods: by the law itself or by a formal decree from a competent ecclesiastical superior (c. 100).⁷⁶ The law could either explicitly grant juridic personality or do so implicitly by attributing to an entity a quality found only with juridic persons. Religious institutes, provinces, and houses provided an example of the latter. Canon 531

⁷⁴G. MICHIELS, *Principia generalia de personis in Ecclesia: commentarius libri II Codicis juris canonici canones praeliminares 87-106* (= *De personis*), Tornaci, Desclée, 1955, p. 347 (English translation in J.A. DOYLE, *Civil Incorporation of Ecclesiastical Institutions: A Canonical Perspective*, JCD dissertation, Ottawa, Saint Paul University, 1989, p. 3). The 1917 Code did not settle all issues relating to juridic persons. Thus, a considerable body of literature about them exists from that period of time. Michiels provides a comprehensive discussion of the state of the question in the mid-1950s in *De personis*, pp. 343-564 (summary in J.A. DOYLE, *Civil Incorporation of Ecclesiastical Institutions*, pp. 3-8). For an earlier English language treatise on juridic persons in the 1917 Code, see B.F. BROWN, *The Canonical Juristic Personality with Special Reference to its Status in the United States of America*, Washington, DC, Catholic University of America, 1927, v-212p., Canon Law Studies, no. 39.

⁷⁵See BROWN, *The Canonical Juristic Personality*, pp. 24-42, 132-136, for a comparison of the concept of the juridic person in the 1917 Code with corresponding concepts in other legal systems. One difference lies in the fact that most common law systems do not recognize aggregates of things as corporations (pp. 37-38).

⁷⁶*CIC 1917*, c. 100, §1: "Catholica Ecclesia et Apostolica Sedes moralis personae rationem habent ex ipsa ordinatione divina; ceterae inferiores personae morales in Ecclesia eam sortiuntur sive ex ipso iuris praescripto sive ex speciali competentis Superioris ecclesiastici concessione data per formale decretum ad finem religiosum vel caritativum."

attributed to them the ability to own property, a characteristic found only with juridic persons, thereby implicitly granting them juridic personality.⁷⁷

A local bishop could also establish a charitable institution as a juridic person by a formal decree (c. 1489).⁷⁸ The total decision emphasized that the law required a decree of establishment, also called a decree of erection, that specifically granted juridic personality, either directly or indirectly through acknowledging the institution's power to act in a manner proper only to juridic persons. The bishop's approval of a work through permission to establish a religious house did not in itself constitute an institution as a juridic person. Nor would his decree of establishment do so if it remained silent about the subject of juridic personality or its effects. Even if he acted as though the institution possessed juridic personality through repeated acts, for however many years, without a decree such acts would not suffice to confer it.⁷⁹ According to Michiels, under

⁷⁷*CIC 1917*, c. 531: "Non modo religio, sed etiam provincia et domus sunt capaces acquirendi et possidendi bona temporalia cum redditibus stabilibus seu fundatis..." In contrast, the 1983 Code explicitly endows religious houses with juridic personality. See *CIC 1983*, c. 634.

⁷⁸*CIC 1917*, c. 1489, §1: "Hospitalia, orphanotrophia aliaque similia instituta, ad opera religionis vel caritatis sive spiritualis sive temporalis destinata, possunt ab Ordinario loci erigi et per eius decretum persona juridica in Ecclesia constitui."

⁷⁹*coram*. JULLIEN, 11 July 1940, no. 12, 3°, pp. 534-535: "Qua peculiari concessione instituta ecclesiastica evehuntur ad dignitatem personae moralis in Ecclesia, atque ad normam sacrorum Canonum ius habent acquirendi, retinendi, administrandi bona temporalia, quae eo ipso sunt bona ecclesiastica ideoque subiecta legibus ab Ecclesia latis de bonis ecclesiasticis. Verum concessio personalitatis iuridicae est factum, quod igitur non praesumitur, sed probari debet. Iure enim Codicis institutum ecclesiasticum non obtinet rationem personae moralis per simplicem approbationem seu commendationem, nec per solam erectionem in ecclesiasticum institutum, sed per formale decretum, quo Ordinarius loci personalitatem reapse concedit, sive terminis propriis, sive aequivalentibus (puta si in concessione, tacita qualitate personae moralis, enumerantur iura et officia personalium moralium). Non sufficit igitur concessio s. d. aequipollens, si nempe institutum per repetitos actus, plurium annorum decursu, ab Ordinario tamquam persona iuridica habitum fuerit."

In taking this position, Jullien favored one side of a debate about the effects of a decree of erection of an institution. The other side held that such a decree granted juridic personality by definition. For a summary of this debate, see MICHIELS, *De personis*, p. 405. It would seem also that Jullien discounts any possibility of the efficacy of custom in acquiring juridic personality.

the 1917 Code only the local bishop or the Holy See, not a major superior, possessed competence to issue a decree conferring juridic personality.⁸⁰

A charter or statutes regulated the governance and use of temporal goods of an institution constituted as a juridic person (c. 1490).⁸¹ Finally, the bishop was to exercise vigilance over such institutions and to visit them (cc. 1489 and 1491).⁸² In 1965, the Sisters of Providence did not operate any institution as though it possessed juridic personality.

Thus, of a possible number of canonical states, one can safely conclude that at the time of the Second Vatican Council, institutions of the Sisters of Providence functioned as ecclesiastical institutions owned by a canonical juridic person, either a religious house of the congregation or a parish. These institutions did not themselves possess corporate juridic personality. The next section looks at canonical ownership of ecclesiastical property.

C. *Ownership of ecclesiastical property*

Ownership of ecclesiastical property stands as a further element in determining the canonical status of institutions. The 1917 Code considered charitable institutions from this aspect in cc. 1495-1551 and cc. 531-537.⁸³ J.A. Doyle, following

⁸⁰*Ibid.*, p. 394.

⁸¹*CIC 1917*, 1490, §1: "In tabulis foundationis pius fundator accurate describat totam instituti constitutionem, finem, dotationem, administrationem et regimen, usum reddituum et successionem in bona, casu extinctionis ipsius instituti."

⁸²*CIC 1917*, c. 1489, §3: "Horum institutorum administrare bona sui cuiusque rectoris est, secundum normas tabulae foundationis..."

CIC 1917, c. 1491, §1: "Loci Ordinarius omnia huiusmodi instituta, etiam in personam moralem erecta et quovis modo exempta, visitare potest et debet." See also *CIC 1917*, cc. 1492-1494.

⁸³See M.G. DOYLE, *Catholic Hospitals in Canada*, pp. 214-265, for an extensive presentation on the ownership of Catholic hospitals under the 1917 Code.

P. Lombardía and J. Hervada, defines canonical ownership as: "The juridical capacity of certain subjects to acquire, retain, administer and alienate temporal goods in order to fulfill those purposes which are proper to the Church."⁸⁴ His definition involves three concepts, the capable subject, various juridic activities, and purposes proper to the Church for owning temporal goods. The following discussion addresses each of these elements.

1. *Capable subject*

Only juridic persons, as distinct from physical persons, possessed the capacity to own ecclesiastical property (c. 1495).⁸⁵ Either the juridic person of the Sisters of Providence or another Church entity, usually parishes in the case of elementary schools, owned the sisters' institutions. As long as those institutions did not possess juridic personality, they did not own ecclesiastical property in their own right.

While the Sisters of Providence canonically owned its institutions, it also owned them in the secular sphere through its civil corporation. The 1917 Code enjoined administrators to observe the rules of both canon law and civil law (c. 1523).⁸⁶ However, as c. 1495, §1, indicates, canonical ownership did not depend on civil authority as the Church owned property independently of any outside power. Such an assertion did not necessarily prevent conflicts between the laws of the two realms.

⁸⁴J.A. DOYLE, *Civil Incorporation of Ecclesiastical Institutions*, p. 112. See also P. LOMBARDÍA, "La propiedad en el ordenamiento canonico", in *Ius canonicum*, 2 (1962), pp. 405-424, and J. HERVADA, "La relación de propiedad en el patrimonio ecclesiastico", in *Ius canonicum*, 2 (1962), pp. 425-467.

⁸⁵*CIC 1917*, c. 1495, §1: "Ecclesia catholica et Apostolica Sedes nativum ius habent libere et independenter a civili potestate acquirendi, retinendi et administrandi bona temporalia ad fines sibi proprios prosequendos.

§2: "Etiam ecclesiis singularibus aliisque personis moralibus quae ab ecclesiastica auctoritate in iuridicam personam erectae sint, ius est, ad normam sacrorum canonum, bona temporalia acquirendi, retinendi et administrandi." See also *CIC 1917*, c. 531 (Rather than providing cross references to canons by page number, this paper refers the reader to an index of canons, found on p. 246).

⁸⁶*CIC 1917*, c. 1523, 2º: "Debent praescripta servare iuris tam canonici quam civilis..."

2. *Juridic activities*

Canonical legislation regulated the second element of J.A. Doyle's definition of the ownership of ecclesiastical property: the juridic activities of acquisition, retention, administration, and alienation (cc. 1495-1543, 531-537).⁸⁷ The norms specified which levels of authority could place which acts, procedures for accountability, and elements required for the validity of acts. In addition, a juridic person's charter provided specific norms regarding property. For a religious congregation this usually meant its constitutions and rules (c. 532).⁸⁸ Juridic persons could obtain and hold property in any just manner legitimately available to others, in which case they truly owned the property, under the authority of the Apostolic See (c. 1499).⁸⁹ Immediate administrators were to care for ecclesiastical property under the authority of the Roman Pontiff, the supreme administrator of canonical property, assuring its productivity and protection from loss (cc. 1518 and 1523).⁹⁰

⁸⁷*CIC 1917*, cc. 1495-1543 provide legislation on these juridic activities for the Church in general, while cc. 531-537 apply them specifically to religious.

⁸⁸*CIC 1917*, c. 532, §1: "Bonum tum religionis tum provinciae domusque, administrantur ad normam constitutionum."

See arts. 148-162, *Constitutions des Filles de la Charité Servantes des Pauvres* (= *SP Constitutions*), Montréal, Providence Maison Mère, 1925 (English translation in *Constitutions of the Daughters of Charity Servants of the Poor*, Rt. Rev. Edward O'Dea, trans., Montreal, Providence Mother House, 1925), as modified in 1959 and 1965, and arts. 194-217, *Coutumier des Filles de la Charité Servantes des Pauvres* (= *SP Customary*), Chapitre général de 1964, Montréal, Providence Maison Mère, 1964, (English translation in *Customary of the Daughters of Charity Servants of the Poor*, General Chapter of 1964, Montreal, Providence Mother House, 1964), for the constitutions and rules concerning property in force in 1965.

⁸⁹*CIC 1917*, c. 1499, §1: "Ecclesia acquirere bona temporalia potest omnibus iustis modis iuris sive naturalis sive positivi, quibus id aliis licet."

§2. "Dominium bonorum, sub suprema auctoritate Sedis Apostolicae, ad eam pertinet moralem personam, quae eadem bona legitime acquisiverit."

⁹⁰*CIC 1917*, c. 1518: "Romanus Pontifex est omnium bonorum ecclesiasticorum supremus administrator et dispensator."

3. *Purposes proper to the Church for the ownership of temporal goods*

The third element of J.A. Doyle's definition concerned purposes proper to the Church justifying canonical ownership. The 1917 Code never clearly specified the extent of those purposes. Juridic persons were constituted "for the purpose of religion or charity" (c. 100). Ecclesiastical property provided "the necessary means for conducting divine worship, for the decent maintenance of the clergy and other ministers, and for... other proper purposes" (c. 1496). Associations of the faithful promoted "a more perfect Christian life among... members [of the Church], the undertaking of works of piety and charity, or for the advancement of public cult" (c. 685).⁹¹ The Second Vatican Council spoke more specifically of charitable activities, particularly those proper to laity in the Church:

Wherever people are to be found who are in want of food and drink, of clothing, housing, medicine, work, education, the means necessary for leading a truly human life, wherever there are people racked by misfortune or illness, people suffering exile or imprisonment, Christian charity should go in search of them and find them out, comfort them with devoted care and give them the helps that will relieve their needs (AA 8).⁹²

CIC 1917, c. 1523: "Administratores bonorum ecclesiasticorum diligentia boni patrisfamilias suum munus implere tenentur; ac proinde debent:

"1° Vigilare ne bona ecclesiastica suae curae concredita quoquo modo pereant aut detrimentum capiant..."

Commentators on the 1917 Code never reached complete consensus concerning the nature and extent of the role of the Roman Pontiff as supreme administrator of property owned by juridic persons. See J.J. COMYNS, *Papal and Episcopal Administration of Church Property*, Washington, DC, The Catholic University of America Press, 1942, xiv-155p, Canon Law Studies no. 147, for an historical and analytical presentation of this subject.

⁹¹*CIC 1917*, c. 685: "...ad perfectionem vitam christianam inter socios promovendam, vel ad aliqua pietatis aut caritatis opera exercenda, vel denique ad incrementum publici cultus."

⁹²SECOND VATICAN COUNCIL, Decree on the Apostolate of Lay People, *Apostolicam actuositatem* (= AA), 18 November 1965, no. 2, in *AAS*, 58 (1966), p. 845 (English translation in *Vatican Council II: The Conciliar and Post Conciliar Documents* (= FLANNERY), new rev. ed., A.P. FLANNERY, ed., vol. 1, Northport/New York, Costello Publishing Co., 1984, p. 776).

Works of the Sisters of Providence, works of compassion and education, conducted by a congregation of lay religious working alongside other laity, certainly operated within the scope of activities truly useful to the mission of the Church.

In summary, at the time of the Second Vatican Council, the Sisters of Providence operated a number of educational and healthcare institutions as proper works of religious houses in service to the mission of the Church. The congregation established those institutions at the invitation and approval of the local bishops. As a consequence of its establishment and approval, first by the bishop of Montreal in 1843, then by Pope Pius IX in 1867, the Sisters of Providence possessed juridic personality, which constituted its property as ecclesiastical property. The congregation administered its institutions in accord with canonical regulations, never treating them as though they possessed juridic personality in themselves. At the same time, the Sisters of Providence were civilly incorporated in Washington Territory in 1859. Thus, the congregation established its institutions under its civil personality, as well as its canonical juridic personality. While the sisters' history had never remained static, it had developed in the vision and pattern set out by Mother Gamelin and Mother Joseph. That pattern, though, was changing in some dramatic ways.

III. FACTORS PRESSING FOR CHANGE

It goes without saying that the Second Vatican Council initiated or accompanied far-reaching changes in all aspects of the Church, including religious congregations and their institutions. In addition to the Council, massive changes were taking place in the North American social context. Studying the factors that led to change regarding the institutions of the Sisters of Providence in the western United States shows that they

originated largely from two sources, the congregation itself and the governance/managerial needs of its institutions. The next section briefly examines these factors.

A. *The needs of the Sisters of Providence*

The Second Vatican Council's decree on the renewal of religious life, *Perfectae caritatis*, directed religious congregations to undergo a renewal to adapt to changing conditions in the world. For the foundations of this renewal they were to look to the scriptures as well as to the spirit and aims of their founders. They were to share closely in the life and mission of the Church, obtaining an effective education for this charge, as they deepened their union with God by living the evangelical counsels (PC 2).⁹³ They were to examine their traditional works, if necessary leaving behind those that no longer met the needs of the times, while taking up new more useful ones (PC 20). *Lumen gentium*, the council's dogmatic constitution on the Church, reminded members of lay religious congregations that theirs was a lay state, not "as though it were a kind of middle way between the clerical and lay conditions of life" (LG 43).⁹⁴ The Sisters of Providence, with its history of responding to the needs of new settlements and always working with the laity, took these directives to heart by intensively examining the relevance of its institutions.

Two documents concerning the works of Sacred Heart and St. Ignatius provinces submitted to the General Chapters of 1964 and 1968 graphically illustrate this endeavor. The 1964 document, a "Personnel and Works Report", describes their apostolic activities by listing the number of their establishments, and a large variety of activities conducted

⁹³SECOND VATICAN COUNCIL, Decree on the Up-to-Date Renewal of Religious Life, *Perfectae caritatis* (= PC), 28 October 1965, in *AAS*, 58 (1966), pp. 702-712 (English translation in FLANNERY, vol. 1, pp. 611-623).

⁹⁴SECOND VATICAN COUNCIL, Dogmatic Constitution on the Church, *Lumen gentium* (= LG), 21 November 1964, in *AAS*, 57 (1965), pp. 1-89 (English translation in FLANNERY, vol. 1, pp. 350-426).

in them. In addition, it lists three categories of visits outside those establishments, to patients, the poor, or prisoners.⁹⁵ In contrast, the 1968 document consists of the provinces' self-studies on the apostolate. Sacred Heart Province's study begins by listing general problem areas facing the sisters, including the categories: general social conditions of our times; institutional problems of the Church; institutional problems of the congregation; apostolic goals of the congregation; current apostolic work that might be terminated or reduced; and the professional problems of sisters.⁹⁶ In the category, institutional problems of the congregation, the study asks the questions: Who should own specific institutions? Who should control them? Could it be lay persons? How should sisters be assigned to positions? It identifies current works that could be terminated, such as schools, hospitals, and works that duplicated the efforts of other agencies. Apostolic goals include a wide range of activities, such as established institutions, parish and social work. St. Ignatius Province's report states:

Most Sisters find that a change or revision of the work is needed if the work is to have a future since continuing in the *status quo* is impractical and almost suicidal in some cases because of lack of personnel and other resources.⁹⁷

Clearly, the sisters saw their works as rapidly changing in form and scope. The preaching of the Gospel called for change. They believed such change accorded well with the charism of Mothers Gamelin and Joseph who responded in diverse ways to the needs of the poor in their day.

⁹⁵"Personnel and Works: Provinces of the Sacred Heart and St. Ignatius", in *Circulars of the Superior General*, vol. XIV, Montreal, Providence Mother House, 1964-1970, pp. 141-143. This form, or one similar to it, had been submitted annually to Montreal for over 100 years.

⁹⁶"Study of our Apostolate as Requested at the 1967 Session of the Special General Chapter", in *ibid.*, pp. 599-603.

⁹⁷*Ibid.*, p. 631.

Historical records of the Sisters of Providence in the West continually complain of the lack of sister personnel. Mother Joseph's letters constantly reiterate the theme. As in the Gospel, the harvest was plenty, but the laborers few (Mt. 9:37).⁹⁸ From a demographic perspective, the two western United States provinces had already passed their peak number of 757 professed sisters in 1963. However, the modest decrease in numbers by 1968 cannot completely explain the unease concerning the availability of personnel.

That unease about numbers seems to have come from several sources. The most dramatic concerned the number of women entering the congregation. From a peak of thirty-nine entrants in 1962, the number dropped to one in 1968. The number of sisters leaving the congregation also greatly increased between 1965 to 1975. Many of those women were teachers under the age of 40. Another factor came from the professionalization of the institutions of the Sisters of Providence, which began early in the century. With the greater sophistication of the hospitals and schools, sisters no longer readily accepted assignment to top management positions without the requisite education. Combining the positions of principal or hospital administrator with that of superior of a religious house with a limited term restricted the pool of qualified administrative personnel. Questions about methods of assigning sisters and involving lay persons reflected these concerns. A third element lay in the expansion of works beyond the hospitals and schools. Every sister entering a new field, no matter how praiseworthy, meant one less for the established works.

⁹⁸BLANCHARD, *History of the Institute*, vol. V, pp. 71-73 ff.

B. Governance/Management of the institutions

Sisters of Providence were experiencing radical change at this time in regard to its schools. For nearly a century the congregation had essentially taken responsibility for all the schools which it operated. In 1965 those schools stretched from Alaska to California and east to Montana, including parish elementary schools, free-standing secondary schools, one diocesan college, and one college for the education of sisters. The sisters had served as a large majority of the teachers and all of the principals of these schools for, at most, token salaries. In addition, they taught in diocesan central high schools. The Sisters of Providence, as did other congregations of sisters, placed its schools and teachers under the direction of a superintendent of studies who saw to the professional qualifications of the teachers and principals, assigned personnel, and monitored the quality of education in the schools. In many ways, it operated with the sophistication of a school district. However, the governance of parish elementary schools gave rise to a number of problem situations. The parishes canonically and sometimes even civilly owned the property. The pastor held the title of head of the school with final authority on any issue, even though the sisters possessed the educational expertise.⁹⁹

By 1970 the entire system had unraveled. For many of the reasons cited above, sisters could no longer fill all the roles. Their replacements required salaries, which escalated costs with no hope of help from government aid.¹⁰⁰ In addition, the "baby boomers" were finishing their education, resulting in a much smaller number of available

⁹⁹See M.B. CELIO, "The Catholic Schools in Western Washington: A History, Description and Report on Recent Research", in *The Catholic School Study: Questionnaires, Report on the Research and Consultation Packet*, Seattle, Archdiocese of Seattle, The Catholic Schools Study of Western Washington, 1992, 41p. See also SEATTLE ARCHDIOCESE, "Catholic Schools: Goals/Strategies", in *Origins*, 23 (1993-1994), p. 241.

¹⁰⁰See L. PFEFFER, "An Analysis of Federal Aid to Parochial Schools", in *Journal of Church and State*, 3 (1961), pp. 137-148, for a presentation of the intense opposition, particularly by the Protestant press, to any proposal of aid to Catholic schools or to students attending them.

students. Many schools closed or merged. The remaining parish schools in the West no longer functioned as part of a congregation's school system. Sisters continued to serve as principals and teachers in these schools, but the congregation did not operate them.¹⁰¹

During the turmoil of this era, the Sisters of Providence first began to use the term "sponsorship" and to explore its implications. *Black's Law Dictionary* defines a sponsor as "a surety; one who makes a promise or gives security for another."¹⁰² W.A. Regan, one of the first to use the term sponsorship in published literature relating to Catholic healthcare institutions, describes it as the commitment of a religious body to render apostolic service in the context of a social institution which it governs.¹⁰³ Using such a definition, the Sisters of Providence asked the question, which schools did it sponsor as a congregation and in which schools did it serve under diocesan or parish sponsorship? Its answer correlated more or less with property ownership. If it owned

¹⁰¹According to M.B. Celio, in a personal interview of 25 January 1994, dioceses, which had never really understood the expertise that the sisters provided, did not try to compensate for its loss for at least ten to fifteen years. The schools functioned because of the efforts of sisters and former religious who continued to work at their accustomed level of professionalism, despite lack of support from the dioceses. She considers it a miracle that any viable Catholic schools remain in existence.

¹⁰²H.C. BLACK, *Black's Law Dictionary*, 5th ed., St. Paul, MN, West Publishing Co., 1983, p. 1257.

¹⁰³W.A. REGAN, "A Legal Analysis of the Ownership and Corporate Control of Catholic Hospitals", in *Hospital Progress*, 51 (1970), no. 10, p. 93.

the property, it sponsored the school.¹⁰⁴ Under these criteria, the Sisters of Providence in the western United States sponsored one college, and one high school in 1970.¹⁰⁵

Momentous changes of a different sort were occurring in the healthcare institutions. Of the twenty-two hospitals and six nursing homes which the Sisters of Providence operated at that time, only six were built after 1925. Subsequently, governmental standards had greatly changed, resulting in the demand for improved or new buildings. During the 1960s and 1970s, the sisters undertook a massive rebuilding program, eventually accumulating over one hundred million dollars of debt in Sacred Heart Province alone. They financed these endeavors through a combination of borrowing, local and state fund-raising, and Hill-Burton funds.¹⁰⁶ This plan worked well in a majority of cases, but not in all. When the local and state civic community did not support them, the congregation withdrew from the hospital. Usually, a local board was then formed to take over the hospital's administration. An account of the withdrawal from St. Joseph Hospital, Vancouver, Washington, provides a good illustration of this:

¹⁰⁴From a personal interview of 15 July 1993 with L. Frawley, director of the education ministry of Sacred Heart Province during the 1970s. This identification of some works as sponsored by the Sisters of Providence and others not so sponsored gave rise to a classification for an individual sister's own ministries. Those who worked in institutions owned and operated by the Sisters of Providence were termed as working in "corporate ministries", while those working in other institutions carried out "individual ministries". Thus in 1975, sisters who served as the principal and teachers of St. Joseph School in Yakima, Washington, for instance, were undertaking "individual ministries", even though the Sisters of Providence had provided parish elementary education there for 100 years. See "Personnel and Works: Provinces of the Sacred Heart and St. Ignatius", pp. 609-613, 631-632, for some of the beginnings of this linguistic change.

¹⁰⁵See Appendix A, p. 205.

¹⁰⁶For example, SACRED HEART PROVINCE, PROVINCIAL COUNCIL, Act of Council, 13 January 1962, Providence Archives, Montreal, approved a new hospital building for Providence Hospital, Seattle, Washington, to be financed with a \$4,000,000 loan, \$1,000,000 fund-raising, and \$1,000,000 Hill-Burton funds. The United States federal government provided Hill-Burton funds through a 1946 Act of Congress which made money available for hospital construction. In an interview of October 21, 1993, C. Abhold, provincial treasurer of Sacred Heart Province during the 1950s and early 1960s, said that the provincial government of Sacred Heart Province decided to avoid a too heavy reliance on Hill-Burton funds because of some of the perpetual requirements such funds entailed.

In the last four years there have been repeated requests to rebuild the old St. Joseph Hospital, now become unacceptable to the accrediting agencies. Yet it was operating at full capacity. It was, however, impossible to think of such an extensive project especially when we could not rely on sufficient help from federal and state sources. We were therefore forced to announce to the public that St. Joseph Hospital would have to close its doors, much to the distress of the Vancouver people who wanted to keep the sisters at all cost. More requests followed, new propositions made, but there was no other way out but to transfer it to a lay administration.¹⁰⁷

By the mid-1970s, the Sisters of Providence of Sacred Heart and St. Ignatius provinces had withdrawn from eight hospitals and closed two nursing homes. It had rebuilt all its remaining pre-World War II hospitals except Providence Hospital, Oakland, California.

Changes in the healthcare institutions did not arise only from the necessity to rebuild the physical structures. They also came from the need to revise governance and management structures. Until this time, the hospitals had operated as separate units. However, economic and social factors in the late 1960s and early 1970s were encouraging hospitals to form larger systems.¹⁰⁸ Because governance of the healthcare institutions so involved the governance of the Sisters of Providence as a religious congregation, actions concerning the one strongly affected the other. Systemization of the healthcare institutions would bring greater demands on the provincial council. This in turn meant that the council could devote less attention to the sisters of the province or to apostolic endeavors beyond the scope of the sponsored institutions. Because of this conflict, the sisters of Sacred Heart Province passed a resolution at the 1971 meeting of their legislative assembly calling for the separation of the religious congregation's

¹⁰⁷"Houses Closed", in *Circulars of the Superior General*, vol. XIV, pp. 348-349.

¹⁰⁸See W.A. REGAN, "Corporate Changes in Catholic Hospitals", in *Hospital Progress*, 52 (1971), no. 11, pp. 64-67.

governance from that of the province business corporation.¹⁰⁹ It would take twenty years to comply fully with that resolution.

CONCLUSION

When Mother Joseph of the Sacred Heart (Esther Pariseau) and her four young companions came to the Oregon Country in 1856 as the first members of the Sisters of Providence from Montreal, they came with almost no possessions. Instead, they came as religious women in the Church with a vision and a tradition sprung from Mother Emilie Gamelin and her associates of caring for the poor, the sick, and those needing education, completely confident that God's Providence would provide and not abandon them. Over the years the congregation and its institutions contributed greatly to the development of the territory. Often it established an area's first institutions of social welfare, even though the Catholic population always remained relatively small. It constantly undertook risks, with never enough money or personnel to accomplish its ventures in the judgement of conventional wisdom. For most of the last half of the 19th century, Mother Joseph provided the leadership, the practical wisdom, and the confidence in Providence to lead the sisters and keep them from bankruptcy.

In 1859, the Sisters of Providence received the second charter of incorporation issued by Washington Territory. That charter clearly illustrates the sisters' involvement in two worlds, that of the Church and of the civic community. The Gospel and canon law ruled the one, while civil laws ruled the other.

¹⁰⁹R-132, "Separation of Religious Community from Province Business Corporation", in SISTERS OF PROVIDENCE, SACRED HEART PROVINCE, *Legislative Assembly Minutes*, Providence Archives, Seattle, 1971, pp. 32-34, 40-41 (Policy 11, "Separation of Religious Community from Business Management Functions", in SISTERS OF PROVIDENCE, SACRED HEART PROVINCE, *Provincial Directory*, Providence Archives, Seattle, 1990, p. I-1).

After a century of continuous development, the social climate of the 1960s and the Second Vatican Council brought great demands on the sisters. In response, the congregation closed some of its institutions and withdrew from others. Sisters entered into new works without necessarily opening new institutions owned and operated by the Sisters of Providence. Those institutions that the congregation did retain needed large scale reorganization both for their own sake and for that of the internal governance of the congregation itself.

Thus, with the beginning of the 1970s, the Sisters of Providence in the West, especially in Sacred Heart Province, were beginning a long process of reorganization. That process would not only change job descriptions, it would change aspects of the nature of the relationship between the Sisters of Providence and its institutions. The challenge facing the congregation required diligent effort to remain true to the demands of both its membership in the Church and its integration in the civil state.

CHAPTER TWO

SPONSORSHIP AND ECCLESIASTICAL CONTROL

By the end of the 1960s the Sisters of Providence in the western United States had begun to use the concept of "sponsorship" to characterize its relationship to its healthcare institutions. Through its apostolic mission of service to the poor, its canonical status in the Church, and its administrative and governance structures established in accord with canon law, the congregation had provided an effective link between its institutions and the Church. Through its civil incorporation, the it had always civilly owned a healthcare institution's property, thanks to Mother Joseph's policies. From the beginning its members served as the administrators of the hospitals and nursing homes, though they usually had constituted no more than a minority of the staff, as such institutions could employ hundreds or even thousands of people. Such facilities involve large investments of money and resources, often coming from public sources, which situation has led to the enactment of extensive civil legislation concerning them. Hence, the congregation has operated healthcare institutions within both the civil and canonical worlds.

Sponsorship of healthcare institutions has developed in a number of stages with the Sisters of Providence. Their first concerns involved ownership of property. As ecclesial, social, economic, and political conditions have changed, new issues have risen requiring modifications in their thinking. Theoretical changes have generally required changes in governance and operations for both the sisters and their institutions, a cycle of change that has repeated itself several times in the past twenty-five years.

Chapter Two looks at the first major phase in the development of sponsorship of healthcare institutions by the Sisters of Providence. It began with a desire to improve the management of several hospitals and nursing homes, while at the same time assuring the congregation's fundamental control over them. Regional differences have led to different developments in Sacred Heart and St. Ignatius provinces, with the most extensive activity during this first phase taking place in Sacred Heart Province. Chapter Two concentrates on its story.

I. REORGANIZATION OF 1970-1973

Sacred Heart Province entered the 1970s under the leadership of B.E. Lundberg, who came from a background of hospital administration. In 1963 she received a fellowship from Columbia University's Program of Continuing Education in Hospital Administration, through which she gained a strong conviction of the importance of good organization and management. When she was elected provincial superior of Sacred Heart Province in 1970, she brought those convictions to her new post. Within a few weeks of assuming office, she and her council engaged the management consultant firm, Louis Allen and Associates (Louis Allen) of Palo Alto, California, to help them "in developing management action in our chain of 11 west coast hospitals."¹ Lundberg identifies a number of factors suggesting such a step:

Our original problems were to find the resources to establish a hospital in a particular city, and then to do everything in our power to make it survive....All of us in the health care industry are well aware that the whole process of management today is very different. Costs are spiraling, scrutiny by Federal, State, and third party payers is increasing;

¹B.E. LUNDBERG, *Improving Management Action in a Chain of Eleven Hospitals (= Improving Management Action)*, Issaquah, WA, Sisters of Providence, Sacred Heart Province, 1973, pp. 3-4.

employees and consumers are making more demands. Effective management is a must if we are to meet these increasing demands.²

This process, which took until 1973, proved only the first of such efforts.

At the time of the Louis Allen study, the Sisters of Providence of Sacred Heart Province operated eleven hospitals in the states of Alaska, Washington, Oregon and California, with 2,770 beds. In addition, they operated two nursing homes, including one for children, with a total of 293 beds. Over 7,000 employees and 2,000 doctors worked at these institutions.³

A. *Objectives of the reorganization*

After conferring with both the sisters of the province and hospital administrative personnel, Louis Allen identified three objectives for the reorganization process: clearly expressing the healthcare mission, including goals and objectives; developing an appropriate province governance structure, separating internal religious congregation affairs from business matters; and improving the management process for healthcare operations.⁴

1. *Clearly formulating the healthcare mission*

In the years following the Second Vatican Council the Sisters of Providence had been intensely examining its mission and its relationship to its institutions. The sisters studied the scriptures, the conciliar texts, and their own history to formulate their mission in a way that corresponded to their spirit and contemporary concerns. The 1970 Constitutions used this expression:

²Ibid., p. 8.

³See Appendix A, p. 205, for a designation of the hospitals and nursing homes involved.

⁴LUNDBERG, *Improving Management Action*, p. 16.

Christ invites us to discover Him more especially in suffering, and to serve Him in the spiritual and corporal works of mercy. Our love for neighbor takes on concrete form as it reaches out to those who are abandoned, deprived, or afflicted.

The mandate received from the Church when it approved our Institute motivates us to serve the poor in effective and relevant ways. The full dimension of our vocation is expressed in the motto: "The love of Christ overwhelms us".⁵

Of course, the challenge lay in identifying and rendering service to the poor in "effective and relevant ways", particularly within the context of a healthcare institution.

Chapter resolutions during these years illustrate that among the sisters' concerns, poverty and social justice held a special place. The sisters examined their individual and communal lifestyles from the perspective of women who had made vows of poverty and who were living in a world beset with world-wide poverty. As a 1974 general chapter resolution stated:

Today we find ourselves situated in a divided world of rich and poor where the person or nation who "has" has power over the person or nation who "has not." We recognize that poverty exists primarily because of the economic, political and social decisions of the rich. For the most part we find ourselves among the rich of the world.⁶

The chapter, in accord with the directives of the Second Vatican Council, challenged each Sister of Providence to simplify her lifestyle and lower her standard of living.⁷ The reality of poverty closely attended the reality of injustice in the world. The sisters saw their mission as in some way addressing those societal injustices. Again, as the 1974 general chapter proclaimed:

⁵Article d, *Constitutions et Règles: Soeurs de la Providence*, Montréal, Providence Maison Mère, 1970, p. 19 (English translation, Article d, *Constitutions and Rules of the Sisters of Providence*, Montreal, Providence Mother House, August 1970, p. 19).

⁶"Decisions of the 1974 General Chapter", in *Circulars of the Superior General*, vol. XVI, p. 23.

⁷Ibid., p. 27. See PC 13.

We religious have a leadership role to play by living the Gospel radically and thereby denouncing all injustice...Every Sister of Providence must participate in the community's corporate response to the question: "How shall the cry of the poor find an echo in our lives?"⁸

Discussions on poverty and social justice raised uneasy questions in considering the place of healthcare institutions in this agenda. Could the sisters live more poorly or stand in solidarity with the poor while owning and operating institutions worth many millions, perhaps billions, of dollars? Did the institutions, in some cases the largest economic forces in their communities, stand with the "haves" or the "have nots"? Did they exemplify Christian principles of social justice in relating to their employees? If the sisters found the answers to these questions unsatisfactory, should they be supporting the institutions? Specifically, how did the Sisters of Providence desire the hospitals and nursing homes to behave, always within the constraint of attending to their economic survival? At the time of the Louis Allen study, Sacred Heart Province could not give its administrative personnel a clear answer to the last question, a situation it wished to address as a result of the study.

2. *Adopting effective province governance structures*

The governance structures of Sacred Heart Province's institutions had been evolving throughout the 1960s. As late as 1964, the administrator of an institution of the Sisters of Providence usually served as the superior of the local religious house. As superior she held a canonical office with personal authority relating to the sisters of the house, as well as the oversight of the institutional work. As administrator she held a leadership position in an institution operating most obviously under the principles of good management and civil regulations. Little distinction was made between these two roles.

⁸"Decisions of the 1974 General Chapter", p. 31.

As a healthcare facility grew in size and complexity, the role of the superior/administrator also grew in scope, which could lead to confusion and conflicts between these two roles. It could also produce an overwhelming burden for the superior/administrator, especially in large houses. The general chapter of 1964 considered at some length one aspect of these potential conflicts by addressing the relationship between the superior/administrator and the treasurer, who also held a dual role as treasurer of the religious house and of the healthcare institution. The chapter desired to protect the religious authority of the superior and at the same time promote efficient operations. To do this, it identified a number of principles, stating that the superior's office included authority over the management of the whole house, that the treasurer exercised her office under the superior's authority, and that the superior could delegate some of her authority to others, including lay personnel.⁹ The same chapter also included sample organization charts for large and small religious houses and their works, which illustrated the lines of authority for the religious and other personnel.¹⁰

By 1966, the provincial council of Sacred Heart Province was separating the roles of administrator of a healthcare facility and superior of the religious house.¹¹ Several reasons prompted these actions. It lessened the burden on the superior/administrator.

⁹"Decisions of the 1964 General Chapter", in *Circulars of the Superior General*, vol. XIV, pp. 50-60. In determining these principles, the 1964 general chapter made liberal use of two articles by J.I. O'CONNOR, "Religious Life and Management Principles", in *Hospital Progress*, 42 (1961), no. 5, pp. 107-109, 172-173, and "Canon Law Demands Competence", in *Hospital Progress*, 45 (1964), no. 2, pp. 70-74, 123.

This dissertation will at times use the term "lay" when referring to non-clerics not belonging to the Sisters of Providence. Since members of the Sisters of Providence, as women, cannot be ordained clerics, technically the term does not distinguish the sisters from other lay persons (LG 43). However, common usage at the time, even as today, often did not use the correct technical terminology.

¹⁰See Appendix C, pp. 220-221.

¹¹With the adoption of the revised constitutions in 1985, congregational texts have employed the term "provincial superior and council". Before then, such texts commonly used "provincial council". This study will follow the usage of the time under discussion.

It opened the way for an administrator to serve for a longer period of time than the maximum of six years permitted by c. 505 of the 1917 Code for a superior of a religious house. Also, it increased the number of people available to serve as superiors, as more sisters saw themselves competent to serve as superior of a household of sisters than to administer a healthcare facility. This development reinforced the concept that superiors and administrators worked in different realms with different focuses, the superior primarily in the realm of personal authority in the religious community life of the sisters, the administrator in the realm of business and institutional management.

The provincial council was also separating the finances of the works of the apostolate from those of the religious houses and personnel. At this time, the separation consisted of distinct accounting systems rather than separate legal entities.¹² The move demonstrated that assets of an institution served the public good, not the private good of the sisters, because the sisters claimed for their own use only the compensation they received as its employees.

These new arrangements could lead to practical and theoretical questions when realms overlapped.¹³ In the canonical sphere the administrator apparently now acted with the delegated authority of the provincial superior. Consequently, the immediate source of authority for an institution, which had been established as the proper work of the juridic person of the local house, was transferred to the level of the province. Did this affect the canonical status and ownership of the institution? Did separation of finances of an institution affect its canonical regulation? Before the Sisters of Providence could

¹²*Sisters of Providence Pariseau Association: Chronological Events*, Providence Archives, Seattle, March 1979, pp. 1-2.

¹³See J.I. O'CONNOR, "The Relationship of Superior and Administrator", in *Hospital Progress*, 47 (1966), no. 3, pp. 58-64, 82, where he discusses the potential conflicts of this model and some ways of addressing them. On p. 62, he recommends carefully choosing two compatible persons as superior and administrator, delineating each one's rights and duties and norms for overlapping situations.

satisfactorily answer these or related questions, the situation would change again, raising new issues.

During the year 1970, for the first time in its history, the provincial council of Sacred Heart Province named a lay man as administrator of one of its hospitals. By the summer of 1972, seven men held such posts.¹⁴ The advent of administrators who did not belong to the Sisters of Providence required new governance structures and thinking. On the local level, lay men as administrators of the hospitals further separated the governance of religious congregation affairs from institutional management. No corresponding separation had been taking place with province level governance. Lundberg describes the provincial council's functions:

The Governing Board of all the health care institutions of the Sisters of Providence had been traditionally composed of six or seven sisters. When it was a corporate matter we wore our "Governing Board" hat. When it was a religious Community matter, the same women donned their "Provincial Council" hat. So the same group was handling religious and business affairs, with little or no distinction made between the two.¹⁵

Without the support of centuries of carefully developed religious governance structures, and without the common experience of initiation in a novitiate, the new administrators looked for direction to the governing board of the civil corporation, which consisted of the provincial council. These increased demands on its services threatened to overwhelm the council's effectiveness in leading the sisters in their religious community life.

As the governance of the healthcare institutions was evolving, governance of the religious congregation on the province level was also evolving. Some of these

¹⁴B.E. LUNDBERG, "Provincial Superior's Report", in SISTERS OF PROVIDENCE, SACRED HEART PROVINCE, *Legislative Assembly Minutes*, 1972, pp. 20-21. W.C. Conley, of Providence Hospital, Portland, OR, served as the first lay administrator of a hospital belonging to the Sisters of Providence of Sacred Heart Province. It would take until the end of the 1980s for a woman, other than a Sister of Providence, to be named administrator of one of its hospitals.

¹⁵LUNDBERG, *Improving Management Action*, p. 9.

developments came directly from the deliberations of the Second Vatican Council. Perhaps the renewed concept of religious authority as service played the most significant role in this regard. Conciliar and post-conciliar documents directed religious superiors to govern in a spirit of service in a participative manner with their subjects through chapters and councils as a means of enlisting their cooperation in the continuing process of renewal (PC 14).¹⁶

A second source of change in the thinking and practice of province level governance structures came from the field of organizational sociology. Practitioners such as W.P. Sexton were challenging religious institutes to reorganize or face extinction. Religious congregations were operating on the model of impersonal bureaucracies, a model that embodies efficiency but neglects concern for the personal needs and participation of its members. Sexton suggested that religious congregations could vastly improve their effectiveness by the use of a few contemporary techniques, such as delegation of authority, participation, committee management, and systems application.¹⁷

Sacred Heart Province readily took these directives to heart, initiating a legislative assembly process to determine provincial policies.¹⁸ It also formed province level professional boards to provide a means of utilizing the accumulated wisdom of the sisters

¹⁶Participation of the members in the ministry of religious authority came to include the three subjects of collegiality, co-responsibility, and subsidiarity. To act in a collegial mode commonly refers to the making or affirming of decisions by a body consisting of the superior and the governed, or at least their representatives. Co-responsibility involves the sharing of authority and responsibility beyond a single person, such as through councils and consultation with those affected by a decision. Subsidiarity calls for people's ability to make a decision at the most appropriate organizational level, a de-centralization rather than a concentration of authority. For a more complete discussion of these concepts and their relationship to religious authority, see G. NEVILLE, *The Religious Superior's Council*, JCD dissertation, Ottawa: Saint Paul University, 1988, pp. 87-98.

¹⁷W.P. SEXTON, "Reorganization or Extinction", in *Review for Religious*, 28 (1969), pp. 83-92.

¹⁸Strictly speaking, "provincial chapter" more correctly describes this body than "legislative assembly" because the assembly's decisions required approval by both the provincial superior and the superior general.

to assist the provincial council. Thus, while direct involvement of the sisters in the governance of congregational works was diminishing on the local level, it was increasing on the province level through the activities of its legislative assembly and boards. However, without greater clarity of goals and processes regarding institutional works, these bodies could complicate rather than enhance the province's overall governance. In the light of all these developments, Louis Allen, the provincial council, and the sisters of Sacred Heart Province through its legislative assembly all agreed on the need to reorganize province level governance structures, including a separation of religious congregation matters from business corporation affairs.¹⁹

3. *Improving the healthcare management process*

Improving hospital and nursing home management required two kinds of actions: development of a clear management process within an individual institution and taking advantage of the potentials of developing as a healthcare system. The first concerned an individual facility's internal management and its relationship to higher governing bodies. The second concerned cooperation and centralization among the various institutions.

The lay administrators were relating directly with the provincial council in its capacity as a governing board more frequently than the sister administrators had in the past. No orderly procedures yet existed for such an altered relationship. Depending on the issue or the individual, a given administrator might relate to one or several members of the governing board in a pattern that could differ from one administrator to another. Institutions varied in the quality of their internal organization. The Louis Allen

¹⁹LUNDBERG, *Improving Management Action*, p. 10. See also resolution R-132, "Separation of Religious Community from Province Business Corporation", in SISTERS OF PROVIDENCE, SACRED HEART PROVINCE, *Legislative Assembly Minutes*, 1971, pp. 32-34, 40-41 (Policy 11, in SISTERS OF PROVIDENCE, SACRED HEART PROVINCE, *Provincial Directory*, p. 1-1).

consultants observed that, in spite of a "structural, conceptual jungle", the administrators were doing a surprisingly good job, but they were doing it the hard way.²⁰

The second action concerned developing the healthcare facilities into a system, taking advantage of the benefits of some centralization and pooling of resources. The hospitals had been moving in this direction for some time. For example, finance managers had been meeting together annually since 1955. Other efforts included province-wide insurance risk coverage, a Sisters of Providence pension plan, health and life insurance, and an annuity program, as well as such centralized services as legal representation, accounting, development, public relations, and real estate. In fact, a nascent central corporate management staff already existed.²¹ Other Catholic healthcare providers throughout the country were also systemizing their hospitals, such as the Sisters of Mercy of the Detroit Province.²² The leaders of Sacred Heart Province and the consultants believed that systemization could provide a means to measure relative effectiveness, facilitate a real interchange of information, and promote synergy through a "common core, common thread, common direction."²³

²⁰LUNDBERG, *Improving Management Action*, pp. 11-12.

²¹In 1963 the provincial council of Sacred Heart Province hired J. Greeley and W. Tobin to act as Director of Development and Public Relations Manager respectively, for fund-raising efforts related to the Hill-Burton Act. See M. NEVINS, *The History of The Corporate Management Staff*, Providence Archives, Seattle, n.d., p. 1.

²²E.M. BURNS, "Developing a Catholic Health Care System", in *Hospital Progress*, 57 (1976), pp. 48-54, 80. Burns reports that the Sisters of Mercy consulted with 14 different systems "from California to Pennsylvania and from North Carolina to North Dakota" in determining their course of action (p. 51).

²³LUNDBERG, *Improving Management Action*, pp. 13-16.

B. *Results of the reorganization*

As a result of the Louis Allen study, Sacred Heart Province undertook a number of steps affecting its sponsorship of healthcare institutions.

1. *Key and critical objectives*

A task force met to formulate key and critical objectives for Sacred Heart Province, which were published in 1972. In 1975, the province published key and critical objectives, along with performance standards, for the healthcare ministry. The fact that one can read them today and still find them relevant speaks well for the achievement of their creators. They provided a clear measurable expression of the sisters' mission and values in a format that could be readily communicated to people joining the healthcare ministry.²⁴

2. *Reorganized province governance structures*

Sacred Heart Province extensively reorganized its province level governance structures concerned with sponsorship of healthcare and education institutions. By March 1973, it reorganized its civil structure by establishing four corporations, the Sisters of Providence of Washington, the Sisters of Providence of Oregon, the Sisters of

²⁴SISTERS OF PROVIDENCE, SACRED HEART PROVINCE, *Key and Critical Objectives*, Providence Archives, Seattle, 1972, 17p., and *Key and Critical Objectives: Health and Social Services Division*, Providence Archives, Seattle, 1975, 13p. As an example of the health ministry objectives, Critical Objective 1.0, found on p. 4, reads:

ASSURE QUALITY OF LIFE. *To take positive steps to safeguard life and assure quality of life.* **STANDARDS:**

- a. All our activities are directed toward the total well being of the person, including the physical, social, psychological, and spiritual.
- b. We endeavor to assure that our activities and service keep man in harmony with all nature.
- c. We strive to better the situation of those whom society places in a less than human situation.
- d. We see to the provision of alternatives for persons who because of personal or societal pressures seek to destroy life.
- e. In all our endeavors we support and implement the teachings of the Church on the sacredness of life.

Providence of California, and the Pariseau Association. The state corporations held the assets of the facilities located in that state, with Washington also holding those of the Alaskan institutions. The Pariseau Association held the assets relating to the support of the sisters themselves, such as their retirement fund.²⁵

Each new state corporation operated as a non-membership corporation with a two-tiered governing structure. The provincial council served as the board of directors, the highest governing body of the corporations.²⁶ The provincial superior acted as chair of the board, while another member of the council held the position of president of the corporation. The board of directors made the ultimate decisions on matters affecting the total province and those dealing with canonical legislation. Below the level of the board of directors came the governing board which handled most of the affairs of the corporation. It consisted of the board of directors, the administrators of the institutions of that corporation, and a new officer, the executive vice president of healthcare operations. This new officer reported to the board of directors and possessed line authority, providing overall leadership and direction for the thirteen healthcare institutions. On the level of the individual healthcare facility, the administrator was delegated to organize, operate, and maintain the day-to-day functions of the institution.²⁷

The sisters of the province participated in this governance process by electing the provincial superior and her council. They proposed policy through the legislative assembly and professional boards. Such an arrangement provided a forum for the sisters

²⁵LUNDBERG, *Improving Management Action*, p. 17. The Washington corporation held six hospitals and one nursing home; the Oregon corporation three hospitals and one nursing home; the California corporation two hospitals and one high school. The Pariseau Association held Providence Heights, formerly the College of Sister Formation, as well as various capital funds.

²⁶See Appendix C, p. 222.

²⁷LUNDBERG, *Improving Management Action*, pp. 17-20.

to express their voice, while it prevented any overburdening of the legal structure by placing that voice in the context of the religious community rather than the civil corporation.²⁸

The reorganization process also continued the separation of assets used for the support of the religious congregation from those of the works of the apostolate. After 1975, Sacred Heart Province no longer used exclusively religious congregation assets as collateral to back new long-term loans for works of the apostolate. By 1977 it had refinanced any loans for those works to remove such monies that had been used as collateral. By 1978 the accounting system in each institution clearly identified sisters' unpaid back salaries as a debt to the congregation.²⁹

3. *Improved healthcare management process*

In order to improve the healthcare management process, Sacred Heart Province commissioned Louis Allen to conduct a management education program for all its healthcare facilities' managers. It required each institution to clarify its organization plans in order to improve its decision-making, communication, and leadership development processes. The appointment of an executive vice-president of healthcare affairs marked a major step in the development of the central corporate management staff, a significant force in forging the healthcare facilities into a system. That process would accelerate in pace and expand in scope in future years. Finally, the province conducted a system-wide public opinion survey of the doctors, employees, and patients of the healthcare facilities, in all surveying 17,300 people. The results provided an

²⁸See MAIDA and CAFARDI, *Church Property, Church Finances, and Church Related Corporations: A Canon Law Handbook*, pp. 171-177, for further discussion of the advantages of this kind of arrangement.

²⁹*Sisters of Providence Pariseau Association*, p. 2-3. In the early 1980s the Sisters of Providence withdrew this back salary from the state corporations, thus completing the financial separation.

information base for evaluating the individual institutions, as well as the system as a whole.³⁰

The completion of the reorganization process resolved and clarified several governance issues relating to sponsorship in Sacred Heart Province. The administrators could now work from an expression of the mission of the Sisters of Providence clearly formulated in terms of objectives and behavioral standards. The new governance structure separated business affairs of the province from religious congregation affairs. It maintained control over the institutions, increased their efficiency of operation, and provided a means for all members of the province to participate in corporation governance. Separation of strictly congregational assets from institutional ones helped to clarify some of the issues of personal and communal poverty for the sisters. Management processes within individual institutions and between them and higher levels of governance were clarified and strengthened. Nonetheless, the reorganization did not answer all of the canonical questions.

II. CANONICAL ISSUES

The 1970s saw considerable activity and uncertainty concerning canonical governance and control of church institutions. Pope John XXIII had set the revision of canon law as one of his objectives in calling the Second Vatican Council. With the council completed, the revision process was going forward, bringing into question the status of the 1917 Code.³¹ Some of its prescriptions regarding ecclesiastical property had proven outdated or impractical decades before, leading North America to stop observing

³⁰D. TAYLOR, J.R. LARSON, and J.W. TOBIN, "Sisters of Providence Conduct Opinion Study at Their 11 Hospitals", in *Hospital Progress*, 53 (1972), no. 12, pp. 32-44.

³¹See J.A. ALESANDRO, "The Revision of the Code of Canon Law: A Background Study", in *Studia canonica*, 24 (1990), pp. 91-146.

them, with at least the toleration of the highest levels of church authority. As a result, very little jurisprudence or literature had developed concerning temporal goods in the Church.³² Such theoretical and practical uncertainties about the law affected the Sisters of Providence in Sacred Heart Province as it was adapting to the changing conditions of sponsoring healthcare and education institutions. The greatest difficulties lay in the areas of administration and alienation of ecclesiastical property, particularly some prescribed forms of ecclesiastical control over certain activities.

A. *Administration and alienation of ecclesiastical property*

The 1917 Code identified two categories of recurring financial activities in its treatment of temporal goods, ordinary and extraordinary administration. Ordinary administration included those acts needed for usual operations, while extraordinary administration concerned actions of more serious consequence or infrequent actions, such as the approval of annual budgets, major expenditures, or building projects. These activities required the involvement of a higher level of governance, such as councils, or major superiors (c. 1527).³³ The constitutions, the customary, and various regulations emanating from the congregation's general administration provided specific guidelines concerning ordinary and extraordinary administration. The general chapter of 1968 had set \$10,000 as the maximum expenditure that a provincial superior could authorize with

³²J.A. CORIDEN and F.R. MCMANUS, "The Present State of Roman Catholic Canon Law Regarding Colleges and Sponsoring Religious Bodies", in P.R. MOOTS and E.M. GAFFNEY, *Church and Campus: Legal Issues in Religiously Affiliated Higher Education*, Notre Dame, IN, Notre Dame Press, 1979, pp. 141-142. See also C.J. RITTY, "Changing Economy and the New Code of Canon Law", in *The Jurist*, 26 (1966), pp. 469-484, for an analysis of the inadequacies of the 1917 Code's treatment of temporal goods in the light of the economic realities of the mid-twentieth century.

³³*CIC 1917*, c. 1527, §1: "Nisi prius ab Ordinario loci facultatem impetraverint, scriptis dandam, administratores invalide actus ponunt qui ordinariae administrationis fines et modum excedant." See also *CIC 1917*, cc. 532 and 1520.

the consent of her council.³⁴ In the practical order this meant that the institutions submitted yearly budgets to the provincial council in Seattle, which in turn submitted them for approval to the general council in Montreal. Unforeseen expenditures exceeding \$10,000 required the approval of the general council, an amount that did not provide for a very large margin of error in budgeting for a healthcare facility, even in 1968.

Actions disposing of preservable, or stable, ecclesiastical property, also called stable patrimony, or which gave another party a right in its ownership, came under the category of alienation, then considered a special form of extraordinary administration (cc. 1530-1534).³⁵ Stable patrimony, a concept comparable to an endowment for the support of a juridic person, included immovable goods, such as land or buildings, goods of special historical or artistic value, and fixed capital, that is, money placed in dedicated funds for specific purposes. Money not so invested, such as operating funds, belonged to the category of liquid or free capital not subject to the formalities of alienation.³⁶ According to c. 534, valid acts of alienation for religious congregations, as for other juridic persons, required permission of higher levels of authority. Alienating precious goods or those exceeding the value of "30,000 lire or francs", about \$6,000 American dollars, required the permission of the Apostolic See. By the 1970s that limit had been

³⁴"Decisions of the 1968 General Chapter", in *Circulars of the Superior General*, vol. XIV, pp. 535-536.

³⁵For an excellent summary of the concepts of alienation in the 1917 Code and its situation in the 1970s, see F.G. MORRISEY, "Conveyance of Ecclesiastical Goods", in *CLSA Proceedings*, 38 (1976), pp. 123-137.

³⁶*Ibid.*, p. 123. Morrissey observes that the canonical regulations seemed to reflect the European experience at the end of World War I where money held far less value than land and buildings, whereas the opposite might hold true today. This helps to explain why the canons granted a general council unlimited power to authorize operating expenditures of many millions of dollars while requiring it to seek Vatican approval for mortgages of a few thousand.

raised to \$15,000 for the United States, while Canada could use \$300,000.³⁷ Again, in the practical order when an institution needed to borrow money, take out mortgages, or sell assets, it obtained permission from the provincial council in Seattle, who obtained permission from the general council in Montreal, who obtained Vatican permission, a process that involved a significant and variable amount of time.³⁸ As a matter of fact, the Sisters of Providence, as did other religious congregations, used much higher limits than the official ones. A survey of its financial archives from 1950 to date could find no indult from the Holy See for an alienation of less than \$150,000. The evidence shows

³⁷*CIC 1917*, c. 534, §1: "Firmo praescripto can. 1531, si agatur de alienandis rebus pretiosis aliisve bonis quorum valor superet summam triginta millium francorum seu libellarum, vel de contrahendis debitis et obligationibus ultra indicatam summam, contractus vi caret, nisi beneplacitum apostolicum antecesserit; secus, requiritur et sufficit licentia, in scriptis data, Superioris ad normam constitutionum cum consensu sui Capituli seu Consilii per secreta suffragia manifestato..." See also cc. 1530-1534.

BOUSCAREN, T.L., A.C. ELLIS, and F.N. KORTH, *Canon Law: A Text and Commentary*, Milwaukee, The Bruce Publishing Co., 1966, 841-843; SACRED CONGREGATION FOR RELIGIOUS (= SCREL), Letter, 30 June 1962, *Alienations and Debts: New Temporary Limit-Values for Religious*, in *Canon Law Digest: Officially Published Documents Affecting the Code of Canon Law (= CLD)*, T.L. BOUSCAREN, ed., vol. V, Milwaukee, Bruce Publishing Co., 1958-1962, pp. 376-377; SECRETARIUS STATUM, Rescript, *Cum admotae*, in *AAS*, 59 (1967), pp. 75-76 (English translation in *CLD*, vol. VI, p. 149). D. STAMP, in *Alienation of Temporal Goods in Clerical Religious Institutes*, JCD dissertation, Ottawa, Saint Paul University, 1993, pp. 85-93, traces the complex history of the authorized alienation limit for religious congregations and other juridic persons, such as dioceses. As of 1964, religious congregations could use the limits set by the national conferences of bishops for their own dioceses. Morrissey suggests, that the fact that bishops usually did not request indults for alienation for their dioceses probably explains why the United States bishops had not increased their limits. The Vatican did enforce the requirement with religious congregations of women (MORRISSEY, "Conveyance of Ecclesiastical Goods", p. 124). As the superior general of the Sisters of Providence resided in Canada, she could use the Canadian limits.

³⁸The process of petitioning the Holy See for an indult for alienation provides an example of some of the uncertainties of canon law at this time. Apparently only one letter had ever appeared from the Vatican giving procedures for seeking this indult (SCREL, Letter, *Formalities Required for Alienation of Property or Contracting of Debt*, 13 November 1936, in *CLD*, vol. II, pp. 161-166). Neither this letter nor c. 534 mentions the involvement of a local bishop in the process for religious congregations of pontifical right. Yet, the SCREL would grant the approval only with his *nihil obstat*. In addition, the rescript usually required his decree of implementation. Since at least 1990, indults have taken effect upon issuance. See, P. SHANNON and D.M. WILSON, *Disposition of Real Estate by Religious Institutes*, Washington, DC, National Association of Treasurers of Religious Institutes, 1987, pp. 25-27. See also "Rescripts for Loans and Alienations of Property of Religious Institutes", in *Roman Replies and CLSA Advisory Opinions 1991*, Washington, DC, CLSA, 1991, p. 6.

that the Sisters of Providence respected the principles of canonical administration and alienation of property, while experiencing the general uncertainty regarding its details.

B. *Identification and governance of ecclesiastical property*

1. *The situation in Canada*

A very active question during the 1970s concerned the identification and status of ecclesiastical property. For the Sisters of Providence of Sacred Heart Province the question arose with events occurring in other provinces of the congregation, and in other Catholic institutions in the United States. A 1968 general chapter resolution reads:

Canadian hospitals which are incorporated individually or which operate on governmental budgets completely covered by public grants, need not submit to religious control, as they are not considered ecclesiastical property. Bill 44 or the Hospitals Act in the Province of Quebec has been a hidden expropriation.³⁹

The Hospitals Act declared any separately incorporated hospital as a publicly owned entity governed under public law. Interpretation of the act considered any assets transferred to such a hospital corporation as freely donated, thereby exempting it from any claim for compensation by the originating body, such as a religious congregation. In 1968, the sisters still governed these hospitals as the boards of directors of the civil

³⁹"Decisions of the 1968 General Chapter", p. 536.

corporations, though now exclusively subject to government approval and funding.⁴⁰ The resolution continues:

In other Canadian provinces, when all current or operating expenses as well as capital expenditures are entirely paid out of public funds and require government approval before being undertaken, it does not seem necessary to obtain the approval of religious superiors, unless part of the expenses be paid with community funds, or if the community as such must guarantee indebtedness...

On the other hand, in other countries where our community is still the owner of our houses, religious control must be kept and consequently, extraordinary expenses must be submitted for the approval of the religious authorities.⁴¹

It would appear that the resolution intended to recognize changed conditions in Canada, but considered them unchanged in the United States regarding ecclesiastical property.

2. *The McGrath/Maida debate*

Nonetheless, debate was taking place in the United States over the issue of the identification and governance of ecclesiastical property. In 1967, J.J. Flanagan, then president of CHA, and J.I. O'Connor wrote on the difficulties of operating large public

⁴⁰"Hospitals Act", *Revised Statutes of the Province of Quebec 1964, chapter 164*. In a personal interview of 14 March 1994, M.-P. Levaque, general treasurer of the Sisters of Providence at the time of the act's passage, reports that the congregation itself, without specific canonical counsel, arrived at the opinion that the hospitals need not submit to religious control as they were no longer ecclesiastical property. They considered the Hospitals Act a hidden expropriation and reported it as such in question 105 of the Quinquennial Report, the five year report on the institute required at that time by the Holy See. See SCREL, Decree, *Decree on the Quinquennial Report of Religious and Others, and on the Annual Prospectus*, 9 July 1947, in *CLD*, vol. III, p. 176. In 1971 the Quebec legislature passed "An Act respecting health services and social services", *Resolution 1971, chapter 48*, which prohibited religious congregations from holding controlling interest on the boards of directors of healthcare institutions, an act the sisters treated as direct expropriation. In this case they requested an indult for alienation from the Holy See equal to the relatively small amount of money Quebec was willing to pay the sisters for 10 years of unpaid back salaries. See SACRED CONGREGATION FOR RELIGIOUS AND SECULAR INSTITUTES (= SCRIS), Rescript, 3 November 1973, Prot. N. 45994/73, Providence Archives, Montreal, 1p.

The Quebec hospitals story remains to be told. See G. BAUM, *The Church in Quebec*, Ottawa, Novalis, 1991, 184p., for one account of Quebec and the Catholic Church during the "Quiet Revolution". All during this time, because the general administration of the Sisters of Providence resided in Montreal, these events provided a counterpoint to the very different developments regarding the Sisters of Providence and their institutions in the West.

⁴¹"Decisions of the 1968 General Chapter", pp. 536-537.

service facilities with an inadequate canonical legal structure. The authors proposed redefining ecclesiastical property as those temporal goods belonging to a juridic person which "directly and primarily service the ecclesiastical moral person and do not primarily service the good of the general public." Canon law would then apply to this kind of property, while only civil law would regulate everything else.⁴² They also argued that governing a Catholic institution, such as a hospital, through the mechanism of the governance of a religious house ignored the reality that the vast majority of personnel and funding came from other sources. Such a governance structure, established primarily for promoting the community life of the religious congregation, did not address the concerns of most of those directly involved in the Catholic institution, a situation they regarded as a clear violation of the Second Vatican Council's emphasis on the role of the laity in the mission of the Church.⁴³

The publication of J.J. McGrath's *Catholic Institutions in the United States* in 1968 set the shape of the debate for the next decade. McGrath argued that, since most Catholic institutions in the United States had not received the status of juridic persons in

⁴²J.J. FLANAGAN and J.I. O'CONNOR, "Institutional Business Administration and Religious", in *Review for Religious*, 26 (1967), p. 789. The authors suggested several means to accomplish this. The revised code could change the definition of ecclesiastical property. New institutions could be incorporated totally separate from the religious institute, excluding them from the institute's assets and canonical regulation. Religious institutes could request an indult from the Holy See for alienating presently held institutions, then govern them under civil law. If they found civil law required them to administer current institutions exclusively under itself and in conflict with canon law, they could consider it a type of expropriation and deduct the value of the entities from the next Quinquennial Report (pp. 788-791). This article may well have influenced the 1968 chapter resolution. During the Code revision process, the *Coetus de bonis Ecclesiae temporalibus* did raise the question of making a distinction between temporal goods held for the sustenance of a religious institute and goods pertaining to its institutional works. The *coetus* referred the matter to the *Coetus de institutis perfectionis*, but the distinction did not appear in the 1983 Code (PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, "Coetus studiorum 'De bonis Ecclesiae temporalibus'", in *Communicationes*, 12 [1980], p. 392).

⁴³FLANAGAN and O'CONNOR, "Institutional Business Administration and Religious", pp. 783-786, 795. The argument would hold by extension when governance was transferred from the individual religious house to the province level of the religious congregation.

themselves, their separate civil incorporation, accompanied by a transfer of their assets to the new corporation, would in effect alienate them from ecclesiastical control. As no juridic person would hold title to these institutions, the 1917 Code would require the Church to follow the civil law in their regard through c. 1529, which canonizes the civil law on contracts.⁴⁴ McGrath concluded his comments by saying:

If anyone owns the assets of the charitable or educational institution, it is the general public. Failure to appreciate this fact has led to the mistaken idea that the property of the institution is the property of the sponsoring body.⁴⁵

McGrath addressed the question of what then would make an institution Catholic. He proposed that Catholic identity came with the influence a sponsoring body exercised over an institution through its civil corporation structure. He then made some recommendations for accomplishing this.⁴⁶

Accordingly, an adherent to McGrath's thesis could argue that almost all Catholic institutions, in the United States at least, were exempt from ecclesiastical administrative control because of their civil incorporation. R.T. Kennedy's review of the debate engendered by McGrath's thesis identifies some reasons for its favorable reception: it provided a canonical rationale for both ecclesiologically and economically desirable actions; it erected a protection against legal liability of sponsors for the actions of the institutional works; it removed those works from sectarian status, making them eligible

⁴⁴J.J. MCGRATH, *Catholic Institutions in the United States: Canonical and Civil Law Status*, Washington, DC, The Catholic University of America, 1968, p. 24.

CIC 1917, c. 1529: "Quae ius civile in territorio statuit de contractibus tam in genere, quam in specie, sive nominatis sive innominatis, et de solutionibus, eadem iure canonico in materia ecclesiastica iisdem cum effectibus servantur, nisi iuri divino contraria sint aut aliud iure canonico caveatur."

⁴⁵MCGRATH, *Catholic Institutions in the United States*, p. 33.

⁴⁶*Ibid.*, p. 33.

for government funding; and it freed administrators from unreasonable and unworkable canonical regulations.⁴⁷

A.J. Maida, now cardinal archbishop of Detroit, MI, provided the principal rebuttal to McGrath's views. He described the thesis as a legal theory that accomplished "what Henry VIII did with a sword in England, what Napoleon did with his armies in France, what Lenin did with a political philosophy" in stripping the church of its property.⁴⁸ Maida argued that, if a juridic person owned an institution, then civilly incorporated it, such civil incorporation had no effect on the canonical status of the institution which remained part of the entity that brought it into existence in the first place. The religious congregation or diocese was simply using the civil mechanisms available to assure the legal ownership of the property.⁴⁹ The institution remains ecclesiastical property, so its administration must comply with the regulations of both civil law and canon law. Then Maida presented a number of recommendations for establishing and controlling a civil corporation to assure this compliance in service to the Church's mission.⁵⁰ In an unusual move, two Vatican congregations entered the

⁴⁷R.T. KENNEDY, "McGrath, Maida, Michiels: Introduction to a Study of the Canonical and Civil-Law Status of Church-Related Institutions in the United States", in *The Jurist*, 50 (1990), pp. 362-363. The issue of legal liability of church entities for the actions of church sponsored institutions continues as a most serious one. Before the 1940s, United States law exempted charitable institutions from such liabilities. However, since then the courts have gradually removed the exemption. Interestingly, one of the first landmark cases in this process concerned Providence Hospital, Oakland, CA. See A. JOACHIM, "Legal Aspects of Charitable Institutions", in *Thought*, 15 (1940), pp. 237-244. See also E.M. GAFFNEY and P.C. SORENSEN, *Ascending Liability in Religious and Other Nonprofit Organizations*, Macon, Mercer University, 1984, xvi-147p., and W.W. BASSETT, "Christian Rights in Civil Litigation: Translating Religion into Justiciable Categories", in *The Jurist*, 46 (1986), pp. 229-288.

⁴⁸A.J. MAIDA, "Canon Law/Civil Law Status of Catholic Hospitals", in *Hospital Progress*, 54 (1973), no. 7, p. 54.

⁴⁹Ibid., p. 60. The 1983 Code included this form of vigilance as one of the requirements for administrators in *CIC 1983*, c. 1284, §2, 2°.

⁵⁰MAIDA, "Canon Law/Civil Law Status of Catholic Hospitals", pp. 61, 80.

discussion, issuing letters firmly proclaiming their non-acceptance of the "McGrath thesis", while not specifically endorsing any opposing argument.⁵¹

Maida's initial arguments appeared to cover a large number of Catholic institutions in the United States.⁵² Yet, a McGrath proponent could argue that it probably did not address the situation of the Sisters of Providence in Sacred Heart Province. The congregation established its institutions under the prior existence of their civil incorporation which held the title to those institutions' property. The McGrath thesis would hold that, if assets had been given by benefactors directly to the civil corporation and not to the religious congregation, then those assets never canonically belonged to the juridic person in virtue of the principle of the intention of the donor.⁵³ In 1975, Maida wrote *Ownership, Control and Sponsorship of Catholic Institutions*, obviously meant to answer McGrath while never actually mentioning his name. In this work Maida introduced an opinion concerning the establishment of juridic persons:

It seems that it can be concluded that non-collegiate ecclesiastical institutes no less than associations of the faithful, are constituted as moral personalities in the Church by the very fact that they are formally established by ecclesiastical authority. This is true as long as nothing expressly to the contrary is stated by the superior who has power to establish such entities. Therefore, the very fact that a Bishop can establish a parish, and hence a moral person in the Church or a Major Superior can establish a religious house and hence, a moral person in the Church,

⁵¹SACRED CONGREGATION FOR CATHOLIC EDUCATION (= SCIC), Private letter, "McGrath Thesis" on *Constitution of Ecclesiastical Property*, 2 January 1974, Prot. N. 427/70/15, in *CLD*, vol. IX, pp. 367-369, and SCIC and SCRIS, Private letter, "McGrath Thesis" on *Constitution of Ecclesiastical Property*, 7 Oct 1974, Prot. NN. SCIC, 427/70/23 and SCRIS, 300/74, in *CLD*, vol. IX, pp. 369-371.

⁵²On the other hand, as Kennedy points out, it may not have addressed all the cases it appeared to cover, because if a juridic person conveyed assets to a newly incorporated institution the action itself remained "canonically ambiguous". It may have indicated a true canonical alienation. Each case requires separate examination. See KENNEDY, "McGrath, Maida, Michiels", p. 375.

⁵³*Ibid.*, p. 375. See also J.F. LAHEY, *Faithful Fulfillment of the Pious Will: A Fundamental Principle of Church Law as Found in the 1983 Code of Canon Law*, Washington, DC, The Catholic University of America, 1987, vi-193p., Canon Law Studies, no. 521, for a presentation of the canonical principles involved.

indicates that such superiors can establish a hospital, a college or an old age home as a moral person implicitly, in pursuance of the mission or apostolate of the Diocese or Religious Order...it must be concluded that all Catholic charitable institutions either partake of, or are part of, an already existing moral person or, if they are separate entities apart from any other moral person, are constituted moral persons in the decrees, resolutions or published communiques of the competent ecclesiastical authorities which bring these institutions into being.⁵⁴

The proposition that a major superior confers juridic personality on a Catholic institution by establishing it, as long as nothing in the act of establishment contradicts that intent, would address the situation in which civil incorporation precedes the establishment of an institution by a religious congregation. The institution would then unquestionably begin and remain under ecclesiastical control. However, as Kennedy demonstrates, Maida's position fails to stand up to scrutiny because the 1917 Code did not provide for such a method of conferral of juridic personality and religious superiors, whether clerical or lay, did not possess the competence to create juridic persons. When they did establish entities which attained juridic personality, for example, a religious house, they did so not on their own authority, but through a specific provision in the law.⁵⁵ Perhaps because of these factors, Maida's next publication on the topic did not include the "establishment alone" opinion.⁵⁶

It proves a difficult task to determine to what extent this debate directly influenced the Sisters of Providence in the 1970s. Actually, the literature of the time does not extensively cover the controversy, even though it apparently affected the activities of many religious congregations in their reorganization of universities and other Catholic

⁵⁴A.J. MAIDA, *Ownership, Control and Sponsorship of Catholic Institutions*, Harrisburg, PA, Pennsylvania Catholic Conference, 1975, pp. 37-38.

⁵⁵KENNEDY, "McGrath, Maida, Michiels", pp. 380-381.

⁵⁶MAIDA and CAFARDI, *Church Property, Church Finances, and Church Related Corporations*, pp. 21-30.

institutions.⁵⁷ A search of the archives of the Sisters of Providence reveals no mention of the debate, nor any canonical opinions on these matters. At the same time, indirect evidence indicates that it certainly did exert an influence. If Sacred Heart Province strictly followed the McGrath thesis, it could consider none of its healthcare institutions as ecclesiastical property, thereby exempting them from canonical regulations on temporal goods, including the actions of higher levels of authority in the religious congregation. On the other hand, if it followed Maida, then all of its institutions remained under traditional forms of ecclesiastical control. One of the greatest crises of the 1970s for Sacred Heart Province illustrates very well the issues of the McGrath/-Maida debate.

III. CANONICAL GOVERNANCE OF TEMPORAL GOODS

A. *Providence Hospital, Oakland, California*

In 1902, as one of her last acts, Mother Joseph advised the sisters to go to Oakland, a far distant and very different venture for the Sisters of Providence. Oakland lies on the east side of the San Francisco Bay. Rather than the near wilderness setting of most of their other houses, it already had taken its place as part of one of the largest metropolitan areas on North America's west coast. The first hospital building opened in 1904, growing to 254 beds by 1970. Because of economic factors it remained the last hospital in Sacred Heart Province to be rebuilt, operating in violation of all state regulatory codes. The population of central Oakland, where Providence Hospital stood, consisted largely of ethnic minorities and the poor. Even though three hospitals now

⁵⁷See KENNEDY, "McGrath, Maida, Michiels", p. 362, for a review of additional literature involved in the McGrath/Maida debate.

operated on the same hill, called "Pill Hill", often only Providence would serve that population. Predictably, the hospital found itself in a precarious financial position.⁵⁸

When Sacred Heart Province considered the options of rebuilding or closing Providence Hospital, 60,000 individuals and the State of California supported the sisters in rebuilding the hospital.⁵⁹ The hospital prepared a long range development plan involving several phases, the first phase of which the general council approved in 1973 at a projected cost of \$8,000,000. The province obtained the endorsement of the Bishop of Oakland, who initiated the process of seeking an indult for alienation through the Apostolic Delegate to the United States. Apparently, either the bishop or the Delegate had some concerns about the project and the petition was not pursued at that time.⁶⁰ In December 1974, Providence Hospital's administrative council approved a proposal to replace the current facility at a cost of \$26,650,000. Projected sources for funding included Hill-Burton Funds, funds generated from hospital operations and civic community fund-raising, and money borrowed by Sacred Heart Province through the Sisters of Providence in California Corporation and guaranteed by the State of California. The provincial council approved the project on 24 January 1975. The general council, after much prayer, denied its approval on 3 February 1975.⁶¹

⁵⁸No comprehensive history of Providence Hospital, Oakland, CA, exists at this time. See SISTERS OF PROVIDENCE, GENERAL COUNCIL, *Petition for Indult for Alienation* (= *General Council Petition*), 26 January 1976, Providence Archives, Montreal, p. 2.

⁵⁹SACRED HEART PROVINCE, PROVINCIAL COUNCIL, *Petition for Approval by the General Council* (= *Provincial Council Petition*), 24 January 1975, Providence Archives, Montreal, p. 1.

⁶⁰*General Council Petition*, p. 2. See also M. SMITH, Letter, *Indult Status for Providence Hospital, Oakland*, 29 September 1975, Providence Archives, Montreal, 2p. The pursuit of the indult through the Apostolic Delegate seems quite surprising.

⁶¹PROVIDENCE HOSPITAL, OAKLAND, ADMINISTRATIVE COUNCIL, *Petition for Approval by Provincial Council*, 16 December 1974, Providence Archives, Montreal, 2p.

A brief examination of the stated reasons for the actions of both the provincial and general councils helps explain each group's thinking. The provincial council spoke in terms of the mission of the Sisters of Providence, particularly as Providence Hospital, the only Catholic hospital in Oakland, was providing one of the primary sources of medical care and employment for the poor of the area. In addition, it cited the state's nonacceptance of the current building, the support of the civic community for the project, and the province's intention of requiring a modification to the proposal should less money be raised than anticipated. Finally, it considered the situation a "now or never" one, as it was laboring within a very narrow window of opportunity regarding the timing of available funding.⁶² The general council spoke in terms of the hospital's poor financial history and its uncertain prospects for future financial viability. It believed the projected funding sources overly optimistic. Since Sacred Heart Province had already incurred a debt approaching 100 million dollars in rebuilding the hospitals, it questioned the province's ability to assume additional debt. If the province defaulted on its loans, the general council believed that the liability would then revert to the congregation as a whole. It raised concerns about the older age of the sisters at Providence Hospital and the little likelihood that the situation could improve, given the demographics of the province. Finally, it referred to a decision of the 1974 general chapter to restrain the growth of the institutions.⁶³

⁶²*Provincial Council Petition*, p. 1.

⁶³*General Council Petition*, p. 3. An examination of the 1974 general chapter resolutions does not readily indicate a specific decision to which the general council was referring when it spoke of restraining the growth of institutions. Perhaps, though, a letter of 28 July 1977 illustrates its thinking and experience. In that year, the Sisters of Providence successfully concluded negotiations for the sale of a number of nursing homes to the Quebec government, in contrast to the earlier non-reimbursed expropriation of the hospitals. G. Villeneuve, then superior general, wrote: "The Second Vatican Council, the pontifical teachings, our desire to return to a more simple life-style according to our origins have helped us to accept, with a certain spiritual freedom, the social circumstances in which we have been immersed. We will soon abandon the ownership of our institutions to lay administrators. This sale is imposed on us through

In conversations following the negative decision, the provincial council of Sacred Heart Province assured the general council that responsibility for the debt for Providence Hospital, Oakland, would rest totally with the hospital and civil corporations, not with the religious congregation.⁶⁴ The provincial council, after prayer, as a matter of conscience, for the sake of the mission, and painfully aware of the possible negative consequences of its actions, agreed that events at the hospital had advanced too far to turn back. In its capacity as the board of directors of the California corporation, it gave the approval to proceed with the rebuilding project, though on a reduced scale. Projected funding for the venture was now to come from Hill-Burton funds, civic community fundraising, and state guaranteed borrowing, all public sources, with none from the religious congregation as such.⁶⁵ In September of 1975 Sacred Heart Province once again requested assistance from the general council in obtaining a papal indult for alienation to cover the borrowed funds. The general council submitted its petition to the Holy See on 26 January 1976, as a means of regularizing the situation for the province. At the same time it requested to be dissociated from all responsibility for the project. SCRIS issued an indult addressed to the Bishop of Oakland not only for the amount of money to be borrowed, but for all the funds involved in the project, including the government grants. It absolved the general council from any liabilities regarding the transactions, placing the bishop in the position of special responsibility for the financial oversight of

numerous factors: the fast decreasing number of sisters, the median age, difficulties in meeting higher professional standards, the cost of living, new legislation in all spheres, etc....Will we not be, in a way, delivered from slavery?" (G. VILLENEUVE, "Sale of Our Nursing Homes and the Apostolate of a Sister of Providence", in *Circulars of the Superior General*, Vol. XVI, Supplement, p. 1).

⁶⁴SACRED HEART PROVINCE, PROVINCIAL COUNCIL, Telegram, 9 February 1975, Providence Archives, Montreal, 1p.

⁶⁵*General Council Petition*, p. 4. See also PROVIDENCE HOSPITAL, OAKLAND, ADMINISTRATIVE COUNCIL, Presentation, *Hospital Replacement Project*, 20 August 1975, Providence Archives, Montreal, 12p.

the rebuilding of the hospital, because he was "optimistic about the success of the undertaking." As one enduring effect of the affair, indults for alienation issued by the Vatican congregation now include the phrase "without any liability on the part of this same Congregation."⁶⁶

B. *Two approaches to temporal goods*

For several years after the Oakland crisis, the provincial council of Sacred Heart Province and the general council of the Sisters of Providence followed two different philosophies corresponding to the McGrath/Maida debate concerning ecclesiastical property and its control. From 1976-1984 Sacred Heart Province did not consider it necessary to submit the annual budgets of its institutions to the general council for approval, while the provincial council in its capacity of board of directors of the civil corporations continued to approve them. During these same years it also did not consider it necessary to seek indults for alienation referring to the institutions. On the other hand, it did submit annual budgets to the general council for the expenditures of the members of the province. When it sold the former College of Sister Formation, which it had always held in the Pariseau Corporation as religious congregation assets, it sought an indult for alienation.⁶⁷ The author could find no explicit formulation of the principles guiding these actions. Nevertheless, an item included in a report to the province's legislative assembly regarding the institutions reads:

The 1917 *Code of Canon Law* stated these properties to be ecclesiastical properties simply because they were held by religious women. In fact, these properties are not, nor ever have been at Church

⁶⁶SCRIS, Rescript, 22 July 1976, Prot. N. 8004/76, Providence Archives, Montreal, 1p. See CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE (= CICLSAL), Rescript, 10 August 1991, Prot. N. 87640/91 for an example of the non-liability clause (both in Providence Archives, Montreal).

⁶⁷SCRIS, Rescript, 24 October 1978, Prot. N. 24365/78, Providence Archives, Montreal, 1p.

disposal. The Secretary of State of the State of Washington determines disposition of all properties of nonprofit corporations at time of dissolution.⁶⁸

Intentionally or not, the final conclusion of this statement lies squarely within the McGrath thesis. Clearly the province believed that the institutions, operating as civilly incorporated entities funded entirely through public, though not necessarily governmental monies, fell into a category exempt from canonical regulation concerning extraordinary administration and alienation. During these years it governed those institutions in a manner not unlike the 1974 general chapter prescriptions for Canadian hospitals outside the province of Quebec.

The general council in the meantime supported Maida's positions as the petition of 26 January 1976, demonstrates. In addition, M.-P. Levaque, then general treasurer, served as a member of an international task force to study the alienation of ecclesiastical goods.⁶⁹ The task force reviewed and reaffirmed traditional principles for administering the Church's temporal goods, while acknowledging the then uncertain state of the law. Its observations identified the need for: the principle of accountability of administrators; a limitation on the ability of an entity to contract debt which reflected its current indebtedness and size; a limitation on the use of free capital; competent administrators who would follow both canon law and civil law; and an agreement on the designation of ecclesiastical property. The report concluded:

The norms on conveyance and alienation can be observed without too much difficulty if they are understood correctly and have reasonable limits within which to operate.⁷⁰

⁶⁸"Corporate Structure and Religious Community Report", in SISTERS OF PROVIDENCE, SACRED HEART PROVINCE, *Legislative Assembly Minutes*, 1977, p. 9.

⁶⁹MORRISEY, "The Conveyance of Ecclesiastical Goods", p. 137. This article serves as a presentation of the task force's results.

⁷⁰*Ibid.*, pp. 134-136.

Indeed, this study contributed greatly in changing the nature of the debate from a question of whether to observe canon law, to that of how to make the law workable in the contemporary situation and how to help people correctly understand it.

C. *A unified approach to temporal goods*

The McGrath/Maida debate has not yet reached a final resolution. Kennedy observes:

Both authors oversimplified the issue... The present canonical status of institutions established while the 1917 code was in effect seems far more complicated than either McGrath or Maida appeared to realize.⁷¹

Although McGrath and Maida used different theoretical models, both of their recommendations involved control of the civil corporation structure to assure the Church's mission. Thus, by the end of the 1970s sponsors of Catholic institutions, regardless of their stance in the debate, were focusing on corporation structures.

McGrath identified four "vehicles" for exerting influence on an institution: 1) the charter and by-laws; 2) the board of trustees; 3) the administration; and 4) the staff of the corporation.⁷² Between 1973 and 1984 Maida developed an evolving list of recommendations concerning the corporation structure and the functions and powers of its component elements.⁷³

⁷¹KENNEDY, "McGrath, Maida, Michiels", pp. 400-401.

⁷²MCGRATH, *Catholic Institutions in the United States*, p. 33.

⁷³MAIDA, "Canon Law/Civil Law Status of Catholic Hospitals", pp. 61, 80. See also A.J. MAIDA, "Canonical and Legal Fallacies of the 'McGrath Thesis' on Reorganization of Church Entities", in *Catholic Lawyer*, 19 (1973), pp. 284-285; MAIDA, *Ownership, Control and Sponsorship of Catholic Institutions*, pp. 59-65; and MAIDA and CAFARDI, *Church Property, Church Finances, and Church Related Corporations*, pp. 155-170. Even before Maida was writing on ownership and control of Catholic institutions from a canonical perspective, W.A. Regan was treating the same concepts from a civil law perspective, presenting similar recommendations (REGAN, "A Legal Analysis of the Ownership and Corporate Control of Catholic Hospitals", pp. 92-94, 98).

Maida proposed that sponsoring groups use a membership corporation with the canonical stewards as members, that is, those administrators whom canon law directly charges with the responsibility for the mission and preservation of the institution. He held that if a juridic person establishes an institution, the canonical stewards for the juridic person also hold canonical responsibility for the institutions. Consequently, the major superiors of a religious congregation would serve as the canonical stewards of its institutions.⁷⁴ The articles of incorporation should reserve certain key powers to the members, of which he identified five as essential:

- To establish the philosophy according to which the corporation operates;
- To amend the corporate charter and bylaws;
- To appoint the board of trustees;
- To lease, sell, or encumber corporate real estate;
- To merge or dissolve the corporation.

In addition he listed three others as helpful, though not essential:

- To appoint or approve the appointment of the corporation's chief executive officer (CEO);
- To approve capital and operating budgets;
- To require a certified audit of corporate finances and to appoint the certified public accountant to perform the audit.⁷⁵

The corporation's board of trustees, that is, its board of directors, serving under the authority of the members, would direct the operations of the corporation. This schema allows a sponsoring body to utilize the corporation structure to assure that the institution remained focused on the Church's mission as it complied with the regulations of both canon law and civil law for the administration of temporal goods. Separate civil existence can also serve to protect the sponsoring body from financial liability arising from the actions of the corporations. On the other hand, a sponsoring body must take

⁷⁴MAIDA and CAFARDI, *Church Property, Church Finances, and Church Related Corporations*, pp. 61-66.

⁷⁵*Ibid.*, p. 157. Pages 155-164 give the essentials of Maida's recommended structures.

care to respect the reality of the separation. Differences in matters as names, assets, logos, addresses, and boards of directors can help demonstrate the separation.⁷⁶

While the 1973 reorganization of the civil corporations in Sacred Heart Province did not utilize a membership model in its specific details, it accomplished Maida's objectives regarding reserved powers by designating the provincial council as the sole members of the board of directors and reserving the desired powers to it. The governing board, which included the board of directors, then functioned entirely under the authority of the board of directors. The structure provided for tight control. At the same time it suffered the disadvantage of requiring a greater investment of time and energy by the provincial council in the ordinary governance of the corporation. This factor would play an increasingly important role in the development of sponsorship in the years to come.

By the end of the 1970s, the Sisters of Providence, both in Montreal and Seattle desired a unified approach to the canonical administration of the institutions. To accomplish this, Sacred Heart Province needed to understand correctly the current canonical regulations and to organize its procedures accordingly. At the same time, the generalate needed to establish realistic and workable congregational guidelines applicable to a province with an annual operating budget exceeding one half billion dollars.⁷⁷ Both of these objectives would take time. To further this end, the provincial council gathered the institutions' legal and financial personnel in February 1983. F.G. Morrissey spoke on current canonical administration of ecclesiastical property, while C. Houde, general treasurer, presented the generalate's expectations and practices regarding church property

⁷⁶Ibid., pp. 201-210.

⁷⁷WASHINGTON HEALTH CARE FACILITIES AUTHORITY, *\$89,000,000 Variable Rate Demand Revenue Bonds (Sisters of Providence), Appendix A: Information Concerning the Obligated Group (= 1985 Bond Issue Memorandum)*, Providence Archives, Seattle, 1985, p. A-13.

as influenced by the 1983 *Code of Canon Law*.⁷⁸ This meeting led to the eventual adoption of a revised form of administration entirely conformable to the canonical prescriptions of the new code and the requirements of the civil legislation.

D. *Administering temporal goods under the 1983 Code of Canon Law*

The 1983 *Code of Canon Law* approaches the administration of temporal goods in a manner similar to the householder of the Gospel who brings out from the storeroom both the new and the old (Mt. 14:52). It retains fundamental concepts of the 1917 Code, such as ecclesiastical property, ownership, ordinary and extraordinary administration, and alienation, placing them in the new context of the Second Vatican Council. Now the code speaks more clearly of the purpose of possessing those goods, the need for consultation, accountability, justice, attention to civil law, and modern economic practices. Likewise, the revised code assumes the involvement of competent persons, lay or clerical, male or female.⁷⁹ Proper law plays a special role in accomplishing these goals by providing for flexibility in applying general principles in very different environments with very different juridic persons.

1. *Purpose of temporal goods*

Canons 1254-1310 of Book V consider temporal goods in general, while cc. 634-640 examine them in the specific context of religious institutes. From the beginning, the code clearly identifies the purpose for the Church's possession of temporal goods as the "pursuit of its proper ends" (c. 1254):

⁷⁸C. HOUE, Address, 16 February 1983, *Expectations and Practices of the General Council in Regard to Church Property, Acquisition, and Alienation*, Providence Archives, Seattle, 12p.

⁷⁹For a very good presentation on the spirit of the new code's treatment of temporal goods, see F.G. MORRISSEY, "New Canon Law on Temporal Goods Reflects Vatican II's Influence", in *The New Canon Law: Perspectives on the Law, Religious Life, and the Laity*, St. Louis, MO, CHA, 1983, pp. 49-61, and V. DE PAOLIS, "Temporal Goods of the Church in the New Code with Particular Reference to Institutes of Consecrated Life", in *The Jurist*, 43 (1983), pp. 343-360.

To order divine worship, to provide decent support for the clergy and other ministers; to perform the works of the sacred apostolate and of charity, especially towards the needy.⁸⁰

Canon 634 enjoins religious institutes to "avoid all appearance of luxury, immoderate wealth and amassing of goods."⁸¹ Canon 635 reaffirms the designation of temporal goods belonging to a religious institute as ecclesiastical goods, thereby making them subject to the regulations of Book V.⁸²

2. *Justice*

The Church must observe principles of justice in using temporal goods. Such goods belong to the juridic person that acquires them (c. 1256).⁸³ Owners must respect the intentions of donors who gave the goods, rendering accounts to them for the use of those goods according to the norms of proper law (cc. 1267 and 1287).⁸⁴ Administrators must "observe meticulously the civil laws pertaining to labor and social policy", paying employees "a just and decent wage so that they may provide appropriately for their needs

⁸⁰*CIC 1983*, c. 1254, §1: "Ecclesia catholica bona temporalia iure nativo, independenter a civili potestate, acquirere, retinere, administrare et alienare valet ad fines sibi proprios proseguendos.

§2: "Fines vero proprii praecipue sunt: cultus divinus ordinandus, honesta cleri aliorumque ministrorum sustentatio procuranda, opera sacri apostolatus et caritatis, praesertim erga egenos, exercenda."

⁸¹*CIC 1983*, c. 634, §2: "Vitent tamen quamlibet speciem luxus, immoderati lucri et bonorum cumulationis."

⁸²*CIC 1983*, c. 635, §1: "Bona temporalia institutorum religiosorum, utpote ecclesiastica reguntur praescriptis Libri V *De bonis Ecclesiae temporalibus*, nisi aliud caveatur."

⁸³*CIC 1983*, c. 1256: "Dominium bonorum sub suprema auctoritate Romani Pontificis, ad eam pertinet iuridicam personam, quae eadem bona legitime acquisiverit."

⁸⁴*CIC 1983*, c. 1267, §3: "Oblationes a fidelibus ad certum finem factae, nonnisi ad eundem finem destinari possunt."

CIC 1983, c. 1287, §2: "De bonis, quae a fidelibus Ecclesiae offeruntur, administratores rationes fidelibus reddant iuxta normas iure particulari statuendas."

and those of their family, with special reference to those working for the Church (cc. 231 and 1286).⁸⁵

3. *Consultation and supervision*

The 1983 Code assumes that more than one person takes part in more serious financial decision-making through the process of consultation as specified in proper law. In a religious institute such acts usually occur with the concurrence of the religious superior, the finance officer, and the superior's council (c. 635).⁸⁶ Canon 638 directs proper law "to determine acts which exceed the limit and manner of ordinary administration and to determine those things which are necessary to place an act of extraordinary administration validly." Those designated things usually include consultations and permissions. Proper law also designates those who, besides superiors, may place acts of ordinary administration, not restricting those persons to members of the religious institute.⁸⁷ Failure to consult, when proper law requires it, invalidates the act (c. 127).

⁸⁵CIC 1983, c. 231, §2 (Concerning those working for the Church): "Firmo praescripto can. 230, §1, ius habent ad honestam remunerationem suae conditioni aptatam, qua decenter, servatis quoque iuris civilis praescriptis, necessitatibus propriis ac familiae providere valeant; itemque iis ius competit ut ipsorum praevidentiae et securitati sociorum et assistentiae sanitariae, quam dicunt, debite prospiciatur."

CIC 1983, c. 1286: "Administratores bonorum:

"1° in operarum locatione leges etiam civiles, quae ad laborem et vitam socialem attinent, adamussim servant, iuxta principia ab Ecclesia tradita;

"2° iis, qui operam ex conducto praestant, iustam et honestam mercedem tribuant, ita ut iidem suis et suorum necessitatibus convenienter providere valeant."

See also NATIONAL CONFERENCE OF CATHOLIC BISHOPS (UNITED STATES) (= NCCB), Pastoral Letter, *Economic Justice for All: Catholic Social Teaching and the U.S. Economy*, 13 November 1986, in *Origins*, 16 (1986-1987), nos. 347-358, pp. 446-447.

⁸⁶CIC 1983, c. 635, §2: "Quodlibet tamen institutum aptas normas statuatur de usu et administratione bonorum, quibus paupertas sibi propria foveatur, defendatur et exprimat."

⁸⁷CIC 1983, c. 638, §1: "Ad ius proprium pertinet, intra ambitum iuris universalis, determinare actus qui finem et modum ordinariae administrationis excedant, atque ea statuere quae ad valide ponendum actum extraordinariae administrationis necessaria sunt.

§2: "Expensas et actus iuridicos ordinariae administrationis valide, praeter Superiores, faciunt, intra fines sui muneris, officiales quoque, qui in iure proprio ad hoc designantur."

Administrators act under supervision. A finance officer acts under the supervision of the superior, who possesses the "right to visit, to demand reports, to inspect the books, and to prescribe a correct and orderly system of administration in accord with universal, particular, and proper laws."⁸⁸ Acts of "alienation and any other business transaction in which the patrimonial condition of a juridic person can be affected adversely", require the permission of superiors, including that of the Holy See, if they exceed approved financial limits (cc. 638, 1291, 1292, and 1295).⁸⁹

4. *The use of modern business practices*

The 1983 Code mandates the use of modern business practices. Canon 1284, §§2-3, lists the duties of administrators who are to protect Church goods from

⁸⁸DE PAOLIS, "Temporal Goods of the Church in the New Code", p. 352.

CIC 1983, c. 636, §1: "In quolibet instituto et similiter in qualibet provincia quae a Superiore maiore regitur, habeatur oeconomus, a Superiore maiore distinctus et ad normam iuris proprii constitutus, qui administrationem bonorum gerat sub directione respectivi Superioris..."

⁸⁹*CIC 1983*, c. 638, §3: "Ad validitatem alienationis et cuiuslibet negotii in quo condicio patrimonialis personae iuridicae peior fieri potest, requiritur licentia in scripto data Superioris competentis cum consensu sui consilii. Si tamen agatur de negotio quod summam a Sancta Sede pro cuiusque regione definitam superet..."

CIC 1983, c. 1291: "Ad valide alienanda bona, quae personae iuridicae publicae ex legitima assignatione patrimonium stabile constituunt et quorum valor summam iure definitam excedit, requiritur licentia auctoritatis ad normam iuris competentis."

CIC 1983, c. 1292, §1: "Salvo praescripto can. 638, §3, cum valor bonorum, quorum alienatio proponitur, continetur intra summam minimam et summam maximam ab Episcoporum conferentia pro sua cuiusque regione definiendas, auctoritas competens, si agatur de personis iuridicis Episcopos dioecetano non subiectis, propriis determinatur statutis; secus, auctoritas competens est Episcopus dioecesanus cum consensu consilii a rebus oeconomicis et collegii consultorum necnon eorum quorum interest. Eorundem quoque consensu eget ipse Episcopus dioecesanus ad bona dioecesis alienanda."

§2: "Si tamen agatur de rebus quarum valor summam maximam excedit, vel de rebus ex voto Ecclesiae donatis, vel de rebus pretiosis artis vel historiae causa, ad validitatem alienationis requiritur insuper licentia Sanctae Sedis."

CIC 1983, c. 1295: "Requisita ad normam cann. 1291-1294, quibus etiam statuta personarum iuridicarum conformanda sunt, servari debeat non solum in alienatione, sed etiam in quolibet negotio, quo condicio patrimonialis personae iuridicae peior fieri possit."

harm or loss.⁹⁰ Administrators are to take out insurance policies when necessary (1°). They carefully observe all canon laws and civil laws, especially those the non-observance of which could result in harm for the Church (2° and 3°, also c. 1290).⁹¹ Church funds, particularly restricted funds, are to receive any earnings and monies due them. Dedicated funds must serve their purpose without any commingling (4°).⁹² Administrators must service debts when due, pay the principal in reasonable time, and wisely invest any excess funds (5° and 6°). Finally, the canon calls for well ordered, carefully preserved books, annual administrative reports, and strongly recommends annual budgets (7°, 8°, 9°, and §3).

⁹⁰*CIC 1983*, c. 1284, §1: "Omnes administratores diligentia boni patrisfamilias suum munus implere tenentur.

§2. "Exinde debent:

- "1° vigilare ne bona suae curae concredita quoquo modo pereant aut detrimentum capiant, initis in hunc finem, quatenus opus sit, contractibus assecurationis;
- "2° curare ut proprietates bonorum ecclesiasticorum modis civiliter validis in tuto ponatur;
- "3° praescripta servare iuris tam canonici quam civilis, aut quae a fundatore vel donatore vel legitima auctoritate imposita sint, ac praesertim cavere ne ex legum civilium inobservantia damnum Ecclesiae obveniat;
- "4° redditus bonorum ac proventus accurate et iusto tempore exigere exactosque tuto servare et secundum fundatoris mentem aut legitimas normas impendere;
- "5° foenus vel mutui vel hypothecae causa solvendum, statuto tempore solvere, ipsamque debiti summam capitalem opportune reddendam curare;
- "6° pecuniam, quae de expensis supersit et utiliter collocari possit, de consensu Ordinarii in fines personae iuridicae occupare;
- "7° accepti et expensi libros bene ordinatos habere;
- "8° rationem administrationis singulis exeuntibus annis componere;
- "9° documenta et instrumenta, quibus Ecclesiae aut instituti iura in bona nituntur, rite ordinare et in archivio convenienti et apto custodire; authentica vero eorum exemplaria, ubi commode fieri potest, in archivio curiae deponere.

§3. "Provisiones accepti et expensi, ut ab administratoribus quotannis componantur enixe commendatur; iuri autem particulari relinquitur eas praecipere et pressius determinare modos quibus exhibendae sint."

⁹¹*CIC 1983*, c. 1290: "Quae ius civile in territorio statuit de contractibus tam in genere, quam in specie et de solutionibus, eadem iure canonico quoad res potestati regiminis Ecclesiae subiectas iisdem cum effectibus servantur, nisi iuri divino contraria sint aut aliud iure canonico caveatur, et firmo praescripto can. 1547."

⁹²A.P. BENNETT, "Church Accounting Principles and Reporting Practices", in *Catholic Lawyer*, 28 (1983), pp. 101-102.

In 1983, the general council issued a financial directory, which, as revised in 1991, serves as proper law for the congregation in financial matters.⁹³ Its implementation brought about a basic accord between Montreal and Seattle in their approaches to the canonical administration of ecclesiastical property. By 1983 the alienation limit had been raised to one million dollars, still a low figure for the province, but certainly more realistic than previous figures.⁹⁴ In 1991, the congregation received an indult authorizing Sacred Heart Province to use an aggregate alienation limit of 100 million dollars.⁹⁵ That indult illustrates a new spirit under the 1983 Code, a spirit willing to recognize different conditions in different parts of the world, or even within different parts of the same congregation.

CONCLUSION

From the mid-1960s to the early 1980s, the Sisters of Providence of Sacred Heart Province addressed major questions concerning sponsorship and control of its institutions. At the beginning of the period, a sister administered an individual institution within the

⁹³SISTERS OF PROVIDENCE, GENERAL ADMINISTRATION, Directory, *Administration of Temporal Goods*, 31 December 1991, Montreal, iii-69p.

⁹⁴SCRIS, Letter, 27 May 1981, Prot. N. SpR 275/73, in *CLD*, vol. IX, pp. 43-44.

⁹⁵CICLSAL, Rescript, 10 August 1991, Prot. N. 87640/91, Providence Archives, Montreal, 1p. The petition reads: "Superiorissa Generalis Congregationis Sororum a Providentia, Marianopolitan., a Sanctitate Tua humiliter implorat licentiam contrahendi mutuum, cum vel sine hypotheca, pro summa 100.000.000 dollariorum..." (The Superior General of the Congregation of the Sisters of Providence of Montreal humbly petitions Your Holiness for permission to contract debt, with or without mortgage, for the sum of \$100,000,000).

Since this indult involves radically new practices, some of the details of its implementation remain open. For example, does the permission concern an absolute borrowing limit, so that after borrowing \$100,000,000 the congregation must seek a new indult? Or does it define a debt ceiling? If the latter interpretation holds true, then as long as the congregation pays off older debts and current indebtedness remains under the limit, total borrowing could exceed the stated amount. Personally, this author would hold the latter position as the interpretation with the greatest degree of freedom consistent with the terms of the indult. The congregation, following canonical advice, has decided to follow this broader interpretation.

context of a religious house, for which she also served as religious superior. When the burdens of administering a large modern healthcare institution became too great for her to carry along with those of superior of the house, the roles separated. The move began the transfer of the supervision of the healthcare ministry to the province level, the provincial council in particular. Soon, people who did not belong to the congregation were administering some of the hospitals. During the early 1970s, Sacred Heart Province undertook a large scale reorganization process under Louis Allen and Associates to improve its management of the healthcare institutions. It reorganized its province level structures to govern the institutions as a system rather than as independent local entities.

At the same time, the sisters were laboring under the difficulties inherent in governing modern social service institutions according to canonical structures which significantly lagged behind the theology of the Second Vatican Council and the practical reality of the world's economy. The various forms of ecclesiastical control which the law prescribed no longer were proving adequate. Even though its fundamental dedication to the mission of the Church and its charism of service to the poor never wavered, the congregation seriously questioned whether it could observe both ecclesiastical regulations and increasingly complex civil ones. For a number of years, and perhaps even unknowingly, the Sisters of Providence played out within itself a debate that was raging throughout North America concerning the Church's relationship to and its regulation of civilly incorporated institutions. At least in practice, Sacred Heart Province appears to have followed the position of J.J. McGrath which held that civil law alone governed such property. His thesis directed that religious bodies utilize civil law to carry out the mission of the Church through appropriately structuring the civil corporation. The congregation's general administration, on the other hand, supported A.J. Maida's position

that such institutions did indeed fall under canonical control, which required following both canonical and civil regulations. In spite of their different approaches, Maida suggested that the safest way to accomplish this goal involved structuring the civil corporation in a manner very similar to McGrath's proposed structures, including adequately reserved powers.

The revised *Code of Canon Law* promulgated by Pope John Paul II in 1983 included a more adaptable structure regulating temporal goods. It gave considerable weight to local civil law and to a juridic person's proper law. With greater understanding of the issues on all sides, with more flexible and realistic guidelines on the part of both the Church and the congregation, all parties could adopt a common approach to the canonical governance and control of the healthcare institutions, an approach closer to Maida's than McGrath's position.

Therefore, by the early 1980s the Sisters of Providence had largely settled questions concerning sponsorship and ecclesiastical control of its institutions. However, that accomplishment did not resolve all sponsorship issues. At the beginning of the period, superiors of local houses were straining under the burden of governing and managing both individual institutions and religious houses. Now a similar responsibility was resting on the provincial council, not for one institution, but for many, not for one house but for a province. It could not carry that burden much longer without looking for help beyond the membership of the religious congregation. During the next phase of the development of sponsorship, the Sisters of Providence would focus on sharing the mission and governance of the healthcare ministry among the thousands of people who worked with its own members. It would focus on collaboration.

CHAPTER THREE

SPONSORSHIP AND COLLABORATION

By the beginning of the 1980s, the Sisters of Providence in the western United States recognized that the continuance of its ministry in healthcare and education institutions required new strategies. For most of its history it had relied on the presence and activities of the sisters themselves, particularly the administrators, to assure the focus and character of the ministry. Through the gift of their lives to the mission of the Church and the education and formation offered by the congregation, the sisters had provided the dedication and expertise to set the tone and the direction of an institution's life. They took responsibility for the institutional culture.

When the Sisters of Providence began to engage people other than congregation members as administrators, it relied on the sisters on the institution's staff and on higher governance structures to carry the culture. However, the healthcare institutions were undergoing a process of rapid technological change as well as feeling the pressures to contain costs and form multi-institutional systems. Assuring the primacy of the mission of Christ in this climate could not depend only on a combination of relatively few sisters on staff and directives from on high. The task required the enlistment of everyone involved in the institutions. M.K. Grant compares this process to the evolution from a family-run business to a franchise operation.¹

¹M.K. GRANT, "Sponsorship in Evolution", in *Health Progress*, 71 (1990), no. 7, pp. 40-41. See also CCHC, *Critical Choices*, pp. 5-7.

In order to accomplish this enlistment of many others, the congregation had to face the reality of operating Catholic institutions in a non-Catholic environment. Since the Catholic population has never reached 15% in most of its geographical area, it could not expect staff and administration to come to its institutions with a good initiation to the mission of Christ acting through the Catholic Church.² Thus, it needed to promote education in that mission. At the same time, it needed to clarify further the essential elements required of an institution sponsored by the Sisters of Providence and the role of the members of the congregation in the evolving circumstances. This matter would take on increasing importance as the decade advanced, and as the healthcare systems began to acquire new facilities.

The Sisters of Providence in both Sacred Heart and St. Ignatius provinces addressed this task from several perspectives, each in its own way. It first developed education programs in the mission of the Sisters of Providence for use with administrators and employees of the institutions. This included identifying the core values of that mission and the behavioral implications for the institution as a whole as well as for its various departments. A second area of activity concerned governance structures. As the healthcare ministry increased in scale and complexity, structures depending largely on the provincial administrations of the two provinces grew increasingly inadequate. Both provinces underwent a reorganization of their governance structures, now including other than congregation members to a much larger extent.

Concurrently, the process of collaboration created its own dynamic. Initially the congregation, as a formally recognized entity of the Church, carried the responsibility for the mission and culture of the ministry. Once it seriously enlisted others into

²See *The Official Catholic Directory*, for Catholic population statistics of the dioceses in which the Sisters of Providence serve.

responsibility for that mission, a multitude much larger than its own membership, the emphasis could not avoid shifting from the charism of a religious congregation to the mission of baptized laity in the Church, especially as the sisters themselves constitute a category of laity. This shift in emphasis has transformed the expression of the mission. It has also encouraged imagining the ecclesial status of the healthcare ministry apart from the status of the congregation in case a separation proves necessary in the future. Chapter III examines the forms of collaboration between the Sisters of Providence and others, and the canonical issues which they have raised.

I. COLLABORATION IN THE MISSION

C.A. Boyle, a member of Sacred Heart Province, conducted a study of sponsorship of healthcare institutions by religious congregations in the United States during the early 1980s. She expressed her definition of sponsorship:

The understanding of sponsorship that will be used in this paper is that of accepting responsibility for an activity or organization, exerting influence over it, and supporting it because the activity expresses and furthers the goals of the responsible group.³

She found that the usual method for exerting this influence involved programs for promoting gospel values. At the time of her study St. Ignatius Province had formally begun such programs, while Sacred Heart Province would begin shortly thereafter.

A. *Mission in St. Ignatius Province*

St. Ignatius Province developed in a different manner than Sacred Heart Province. Its territory includes eastern Washington state, Idaho, and Montana, all large and sparsely populated areas. Spokane, WA, the largest city of the territory, serves as the

³BOYLE, *Sponsorship Programs in Health Care Institutions Managed by Religious Women: Beginning Research (= Sponsorship Programs)*, p. 21.

provincial seat, despite its position at the geographical edge. St. Ignatius Province, with its smaller population sees itself as simpler, more rural, and more focused on community in comparison to a more intense, urban, and professional Sacred Heart Province.⁴

The province never created a centralized healthcare system. Instead, the provincial councils of the 1970s and 1980s promoted the development of strong local governing boards with extensive communication among its independently functioning healthcare institutions. A Health Care Management Advisory Council (HCMAC), consisting of the administrators of each of the healthcare institutions, met regularly with the provincial council to discuss policy and to facilitate communication. These meetings provided the degree of centralization that St. Ignatius Province considered useful and desirable.⁵

In the early 1980s, the province directed its healthcare facilities to clarify and evaluate their Catholic identity with the use of the instrument, *Evaluative Criteria for Health Care Facilities*, developed by CHA. The instrument presents principles, interpretations, and guidelines in nine different areas: philosophy, relations with the Church, Christian management, patient care, pastoral care, medical-moral guidance, social justice, education, and relations with other institutions. The process provided for the involvement of as many people of the institution as possible by using a multi-level approach, addressing goals for the institution as a whole, then more particular applications at each department level. Participants developed concrete goals, objectives,

⁴"Image of 'The Other Province'", *Joint Sacred Heart/St. Ignatius Councils Meeting*, Ellensburg, WA, 4 February 1988, Providence Archives, Spokane, 2p.

⁵M. Holland, provincial superior of St. Ignatius Province from 1974-1980, in an interview of 7 July 1993, told the author that she did not want to go on record as the one who established in one decade a professional system that would have to be dismantled in another with all the accompanying pain and financial burden to the people involved. See Appendix A, p. 207, for a listing of the healthcare institutions constituting HCMAC.

and behavioral interpretations to aid in internalizing values in operating healthcare institutions. The results then provided a basis for ongoing evaluation and development.⁶

Consistent with St. Ignatius Province's decentralized approach, each of the healthcare institutions addressed this process in its own manner under its own project director. The directors would meet periodically with the provincial councillor/director of the healthcare ministry. M. Holland, in her capacity as Administrative Assistant, Program Development, at Sacred Heart Medical Center, Spokane, WA, served as director of the local project, there called the Values Enrichment Program (VEP). She described VEP:

I see the VEP as a self-destruct as far as my part in it. It has to get into the very fabric, the warp and the woof of the organization. It can't always be headed by a Sister, or something is wrong with the design I drew up.⁷

Holland saw her work not so much implanting the mission of the Sisters of Providence at Sacred Heart Medical Center, as working within that mission to assist the medical center community to identify and implement its own ecclesial values and mission. The religious congregation expressed its values by giving her the task and supporting the direction of her efforts.⁸

As one of its first steps in the VEP, Sacred Heart Medical Center developed a philosophy statement derived from the basic statements of the mission of the Sisters of Providence.⁹ The program developed an extensive values identification process involving

⁶CHA, *Evaluative Criteria for Catholic Health Care Facilities*, St. Louis, MO, CHA, 1980, 56p. See also K.D. O'ROURKE, *Reasons for Hope: Laity in Catholic Health Care Facilities*, St. Louis, MO, CHA, 1983, pp. 41-43.

⁷BOYLE, *Sponsorship Programs*, p. 46.

⁸Ibid.

⁹SACRED HEART MEDICAL CENTER, *A Philosophy of Health Care*, Spokane, Sacred Heart Medical Center, 1982, p. 1.

a large percentage of personnel at the medical center. Six values each received support from more than 50% of those personnel:

1. Compassion/caring/concern;
2. Always having door open, regardless of ability to pay;
3. Christian values influencing all aspects of the Medical Center;
4. Quality care of the whole person;
5. Respect for the dignity of every person;
6. Teamwork among coworkers and among departments.¹⁰

After this study, the application and evaluation processes for staff and physicians at Sacred Heart Medical Center included screening for congruence with these values. The work of the VEP in the 1980s continues as the foundation of the expression of mission and values used at Sacred Heart Medical Center today.¹¹

Each of the other healthcare institutions in St. Ignatius Province could tell its own story of mission development programs. Upon the province's creation of its centralized network, Providence Services, in 1992, the board of directors entered into a mission development process with a regional focus. It sees the goal of this effort as:

To strengthen regional presence as value-based Providence Services organizations reflecting the call of God's love in the mission of healing, teaching, and caring. These values drive organizational and individual practices, processes, and behaviors.¹²

The process, which depends on the traditional St. Ignatius Province approach of sharing among local and regional efforts, will aid in formulating core values for a larger network.

¹⁰BOYLE, *Sponsorship Programs*, p. 48. See also M. HOLLAND, "Values Program Allows Employees to Set Performance Standards", in *Health Progress*, 66 (1985), no 1, pp. 62-63.

¹¹SACRED HEART MEDICAL CENTER, *Values and Mission*, Spokane, Sacred Heart Medical Center, n.d., 2p. See Appendix B, p. 213.

¹²PROVIDENCE SERVICES, *Mission Development, 1993*, Providence Archives, Spokane, 1993, 3p. See below, p. 106, for an account of the creation of Providence Services.

B. *Mission in Sacred Heart Province*

Programs in mission development in Sacred Heart Province trace their origins to the appointment of "sister representatives" during the 1970s. When the provincial council began to engage administrators who did not belong to the congregation, it appointed a sister working on the staff of the institution to assure its values and interests on the institution's administrative level. She belonged to the administrative council and served as an element of continuity with the history and traditions of the facility and the congregation. Beforehand, the sister/administrator automatically fulfilled that function. As the percentage of sisters in the institution declined, insightful people recognized that a sister sitting on the administrative council as an adjunct to her other duties could not greatly affect the corporate culture as a whole. That required top level attention addressing the entire institution, indeed the entire system.

In response to this need, the board of directors/provincial council in 1983 created the office of mission effectiveness for the Sisters of Providence Corporations, a vice presidential position, with the director reporting to the president. The office published a handbook in which it described its purpose:

The essence of Mission Effectiveness is to be a prophetic influence, helping the organization be true to and accountable for advancing its Mission.

The Providence Mission is inclusive of everything we do, and the work of Mission Effectiveness touches everything we do—emphasizing, challenging, and recalling our basic purpose—the content of the Mission itself.¹³

The office identified four components of its function: communicating the mission, living out the mission, celebrating the mission, and the organization's self-evaluation. Mission effectiveness efforts operated on a multi-level basis. Each of the institutions in Sacred

¹³SISTERS OF PROVIDENCE CORPORATIONS, SACRED HEART PROVINCE (= SP CORP, SHP), *Understanding Mission Effectiveness*, Providence Archives, Seattle, 1988, p. 7.

Heart Province created a local office of mission effectiveness, with directors reporting to a facility's administrator and belonging to its administrative council.

Using fundamental documents and traditions of the Sisters of Providence, the system office formulated a mission and philosophy statement for the healthcare ministry. It also identified core values with resultant principles and behavioral guidelines for implementing that mission. It produced system level mission education materials for employee orientation and staff development, which it promulgated through system-wide administrative retreats.¹⁴

Individual institutions developed their own mission statements and local educational materials. Members of all departments of each institution, as well as the central offices, undertook a mission practicum in which they identified goals and behaviors for integrating mission values into their particular operations. The results then served as an instrument for periodic reflection, review, and update. The central offices and most of the institutions established mission committees, comprised of representatives from various departments, to aid the director in identifying needs, planning, and implementing mission programs.¹⁵

¹⁴See the two publications, SP CORP, SHP, *Understanding Mission Effectiveness*, and SP CORP, SHP, *Mission Effectiveness Principles and Guidelines* (= *Principles and Guidelines*), Providence Archives, Seattle, August 1990, 15p. See also Appendix B, p. 214, for the SP CORP, SHP, *Mission and Philosophy Statement*, Providence Archives, Seattle, 1989, 4p.

¹⁵SP CORP, SHP, *Understanding Mission Effectiveness*, pp. 8-11. For an example of a mission practicum, see the same author's *Sisters of Providence Mission Practicum: Department of Planning & Policy Development*, Providence Archives, Seattle, WA, 1987, 3p. The Sisters of Providence have succeeded very well in accomplishing this infusion of the mission into its corporate culture. S. Shortell of Northwestern University's Kellogg Graduate School of Management, says: "In our study, the Sisters of Providence as an organization proved to have the strongest sense of culture and purpose of any of the fully integrated systems we studied. And I'm sure a lot of that has to do with their religious foundings and the legacy of Mother Joseph" (as quoted by P.J. LIM, "On a Mission", in *The Seattle Times/Seattle Post-Intelligencer*, Sunday, 15 January 1995, p. F2). See Appendix E, p. 244.

As the decade progressed, a program approach to mission effectiveness provided only a partial answer. Attention to mission needed to play an active role from the very beginning of decision-making processes, not only as a review element. The organization gradually recognized that it needed to integrate mission and its values in all phases of its life and at all times. "Mission integration" expressed this further insight in the thinking about mission.¹⁶

In 1994, the Sisters of Providence Health System published a thoroughly revised edition of its mission guidelines, *The Mission of the Sisters of Providence Health System: Guidelines for Mission Integration*.¹⁷ The production of the document took several drafts and involved many people throughout the system. While the revision incorporates much previous material, it also demonstrates an evolution in outlook and thinking about collaboration, beginning with the title "mission integration" rather than "mission effectiveness". "Integration" places immediate emphasis on developing a mission-driven organization.

Next, the mission statement exhibits change. The 1989 mission and philosophy statement covered four pages, while the 1994 document takes one. It began by stating, "The Sisters of Providence, a religious community of women within the Catholic Church

¹⁶See J.M. KEITH, "Mission Integration Preserves Sponsor's Values", in *Health Progress*, 74 (1993), no. 3, pp. 38-41, for an account of this evolution in a Sisters of Mercy context. See also CHA, *Mission Integration in Catholic Healthcare: A Guide to Assessment*, St. Louis, MO, CHA, 1991, 30p. Mission integration closely parallels another development, called continuous quality improvement, operative today in American corporate business culture. See J.M. JURAN and F.M. GRYNA, *Quality Planning and Analysis: From Product Development through Use*, 2nd ed., New York, McGraw-Hill, 1980, xvii-629p., and W.E. DEMING, *Out of the Crisis*, Cambridge, MA, Massachusetts Institute of Technology, Center for Advanced Study, 1986, xiii-507p. See also S.R. COVEY, *The Seven Habits of Highly Effective People*, New York, Simon & Schuster, 1989, 358p. For an account of the implementation of continuous quality improvement in a Catholic healthcare system, see M.J. RYAN and G. CAPOZZALO, "Cultivating Quality", in *Health Progress*, 71 (1992), no. 2, pp. 42-48.

¹⁷SISTERS OF PROVIDENCE HEALTH SYSTEM, *The Mission of the Sisters of Providence Health System: Guidelines for Integration (= Guidelines)*, System Office, Seattle, February 1994, 32p.

are inspired by Divine Providence." The 1994 statement begins, "The Sisters of Providence Health System, a community of caregivers impelled by the love of Christ, provides compassionate care to people in need. A ministry of the Catholic Church, we have been serving the West since 1856."¹⁸ The starting point has clearly moved from the Sisters of Providence as a religious congregation imparting its mission to the institutions, to a collaborative effort of an ecclesial community which draws on the sisters' history and tradition.

The document's treatment of the relationship of the healthcare system to the Catholic Church and to the Sisters of Providence provides a further indication of this shift. In Chapter I of the 1994 guidelines, two pages tell of the history of the foundresses of the Sisters of Providence and the development of the healthcare system. Another page speaks of the various aspects of its relationship with the Catholic Church, such as identification with the Church, spirituality, external signs and rituals, identification with Jesus Christ, promotion of social justice. Next, the guidelines present the mission and core values of the Sisters of Providence Health System. Not until Appendix #1 do the guidelines treat the organizational relationship with the Sisters of Providence. In contrast, earlier documents concentrated more specifically on the mission documents of the Sisters of Providence and the institutions' relationship to the ministry of the congregation.¹⁹ The mission has moved from expressing itself primarily in terms of its relationship to the Sisters of Providence to one more focused on its relationship to the mission of the Catholic Church.

¹⁸See Appendix B, p. 214 and p. 218, for the 1989 and 1994 mission statements.

¹⁹SISTERS OF PROVIDENCE HEALTH SYSTEM, *Guidelines*, pp. 1-9, and Appendix 1; SP CORP, *Principles and Guidelines*, pp. 2-7.

Each of these points demonstrates the steps of an inexorable process. The endeavor began with the inspiration and activity of a founding group, the Sisters of Providence, and has moved to one in which sisters and others act together as partners in the Church. From the sisters' perspective it parallels the transformation of a family business first to a franchise operation, then to a publicly run corporation, including its resultant sense of loss and distance. From the perspective of the others involved, they have matured into legitimate partners who in their own right participate in the mission of the Church.²⁰

C. *Laity and the mission of the Church*

While an historical and functional analysis of the development of mission concerns among the Sisters of Providence and its collaborators leads to a focus on the role of the laity in the Church's mission, does the law of the Church support such an end result? Indeed it does. The Gospel, the Second Vatican Council's teaching, the 1983 Code, and papal documents consistently support such a focus.

An examination of this issue must first recognize that differences between the mission of a lay religious congregation and a group of other lay faithful do not as such involve power of governance in the Church. Even though the 1983 Code contains some ambiguity concerning the exact status of lay religious congregations, they definitely remain among the non-ordained. Thus, the thorny canonical issue concerning the relationship of the power of governance to the sacrament of orders affects members of a religious congregation of women in the same way it does other lay faithful.²¹

²⁰GRANT, "Sponsorship in Evolution", pp. 40-43.

²¹The continuing debate about the relationship of the power of governance to the sacrament of orders certainly exceeds the scope of this study. The conflict revolves around the question of the origin of the power of governance, either from the sacrament of orders, thus limiting it to the ordained, or from baptism, which brings all the Christian faithful into its realm. See J.H. PROVOST, "The Participation of

The Second Vatican Council described the mission of the laity and its origins:

The Apostolate of the laity is a sharing in the salvific mission of the Church. Through Baptism and Confirmation all are appointed to this apostolate by the Lord himself (*LG* 31).

In the 1983 Code, c. 204 identifies the Christian faithful as those who have been incorporated into Christ and constituted a People of God through baptism. They share in Christ's priestly, prophetic, and royal office and his mission in the world in their own particular way.²² The Christian faithful include sacred ministers and others who possess a true equality in dignity and in their activity in the Church's mission (c. 208).²³ All

the Laity in the Governance of the Church", in *Studia canonica*, 17 (1983), pp. 417-448.

As an example of the ambiguity in the 1983 Code concerning the status of lay religious congregations, c. 207, §2, states:

"From both groups (sacred ministers and faithful) there exist Christian faithful who are consecrated to God in their own special manner and serve the salvific mission of the Church through the profession of the evangelical counsels... although their state does not belong to the hierarchical structure of the Church, they nevertheless do belong to its life and holiness" ("Ex utraque hac parte habentur christifideles, qui professione consilioque evangelicorum... suo peculiari modo Deo consecrantur et Ecclesiae missioni salvificae prosunt; quorum status, licet ad hierarchicam Ecclesiae structuram non spectet, ad eius tamen vitam et sanctitatem pertinet").

On the other hand, the 1983 Code regularly maintains a three part division of the membership of the Church into clergy, religious, and laity. For example, see cc. 757-759. Canon 129 identifies those with the sacrament of orders as the ordinary holders of ecclesiastical power of governance, while laity can cooperate in this power. In this case, religious women clearly belong to the latter category. See also c. 228.

CIC 1983, c. 129, §1: "Potestatis regiminis, quae quidem ex divina institutione est in Ecclesia et etiam potestas iurisdictionis vocatur, ad normam praescriptorum iuris, habiles sunt qui ordine sacro sunt insigniti."

§2: "In exercitio eiusdem potestatis, christifideles laici ad normam iuris cooperari possunt."

²²*CIC* 1983, c. 204, §1: "Christifideles sunt qui, utpote per baptismum Christo incorporati, in populum Dei sunt constituti, atque hac ratione muneris Christi sacerdotalis, prophetici et regalis suo modo participes facti, secundum propriam cuiusque condicionem, ad missionem exercendam vocantur, quam Deus Ecclesiae in mundo adimplendam concredidit."

²³*CIC* 1983, c. 208: "Inter christifideles omnes, ex eorum quidem in Christo regeneratione, vera viget quoad dignitatem et actionem aequalitas, qua cuncti, secundum propriam cuiusque condicionem et munus, ad aedificationem Corporis Christi cooperantur."

Christian faithful possess the right, either individually or in associations, to undertake and sustain apostolic action on their own initiative. However, ecclesiastical authority reserves the right to approve the use of the name "Catholic" for these endeavors (c. 216).²⁴ Canon 225 affirms the right and obligation of Christian laity to participate in the Church's mission, especially in the realm of temporal affairs.²⁵ In a similar manner, c. 676 affirms the right and obligation of members of lay congregations of men and women to work for the mission of the Church through the spiritual and corporal works of mercy.²⁶ The diocesan bishop coordinates apostolic activity in the local church. He maintains vigilance over it to assure unity and the observance of ecclesiastical discipline (cc. 392 and 394).²⁷

²⁴*CIC 1983*, c. 216: "Christifideles cuncti, quippe qui Ecclesiae missionem participant, ius habent ut propriis quoque inceptis, secundum suum quisque statum et condicionem, apostolicam actionem promoveant vel sustineant; nullum tamen inceptum nomen catholicum sibi vindicet, nisi consensus accesserit competentis auctoritatis ecclesiasticae."

²⁵*CIC 1983*, c. 225, §1: "Laici, quippe qui uti omnes christifideles ad apostolatam a Deo per baptismum et confirmationem deputentur, generali obligatione tenentur et iure gaudent, sive singuli sive in consociationibus coniuncti, allaborandi ut divinum salutis nuntium ab universis hominibus ubique terrarum cognoscatur et accipiatur; quae obligatio eo vel magis urget iis in adiunctis, in quibus nonnisi per ipsos Evangelium audire et Christum cognoscere homines possunt."

§2: "Hoc etiam peculiari adstringuntur officio, unusquisque quidem secundum propriam condicionem, ut rerum temporalium ordinem spiritu evangelico imbuant atque perficiant, et ita specialiter in iisdem rebus gerendis atque in muneribus saecularibus exercendis Christi testimonium reddant."

²⁶*CIC 1983*, c. 676: "Laicalia instituta, tum virorum tum mulierum, per misericordiae opera spiritualia et corporalia munus pastorale Ecclesiae participant hominibusque diversissima praestant servitia; quare in suae vocationis gratia fideliter permaneant."

²⁷*CIC 1983*, c. 392, §1: "Ecclesiae universae unitatem cum tueri debeat, Episcopus disciplinam cunctae Ecclesiae communem promovere et ideo observantiam omnium legum ecclesiasticarum urgere tenetur."

CIC 1983, c. 394, §1: "Varias apostolatus rationes in dioecesi, vel in eiusdem particularibus districtibus, omnia apostolatus opera, servata uniuscuiusque propria indole, sub suo moderamine coordinentur."

§2: Advigilet ne abusus in ecclesiasticam disciplinam irrepant, praesertim circa ministerium verbi, celebrationem sacramentorum et sacramentalium, cultum Dei et Sanctorum necnon bonorum administrationem.

These canons provide a practical way to order the Church's activity in light of the gospel imperative to respond to the needs of the poor. As St. Matthew records, Jesus tells us that our final judgement will rest on how we feed the hungry, give drink to the thirsty, heal the sick, educate the ignorant, and address the other needs of people (Mt. 5:3-11; 25:31-46).

In his apostolic exhortation, *Christifideles laici*, Pope John Paul II has used the gospel image of the vineyard to describe the mission of the lay apostolate:

From that distant day the call of the Lord Jesus, "You go into my vineyard too (Mt 20:3-4)," never fails to resound in the course of history: It is addressed to every person who comes into this world.²⁸

In the same document he describes the general focus of his pastoral ministry as encouraging the mission of all members of the Church:

At the beginning of my pastoral ministry my aim was to emphasize forcefully the priestly, prophetic and kingly dignity of the entire people of God in the following words: "He who was born of the Virgin Mary, the carpenter's son—as he was thought to be—Son of the living God (confessed by Peter), has come to make us a 'kingdom of priests.' The Second Vatican Council has reminded us of the mystery of this power and of the fact that the mission of Christ—priest, prophet-teacher, king—continues in the church. Everyone, the whole people of God, shares in this threefold mission."²⁹

The Sisters of Providence, by its work in enlisting others into responsibility for the mission of the Church has acted in harmony with best elements of the Church as a whole. To facilitate this movement, the congregation took action at this time to develop institutional governance structures better reflecting its collaboration with others.

²⁸JOHN PAUL II, Apostolic Exhortation, *Christifideles laici*, 30 December 1988, in *AAS*, 81 (1989), p. 394 (English translation in *Origins*, 18 [1988-1989], ¶. 563).

²⁹*Ibid.*, p. 567.

II. COLLABORATION IN THE GOVERNANCE OF THE MINISTRY

Governance of the ministry, especially the healthcare ministry, provided the Sisters of Providence a second focus for collaboration during these years. The process of collaboration in governance between sponsoring religious congregations and other laity had proceeded differently among Catholic higher education and Catholic healthcare institutions in the United States. In 1977, M.J. Stamm could report that 60% of Catholic colleges and universities were governed as independent legal entities through a board of trustees. Those boards included religious/clerical members and lay members who each possessed equal powers. In these cases the sponsoring religious body did not hold any reserved powers other than that of the right to appoint a given number of board members. Laity not belonging to sponsoring bodies constituted 62.26% of the total number of trustees.³⁰ In 1993, Stamm concluded that this "laicization process" in Catholic higher education had nearly reached completion with generally beneficial results.³¹ Catholic healthcare institutions on the other hand, followed a much more gradual path of collaboration in governance. Since the Sisters of Providence in the western United States sponsors only one high school and one college, the healthcare governance model predominated, even in the case of the college.

Changes in governance structures progressed in a manner comparable to that of mission development, beginning with an emphasis on the congregation's control of the corporations and legal liability issues, ending with a more comprehensive concern for the

³⁰M.J. STAMM, "Emerging Corporate Models of Governance in Contemporary American Catholic Higher Education", in *Current Issues in Catholic Higher Education*, 2 (1981), no. 1, pp. 38-50.

³¹M.J. STAMM, "Report on the Governance of American Catholic Higher Education Institutions in 1992", in *Current Issues in Catholic Higher Education*, 14 (1993), no. 1, p. 15. By 1992 the proportion of independent boards of Catholic higher education institutions had increased to 96%, and the proportion of lay trustees to 79%.

system as a whole, sisters and others together. Again, Sacred Heart and St. Ignatius provinces followed related but somewhat different routes.

A. Sacred Heart Province

Sacred Heart Province had undergone a major reorganization in its governance structure in 1973. The recommendation to develop into a healthcare system with strong central management services generated an active and growing center of collaborative efforts. When the provincial council moved its headquarters to downtown Seattle in 1975, the move involved sixteen sisters and seven others, who together provided centralized services for the religious congregation and the healthcare and education institutions of Sacred Heart Province. The seven others included a vice-president of healthcare affairs, a director of development, a director of public relations, a controller, two secretaries, and a receptionist.³² In June 1994, the Sisters of Providence Health System's system office included over 80 people in 22 departments, occupying two floors of the Sixth and Pike St. Office Building in downtown Seattle. That did not include the Provincial Office of the Sisters of Providence, located at the same site. Ten Sisters of Providence worked for the Provincial Office, while three worked in the System Office.³³

Sacred Heart Province engaged D. Brennan in 1981 as the third president of the corporation, the first not a Sister of Providence. He came from Group Health Inc., a health maintenance organization. During his thirteen years with the Sisters of Providence, the healthcare ministry underwent considerable expansion by establishing, acquiring, leasing, or managing seven additional hospitals and nursing homes, five low

³²*Caritas*, March 1975, p. 1. See also NEVINS, *The History of the Corporate Management Staff*, pp. 1-2.

³³SP CORP, SHP, *Directory*, System Office, Seattle, 15 June 1993, 111p.

income housing projects, and administering two state-wide managed care medical plans.³⁴ In addition, individual hospitals established numerous satellite clinics and other programs in their geographic regions. The healthcare ministry developed from a chain of semi-autonomous institutions toward a network of regional integrated delivery systems.³⁵ Its annual operating budget grew from 440 million dollars in 1982 to 1.3 billion dollars in 1993.³⁶ Presently the Sisters of Providence Health System of Sacred Heart Province serves as one of the largest healthcare providers in Alaska, Washington, and Oregon. Obviously, sisters could not staff these new endeavors to any large extent.

Within a few years of its adoption, the 1973 reorganization came under scrutiny. The architects of the new structures had attempted to promote the development of a healthcare system and to free the provincial council, especially the provincial superior, from undue involvement in its ordinary managerial operations. Elements of the reorganization that furthered that end included: the designation of someone other than the provincial superior as the president of the corporation; the creation of the three state corporations, which provided liability insulation for the religious community and gave the individual institutions greater financial borrowing power; the new line position of executive vice president for healthcare operations; and the development of the system office staff.

On the other hand, other elements were proving less desirable. The provincial council, with the provincial superior acting as chair, served as the board of directors for

³⁴See Appendix A, p. 208.

³⁵To trace some of the rationale behind this development, see a series of letters and reports, D. BRENNAN, Letters regarding governance and reorganization, 25 November 1981 to 20 December 1989, Providence Archives, Seattle, 9 documents.

³⁶WASHINGTON HEALTH CARE FACILITIES AUTHORITY, *1985 Bond Issue Memorandum*, p. A-13, and "1994 Fact Sheet", in *The Good Work*, Seattle, Sisters of Providence Health System, 1994, p. 4.

each of the state corporations holding ultimate authority for the organization, including Maida's list of reserved powers. The council also sat on the governing boards of the three state corporations, each of which met several times a year. The design required a large investment of time on the part of the provincial council and led to a significant duplication of effort. Local civic communities, which were calling for a means to voice their concerns about healthcare, at times perceived the corporation boards as "absentee landlords".³⁷ The atmosphere in the United States relating to legal liability had, if anything, grown more litigious, bringing into question any vulnerability in the current structure. In addition, government and third party payer pressures to achieve cost reduction and greater efficiency, pressures which in part led to the 1973 reorganization, had only increased in intensity. These pressures led to the desire to establish local charitable foundations to attend to unaddressed and unfinanced needs.³⁸

From 1975-1982, initiatives came from both the sisters of the province through their legislative assembly and from the provincial council to study the situation and

³⁷In 1971 W.A. Regan had observed: "If there ever was a time when any Catholic hospital was brought into being for the sole purpose of taking care of sick Catholics, that day has certainly passed. Today the typical Catholic hospital is an integral part of the local acute health care system" (REGAN, "Corporate Changes in Catholic Hospitals", pp. 64-65). Without doubt the observation applied to the Sisters of Providence in the Pacific Northwest.

³⁸For a presentation of some of the background pressures affecting the healthcare field in the late 1970s, see MEMEL, JACOBS, PIERNO & GERSH, *Sisters of Providence Corporate Organization Study*, 20 April 1979, Providence Archives, Seattle, pp. 4-7.

recommend changes.³⁹ Legislative assembly resolutions identified the sisters' fundamental priorities:

The Sisters of the province have indicated a desire to separate the members of the Provincial Council from the management functions and responsibilities of the health care/education corporation(s), and

It is the intent of the province to retain community control and responsibility for the health care/education corporation(s).⁴⁰

The provincial council and its consultants, taking into consideration the desires of various constituencies, drew up several reorganization proposals during these years. They all included a directive to the provincial council to focus its attention on sponsorship issues in its involvement with the corporations. Each recommended the adoption of a membership type of corporation structure, with those serving on the provincial council as the designated members who held reserved powers and appointed a board of directors to govern corporation affairs. The proposals suggested that no one on the provincial council serve on the board of directors *ex-officio*, with the exception of the director of ministry, though some probably would do so because of personal expertise. Members of the congregation would comprise a majority of the board of directors. The proposals

³⁹During this time the provincial council commissioned several studies of the governance structures of the province. See MANAGEMENT DESIGN, INC., *Progress Report: Restructuring of the Provincial Administration*, Providence Archives, Seattle, January 1978, 12p.; GOTTFRIED CONSULTANTS, INC., *Sisters of Providence Management Organization Study of the Health Care Organization*, Providence Archives, Seattle, February 1979, 32p.; and MEMEL, JACOBS, PIERNO & GERSH, *Corporate Organization Study*, especially pp. 73-113. The stated list of strengths and weaknesses synthesizes many of their findings. For the activities of the legislative assembly in this regard, see Policy 20, "Education on Corporate Structure", in SISTERS OF PROVIDENCE, SACRED HEART PROVINCE, *Provincial Directory*, p. E-3.

⁴⁰R-213, "Councilors' Functions in Relation to Health Care/Education Corporation(s)", in SISTERS OF PROVIDENCE, SACRED HEART PROVINCE, *Legislative Assembly Minutes*, 1979, p. 70. This resolution was indefinitely tabled, but in 1981 the province passed the recommendation: "BE IT RESOLVED that the Provincial Chapter of Sacred Heart Province recommend to the provincial council that the bylaws for the corporation(s) of the Sisters of Providence provide that the sisters maintain effective control of any institutions for which the province community is responsible" (Recommendation, 18 August 1981, in SISTERS OF PROVIDENCE, SACRED HEART PROVINCE, *Provincial Directory*, p. J-2). In 1986, Sacred Heart Province changed the designation of its legislative assembly to that of a provincial chapter.

presented a variety of formulas for creating new corporations. They called for the creation or enhancement of community advisory boards and charitable foundations for the local institutions, as well as improvements in management structures.⁴¹

Although Sacred Heart Province did establish the foundations and community advisory boards, in 1982 it still had not reached a consensus on how to proceed in reorganization. An issue that provoked considerable controversy concerned the role of the provincial superior in the new structure. Many saw her role as chair of the three state corporation boards of directors as an appropriate way to exercise her religious authority as superior of the province and overseer of its ministry. In their view, to suggest abandoning that role would seriously threaten her powers as superior. Others saw this involvement as excessively demanding, preventing her from adequately fulfilling her role as the religious congregation's leader. Those holding the latter opinion questioned whether anyone would place equivalent expectations on leaders of other corporations of similar size. The issue played a significant role in the 1982 election of the provincial superior. In her candidacy statement for re-election L. Dean wrote:

It is important for the Sisters to know that I believe the Provincial Superior of our Province must be the Chairman of the Board of the various institutional corporations of the Province. If re-elected, I will not delegate this authority or role to someone else.⁴²

⁴¹See PROVINCIAL COUNCIL, Proposal, August 1979, "Legal Structures and Management Structures", in SISTERS OF PROVIDENCE, SACRED HEART PROVINCE, *Legislative Assembly Minutes*, 1976, "Appendix #6", pp. 1-20, and D. BRENNAN, *Recommended Changes in Corporate Organization and Governance Structure*, in Letters regarding governance and reorganization, 25 November 1981, Providence Archives, Seattle, 11p., for two versions of restructuring proposals.

⁴²L. DEAN, *Candidacy Statement 1982*, Providence Archives, Seattle, 1982, 1p. To date, the various studies examining the role and power of major superiors of a lay religious congregation have not included a treatment of their part in the governance of its works of the apostolate. For example, see E. McDONOUGH, "Religious Superiors and Government", in *The Way Supplement*, 50 (1984), pp. 61-70, or I.M. MAC PHERSON, *The Exercise of Authority in Apostolic Religious Institutes of Women According to the 1983 Revised Code of Canon Law*, JCD dissertation, Ottawa, Saint Paul University, 1984, xi-276p. Perhaps a role analogous to a bishop's relationship to works of the apostolate in his diocese could serve as an approach. A bishop grants recognition as to the catholicity of a group or institution, coordinates the

Her re-election appeared to demonstrate the sisters' satisfaction with the situation.

Nevertheless, by the middle of the decade, under new provincial leadership, the issue of reorganization surfaced once again. The sisters called for an evaluation of current governance functions and needs, under the directive that major policy decisions include the involvement of the province's professional associates in ministry.⁴³ By now the system office staff included departments of legal counsel, planning, and mission effectiveness. For the first time a large part of the thinking on a round of reorganization originated in expertise present within the healthcare system rather than with outside consultants.

Two complementary focuses of planning developed. The health system office staff concentrated on system development, good management and liability issues. J.W. Rogers, head of the legal counsel department and a member of CHA's Legal Services Committee, provided canonical expertise closely following Maida in issues concerning structural planning.⁴⁴ At the same time most sisters now believed that the provincial superior could not continue to serve as chair of the board of directors of the healthcare corporations and also provide effective religious leadership for the province.

different forms of apostolic activity in his territory, and exercises vigilance to prevent abuses. In a similar way, a major superior's responsibility could include authorizing the use of the congregation's name, coordinating its sponsored works, and exercising vigilance over them to prevent abuses.

⁴³SISTERS OF PROVIDENCE, SACRED HEART PROVINCE, *Provincial Directory*, Recommendation, 16 August 1985, p. J-7, and Policy 18, "Involvement of Sisters and Professional Associates in Major Policy Decisions", p. E-2.

⁴⁴WASHINGTON HEALTH CARE FACILITIES AUTHORITY, *1985 Bond Issue Memorandum*, p. A-8. See also J.W. ROGERS, Letter to C. Querin, 8 May 1989, *Canonical Stewardship Question*, Providence Archives, Seattle, 2p. SP CORP, SHP, developed two major documents in addition to a structural plan, *Principles for the Structure of System Governance*, Providence Archives, Seattle, 1990, 1p., and *Governance and Executive Management Authority and Responsibility Matrix*, Providence Archives, Seattle, 2 May 1990, 10p.

Hence, they identified the separation of the two roles as a primary objective of the reorganization.

The provincial superior and council consulted with F.G. Morrissey about the canonical aspects of such a separation. He observed that nothing in canon law mandated specific actions in this regard, but that sufficient powers must be reserved to the congregation in the new structure to allow it to carry out its sponsorship responsibilities. He suggested that they consider the questions:

1. What are the absolute non-negotiable items, i.e., reserved powers?
2. What are the ideals which must be kept?
3. What is the minimum that must be retained to identify the work as of the Sisters of Providence, if that is desired?
4. How far in structural change can the religious community be removed from the healthcare corporate structure until there is a point of no return to a more direct control of the corporation?⁴⁵

Morrissey also suggested that Sacred Heart Province pay particular attention to the fact that the healthcare ministry plays such a large role in the collective concerns of the province. It must take care to avoid establishing "two provincial superiors" in separating the roles of chair of the board and provincial superior, as the constitutions of the congregation clearly charge the provincial superior with leadership responsibility for the apostolate.⁴⁶

In 1990 the sisters approved four principles for the new governance structure:

1. The Provincial Superior's chief duty as religious community leader will be emphasized;
2. The Provincial Superior will not be the Chair of the Board of Directors nor will any member of the provincial council be the chair. The Chair of the Board of Directors will be a Sister of Providence appointed by the Provincial Superior and provincial council;

⁴⁵B. SCHAMBER, "Report to Sisters of Sacred Heart Province", in SISTERS OF PROVIDENCE, SACRED HEART PROVINCE, *Provincial Chapter Minutes*, 14 August 1988, p. 20.

⁴⁶*Ibid.*, p. 21. See *Constitutions and Rules*, 1985, #92.

3. The Provincial Superior and provincial council will be the "Corporate Members" with specified reserved canonical powers;
4. The corporate Board of Directors will be appointed by the Provincial Superior and provincial council (Corporate Members) and will include some provincial council members, other Sisters of Providence and members who are not Sisters of Providence.⁴⁷

These principles incorporate many of Maida's recommendations for church corporations.⁴⁸

With the approval of its general council, Sacred Heart Province adopted a reorganized governmental structure in 1991.⁴⁹ In accord with the four principles, amended articles of incorporation and bylaws established the three state corporations as membership corporations, designating the provincial superior and her council as the corporate members with reserved powers.⁵⁰ Individual healthcare and education facilities of these corporations remain as unincorporated divisions.⁵¹ K. Dufault, a member of the Sister of Providence, was appointed the chair of a new board of directors, composed of eleven members, including six members of the congregation, one the provincial treasurer. However, corporation bylaws do not require that any board position be held by a congregation member, allowing for the possibility of future changes without the necessity

⁴⁷Recommendation, 25 February 1990, in SISTERS OF PROVIDENCE, SACRED HEART PROVINCE, *Provincial Directory*, p. J-8.

⁴⁸See MAIDA and CAFARDI, *Church Property, Church Finances, and Church Related Corporations*, pp. 155-164.

⁴⁹SISTERS OF PROVIDENCE GENERAL ADMINISTRATION, Act of council, 1 November 1991, Providence Archives, Montreal, 2p.

⁵⁰For example, SISTERS OF PROVIDENCE IN WASHINGTON, *Restated Articles of Incorporation*, 17 May 1991, 4p., and *Restated Corporation Bylaws*, 6 November 1991, 22p., both in Providence Archives, Seattle. The other corporations differ only in those matters required by state law, no provision affecting the substance of the organizational structure. For a listing of the powers reserved to the members, see Appendix D, p. 227.

⁵¹See Appendix C, p. 224, for the current organizational chart for Sacred Heart Province.

of amendments.⁵² The same board of directors serves for each of the state corporations. It holds the three meetings concurrently, with all system administrators attending the annual meeting on a non-voting basis. Because the high school's needs and concerns differ so radically from those of the healthcare system, the board of directors delegated the school's governance to the provincial administration.

B. *St. Ignatius Province*

While Sacred Heart Province was reorganizing its governance structures, St. Ignatius Province was undergoing a similar process. In 1985, its provincial leadership and provincial chapter determined that the province could no longer continue to sponsor healthcare and education institutions in the same manner it had done to that time. Two considerations, one of conviction and one of practicality, motivated the decision:

1. The Vatican II Church and the social, political, economic milieu in which that Church ministers today requires a response to reality and requires that all baptized persons participate in the mission and ministry. For this to happen, structures have to change;
2. The statistical reality of the sisters of St. Ignatius Province, i.e., the numbers, ages, ministries, locations of sisters, etc., does not support a "business as usual", "*status quo*" approach to sponsorship.⁵³

It thereupon embarked on a process of careful planning to create a new form of sponsorship, a process which took seven years, culminating in a new entity, Providence Services.

⁵²SISTERS OF PROVIDENCE IN WASHINGTON, *Restated Corporation Bylaws*, art. 3.4, for example.

⁵³K. RUTAN, Inaugural address to the new Board of Directors of Providence Services, *The Love of Christ Impels Us: In Christ We are a New Creation* (= *Inaugural Address*), 12 Mar 1992, Providence Archives, Spokane, pp. 6-7. In another place Rutan comments: "We have a small, aging group of sisters and a small number of sisters with professional background in health care. The leadership of the province holds reserved powers, and the sisters in leadership do not have the background; so we are looking at reality" (*Interprovince Meeting*, Spokane, 15 December 1989, Providence Archives, Spokane, p. 8).

Organizationally, the province's healthcare and educational institutions either belonged to one of two corporations, The Sisters of Charity of Providence of Montana, or the Sisters of Charity of Providence in Eastern Washington, or they were separately incorporated. At the time of restructuring, these institutions included two educational facilities, five hospitals, and three nursing homes.⁵⁴ The provincial superior and her council served as the board of directors of the various corporations, while one of the members of the council acted as director of healthcare ministries. The provincial administration met with the healthcare administrators, HCMAC, on a regular basis to discuss governance and policy and to facilitate the sharing of expertise among the institutions.

The province used several documents declaring congregational and province-wide values as the starting point for its reorganization efforts. These included the 1978 statement of the mission and charism of the Sisters of Providence as reprinted in the 1985 Constitutions⁵⁵ and a 1987 provincial chapter document, *Values to be Observed in Administrative Restructuring*. The latter document reiterates the congregation's concern for the poor and for Catholic sponsorship of healthcare institutions according to the Providence charism. In addition it expresses values specific to the province, especially:

6. Appropriate representation, identity and regional character of St. Ignatius Province is maintained in transitional planning.
7. Any structure created assures Providence health care in the Northwest beyond such time as the Sisters of Providence may have direct involvement in health care institutions.
8. Sisters of Providence involvement in governance/administration is *not* essential to sponsorship except for the level of involvement required by canon law.

⁵⁴See Appendix A, p. 210.

⁵⁵*Constitutions and Rules*, 1985, p. xxvi. See Appendix B, p. 212.

9. Sisters of Providence of St. Ignatius Province see it as a value to be able to continue to work in Catholic health care facilities within the province.⁵⁶

Clearly, a wide variety of restructuring proposals could fit within these values.

During the next few years the province conducted explorations on a number of fronts. As three hospitals and two education facilities operated in Montana, four of which belonged to the same corporation, they provided an ideal workshop for exploring new types of cooperative relationships among themselves, the beginnings of a regional network. The province expanded HCMAC to include the administrators of all the sponsored institutions (Institutions Management Advisory Council, or IMAC) for the purposes of planning for the new sponsorship model. Since Sacred Heart Province was also undergoing reorganization at this time, the leadership of the two provinces met to discuss sponsorship and potentials for collaboration, as did the leadership of their healthcare institutions.⁵⁷ In September 1989, the provincial administration presented two models to IMAC and to the sisters of St. Ignatius Province for consideration: that the institutions join with the Sisters of Providence Health System of Sacred Heart Province; or that they form a private juridic person, according to c. 116 of the 1983 Code.⁵⁸

March 1990 saw the formal presentation of a proposal by the provincial administration to IMAC, the sisters of the province, and the general council, calling for:

⁵⁶ST. IGNATIUS PROVINCE, PROVINCIAL CHAPTER, "Values to be Observed in Administrative Restructuring", in RUTAN, *Inaugural Address*, p. 11.

⁵⁷The provincial councils met 4 February 1988, and 5 June 1989, with a third meeting including "key" sisters from each province 18 October 1989, all in Ellensburg, WA. A fourth meeting, held in Spokane, 15 December 1989, expanded to include IMAC and leaders of the Sacred Heart Province Health System, see *Sponsorship: Chronology of Key Events*, Providence Archives, Spokane, 1992, p. 1.

⁵⁸K. RUTAN, Letter, 28 September 1989, Providence Archives, Spokane, 1p. Cf. J. HOWARTH, "Juridic Person or Private Association: Choosing a Canonical Structure", in *Health Progress*, 67 (1986), no. 7, p. 51, and F.G. MORRISSEY, "Juridic Status: Canonical Provisions, Possible Applications", in *Health Progress*, 67 (1986), no. 7, pp. 41-45, for discussions about sponsoring healthcare institutions through the mechanism of the private juridic person. See below, p. 112, for a discussion of the private juridic person.

1. Creation of a new model of sponsorship for St. Ignatius Province;
2. That the chief executive officers (IMAC) be empowered to be directly involved in the design and choice of the new model;
3. That the new model be implemented within two years.⁵⁹

The call for IMAC's direct involvement in the choice and design of the new model continued St. Ignatius Province's collaborative approach to the process.

F.G. Morrissey addressed a major gathering on 21 June 1990 in Spokane, composed of the provincial administration, IMAC, institution administrative councils, boards, etc. He spoke on the canonical aspects of sponsorship, presenting a range of options for its structure, including the private juridic person, the most significantly different and least tested of the models available. He concluded by observing that no easy solution currently existed, as all the models possessed advantages and disadvantages. On the other hand, he stated:

I would be inclined to wait a bit before thinking of private juridic persons, until such time as the notion is in peaceful possession and wrinkles in the law have been suitably ironed out.⁶⁰

The next day, in response to Morrissey's input, IMAC and the provincial administration agreed to develop a system sponsored by the Sisters of Providence of St. Ignatius Province as an alternative to either of the models presented earlier.⁶¹ IMAC identified the qualities it would value in the restructuring: simplicity, decentralization, collaboration, and a minimum of reserved powers for the provincial superior and council. The members of IMAC saw great value in staying together, as it gave them the sense of belonging to something larger than themselves, a common mission, a common heritage,

⁵⁹ST. IGNATIUS PROVINCE, PROVINCIAL COUNCIL, *Mission Effectiveness Act of Council*, 2 March 1990, Providence Archives, Spokane, 2p.

⁶⁰F.G. MORRISSEY, Address, *Sponsorship Forms for Institutions*, 21 June 1990, Providence Archives, Spokane, p. 7.

⁶¹ST. IGNATIUS PROVINCE, PROVINCIAL COUNCIL/IMAC, *Corporate Reflection Process*, 22 June 1990, Providence Archives, Spokane, 2p.

and allowed them greater ability to negotiate. A number of these values precluded the institutions' full amalgamation with the Sacred Heart Province system, though IMAC desired to maintain a close positive relationship with it.⁶²

St. Ignatius Province, with permission from the general administration, implemented a new sponsorship model in 1992, involving three tiers of governance and corporations.⁶³ First, it separately incorporated the religious community of the province. Then, it established a new membership corporation, Providence Services, with the provincial superior and her council as the members holding reserved powers comprising the first tier. These powers include Maida's basic list of five, plus that of appointing the CEO of Providence Services and approving the initiation or closure of major works.⁶⁴ The board of directors of Providence Services governs the corporation, "providing heightened oversight over key strategic actions to be taken by the corporations." It also serves as the members with reserved powers for the second tier of corporations, the individual institutions. The individual institutions are governed by local boards of directors which take responsibility for the activities of the institutions, including management oversight, strategic and financial planning, quality maintenance, and achievement of the mission of the Sisters of Providence.⁶⁵ A local institution may in turn

⁶²ST. IGNATIUS PROVINCE, PROVINCIAL COUNCIL/IMAC, *Qualities to be Maintained in Sponsorship*, 12 September 1990, Providence Archives, Spokane, 3p. See also the same group's, Letter, *Decisions Regarding IMAC Alternative Model Proposal*, 3 July 1991, Providence Archives, Spokane, 6p.

⁶³SISTERS OF PROVIDENCE GENERAL ADMINISTRATION, Act of Council, 15 April 1992, Providence Archives, Montreal, 2p. See Appendix C, p. 225, for an organizational chart of Providence Services.

⁶⁴PROVIDENCE SERVICES, *Articles of Incorporation*, Providence Archives Spokane, 1992, 5p., and PROVIDENCE SERVICES, *Bylaws of the Corporation*, Providence Archives Spokane, 1992, 26p. See Appendix D, p. 229, for a list of the reserved powers.

⁶⁵*Sisters of Providence (St. Ignatius Province) Governance Authority and Responsibility Matrix Nonprofit Corporations*, Providence Archives, Spokane, March 1992, p. 1.

own, or its board of directors may serve as the members of, a third tier of corporations, such as a for-profit corporation founded to aid some aspect of its work.⁶⁶

The board of directors of Providence Services does not include a majority of Sisters of Providence, nor do the members (provincial superior and council) appoint the chair of the board. In order to promote understanding and collaboration between St. Ignatius and Sacred Heart provinces, the president of Sisters of Providence Health System serves on the board of directors for Providence Services.

In 1993 the Dominican Sisters of Spokane transferred its health system, Dominican Health Network, to Providence Services as a second tier corporation. The network includes four hospitals, an adult day health center, and a agency providing household cleaning and other services to sick and frail clients. It maintains its own identity and governing boards and provides a representative to sit on the Providence Services Board of Directors.⁶⁷

An examination of St. Ignatius and Sacred Heart provinces' organizational structures shows a number of similarities. Both use membership corporations, with the respective provincial superiors and councils holding reserved powers relating to sponsorship issues. In both cases the boards of directors govern the corporations, concentrating on system concerns and support of the individual institutions. On the other hand, the two provinces differ in their style of operations. Sacred Heart Province's model includes a greater degree of centralization, professional support, and reliance on the sisters' direct involvement. In St. Ignatius Province individual institutions retain

⁶⁶As an example of such a for-profit third tier corporation, see Santa Maria Enterprises, Inc., 100% owned by Columbus Hospital of Great Falls, Montana, and founded in 1987 "to carry on unrelated business incident to operation of tax-exempt hosp. including biomedical and electronic engineering, off premises food sales, 3rd-party claims" (*St. Ignatius Province Corporations as of Feb. 26, 1992*, Providence Archives, Spokane, 1992, 5p).

⁶⁷See Appendix C, p. 225.

greater autonomy. Providence Services' central office consists of three people, as distinct from the Sacred Heart Province's system office of nearly one hundred people. The sisters participate in the governance of Providence Services only through the provincial administration. Both health systems are developing into regional integrated delivery networks.

III. RESTRUCTURING AND CANONICAL STATUS

Restructuring in St. Ignatius Province raised the issue of canonical status of entities in the Church. The province had determined that any structure it used in sponsoring the healthcare ministry could no longer depend on the sisters' continued presence and expertise. Instead, it offered as one possibility that the healthcare ministry start life on its own as a separate entity. For this proposed new entity to function in the Church it would need some form of ecclesiastical status which did not require formal relationship with a religious congregation. The province suggested that of a private juridic person. While the province has abandoned the proposition for the present, such a canonical entity could prove useful in the future.

A. *Private juridic persons*

The concept of a private juridic person stands as a significant innovation of the 1983 Code, since the 1917 Code only provided for public juridic persons.⁶⁸ Private and public juridic persons differ in their purpose and their relationship to ecclesiastical authority in the matters of their establishment, operation, dissolution, and subsequent disposition of property. Either persons or things may constitute a juridic person, whether

⁶⁸See above, p. 24. See also A. GAUTHIER, "Juridical Persons in the *Code of Canon Law*", in *Studia canonica*, 25 (1991), pp. 77-92, for an analysis of the development of the canons treating juridic personality in the 1983 Code. See also J.A. DOYLE, *Civil Incorporation of Ecclesiastical Institutions*, pp. 1-54.

private or public. Canon 115 requires a minimum of three persons to constitute an aggregate of persons. In a parallel manner, it requires one or several physical persons to direct the operations of an aggregate of things.⁶⁹

A private juridic person acts to further the mission of the Church in its own name. It does not act as an official agent of the Church. A public juridic person, on the other hand, fulfills a specific allotted spiritual or temporal role congruent with the mission of the Church and in the name of the Church. The activities of any juridic person pertain to works of piety, of the apostolate, or of charity (cc. 114, 116, and 118).⁷⁰

Private juridic persons initially come into existence through private initiative, then receive juridic personality through a special decree of competent authority. A public juridic person may be constituted either through the law itself, *ipso iure*, or by a special decree of the competent ecclesiastical authority. The authority granting juridic personality must first approve a juridic person's statutes and prudently judge that it

⁶⁹CIC 1983, c. 115, §1: "Personae iuridicae in Ecclesia sunt aut universitates personarum aut universitates rerum.

§2: "Universitas personarum, quae quidem nonnisi ex tribus saltem personis constitui potest...

§3: "Universitas rerum seu fundatio autonoma constat bonis seu rebus, sive spiritualibus sive materialibus, earumque, ad normam iuris et statutorum, moderantur sive una vel plures personae physicae sive collegium."

⁷⁰CIC 1983, c. 114, §1: "Personae iuridicae constituuntur aut ex ipso iuris praescripto aut ex speciali competentis auctoritatis concessione per decretum data, universitates sive personarum sive rerum in finem missioni Ecclesiae congruentem qui singulorum finem transcendit, ordinatae.

§2: "Fines, de quibus in §1, intelleguntur qui ad opera pietatis, apostolatus vel caritatis sive spiritualis sive temporalis attinent."

CIC 1983, c. 116, §1: "Personae iuridicae publicae sunt universitates personarum aut rerum, quae ab ecclesiastica auctoritate competenti constituuntur ut intra fines sibi praestitutos nomine Ecclesiae, ad normam praescriptorum iuris, munus proprium intuitu boni publici ipsis commissum expleant; ceterae personae iuridicae sunt privatae.

CIC 1983, c. 118: "Personam iuridicam publicam repraesentant, eius nomine agentes, ii quibus iure universali vel particulari aut propriis statutis haec competentia agnoscitur; personam iuridicam privatam ii quibus eadem competentia per statuta tribuitur."

possesses the means to accomplish a truly useful purpose. Statutes must include the juridic person's purpose, constitution, governance and operation (cc. 94, 114, 116, and 117).⁷¹

The canons do not identify the competent authority for granting these decrees of juridic personality, either private or public. However, c. 312 gives such competencies for establishing public associations of the Christian faithful, which may serve at least as an analogous listing, since establishing such associations confers public juridic personality *ipso iure* (c. 313).⁷² The canon identifies the Holy See as competent for erecting universal or international associations, the national conference of bishops for national

⁷¹*CIC 1983*, c. 94, §1: "Statuta, sensu proprio, sunt ordinationes quae in universitatibus sive personarum sive rerum ad normam iuris conduntur, et quibus definiuntur earundem finis, constitutio, regimen atque agendi rationes."

CIC 1983, c. 114, §3: "Auctoritas Ecclesiae competens personalitatem iuridicam ne conferat nisi iis personarum aut rerum universitatibus, quae finem persequuntur reapse utilem atque, omnibus perpensis, mediis gaudent quae sufficere posse praevidentur ad finem praestitutum assequendum."

CIC 1983, c. 116, §2: "Personae iuridicae publicae hac personalitate donantur sive ipso iure sive speciali competentis auctoritatis decreto eandem expresse concedenti; personae iuridicae privatae hac personalitate donantur tantum per speciale competentis auctoritatis decretum eandem personalitatem expresse concedens."

CIC 1983, c. 117, "Nulla personarum vel rerum universitas personalitatem iuridicam obtinere intendens, eandem consequi valet nisi ipsius statuta a competenti auctoritate sint probata."

⁷²*CIC 1983*, c. 312, §1: "Ad erigendas consociationes publicas auctoritas competens est:

- "1° pro consociationibus universalibus atque internationalibus, Sancta Sedes;
- "2° pro consociationibus nationalibus, quae scilicet ex ipsa erectione destinantur ad actionem in tota natione exercendam, Episcoporum conferentia in suo territorio;
- "3° pro consociationibus dioecesanis, Episcopus dioecesanus in suo cuiusque territorio, non vero Administrator dioecesanus, iis tamen consociationibus exceptis quarum erigendarum ius ex apostolico privilegio aliis reservatum est.

§2: "Ad validam erectionem consociationis aut sectionis consociationis in dioecesi, etiamsi id vi privilegii apostolici fiat, requiritur consensus Episcopi dioecesani scripto datus; consensus tamen ab Episcopo dioecesano praestitus pro erectione domus instituti religiosi valet etiam ad erigendam in eadem domo vel ecclesia ei adnexa consociationem quae illius instituti sit propria."

CIC 1983, c. 313: "Consociatio publica itemque consociationum publicarum confederatio, ipso decreto quo ab auctoritate ecclesiastica ad normam can. 312 competenti erigitur, persona iuridica constituitur..."

associations, and the diocesan bishop for diocesan associations. This list lacks provision for entities spanning more than one diocese, yet not of national scope. J.A. Doyle suggests that since private juridic persons did not exist under the 1917 Code, any entity that received juridic personality at that time necessarily received public juridic personality.⁷³

According to c. 1257, a private juridic person's own statutes govern its temporal goods, except where the canons expressly provide otherwise.⁷⁴ Therefore, unless its statutes direct it to do so, a private juridic person need not seek approbation of higher ecclesiastical authority for alienation of property and extraordinary administration. The same canon identifies the property of public juridic persons as ecclesiastical property, subject to the canons of Book V on the governance of temporal goods. Private juridic persons operate almost exclusively by way of their statutes. In contrast, the general law, particular law, and its statutes regulate a public juridic person's operations, often requiring ecclesiastical approval of specific actions.⁷⁵

⁷³J.A. DOYLE, *Civil Incorporation of Ecclesiastical Institutions*, p. 47. R. Pagé would agree. See R. PAGÉ, "La Signature apostolique et la suppression du statut canonique de l'Armée de Marie", in *Studia canonica*, 25 (1991), p. 408. The question played a role in the administrative recourse lodged by *l'Armée de Marie* against the decree of its suppression. It claimed private association of the faithful and private juridic person status under the 1983 Code, though it was founded in 1975. The Apostolic Signatura avoided making any pronouncement on its status, thus leaving the question open (Id. pp. 407-408).

⁷⁴*CIC 1983*, c. 1257, §1: "Bona temporalia omnia quae ad Ecclesiam universam, Apostolicam Sedem aliasve in Ecclesia personas iuridicas publicas pertinent, sunt bona ecclesiastica et reguntur canonibus qui sequuntur, necnon propriis statutis."

§2: "Bona temporalia personae iuridicae privatae reguntur propriis statutis, non autem hisce canonibus, nisi expresse aliud caveatur."

As an example of such an express directive, c. 1280 directs every juridic person to establish its own finance council or at least two financial consultants.

CIC 1983, c. 1280: "Quaevis persona iuridica suum habeat consilium a rebus oeconomicis vel saltem duos consiliarios, qui administratorem, ad normam statutorum, in munere adimplendo adiuvant."

⁷⁵For example, see c. 317, which directs that unless a public association's statutes state otherwise, ecclesiastical authority confirms or appoints the moderator and chaplain of the association.

The legitimate decree of fusion, union, or suppression by competent authority or a century of inactivity can dissolve a public juridic person. Additionally, a private juridic person may cease to exist through the dissolution of the association itself or by the competent authority's judgement of the entity's extinction, both in accord with the statutes (c. 120).⁷⁶ The statutes of a private juridic person also regulate the distribution of its goods upon its dissolution. In contrast, the law and its statutes regulate such distribution for a public juridic person. If neither of these exist, the goods revert to the next highest juridic person. In all cases, due attention must be given to the intentions of donors and founders (c. 123).⁷⁷

Private juridic persons operate on a basis of greater independence from ecclesiastical authority than do public juridic persons. On the other hand, public juridic persons participate more closely and publicly in the mission and identity of the Church. All the implications arising from these distinctions will come only with experience.

B. *Private associations of the Christian faithful*

The 1983 Code provides a related canonical entity, the association of the Christian faithful, which can also be designated as public or private, and which also may be given juridic personality.⁷⁸ At the time when St. Ignatius Province was examining the

⁷⁶*CIC 1983*, c. 120, §1: "Persona iuridica natura sua perpetua est; extinguitur tamen si a competenti auctoritate legitime supprimatur aut per centum annorum spatium agere desierit; persona iuridica privata insuper extinguitur, si ipsa consociatio ad normam statutorum dissolvatur, aut si, de iudicio auctoritatis competentis, ipsa fundatio ad normam statutorum esse desierit."

⁷⁷*CIC 1983*, c. 123: "Extincta persona iuridica publica, destinatio eiusdem bonorum iuriumque patrimonialium itemque onerum regitur iure et statutis, quae, si sileant, obveniunt personae iuridicae immediate superiori, salvis semper fundatorum vel oblatorum voluntate necnon iuribus quaesitis; extincta persona iuridica privata, eiusdem bonorum et onerum destinatio statutis regitur."

⁷⁸For a thorough treatment of associations of the Christian faithful in the 1983 Code, see J.R. AMOS, *Associations of the Christian Faithful in the 1983 Code of Canon Law: A Canonical Analysis and Evaluation*, Washington, DC, The Catholic University of America, 1986, 424p., Canon Law Studies, no. 516. See also J.R. AMOS, "A Legal History of Associations of the Christian Faithful", in *Studia*

suitability of using the private juridic person for sponsoring its healthcare system, CHA was exploring the use of both the private juridic person and the private association of the Christian faithful as alternative means of sponsorship.⁷⁹

An association of the Christian faithful consists of a group of people, contrasting with a juridic person, which consists of an aggregate of persons or things. They gather together to promote a more perfect life, foster public worship or Christian doctrine, or exercise works of the apostolate such as engaging in evangelization, works of piety or charity, and animating the temporal order with the Christian spirit. Such associations provide a concrete mechanism for the Christian faithful to fulfill their baptismal right and obligation to work for the salvation of the world. The laity need no permission from the hierarchy to form such associations or to carry out these works (cc. 215, 225, and 298).⁸⁰ Associations which have come together under private initiative and have not sought some form of ecclesiastical recognition are called *de facto* associations. They may carry out works of the apostolate and own property, but they do so as consortiums of private individuals. Ecclesiastical law does not recognize or regulate them or their work as a

canonica, 21 (1987), pp. 271-297, and R. PAGÉ, "Associations of the Faithful in the Church", in *The Jurist*, 47 (1987), pp. 165-203.

⁷⁹M.M. MODDE, "Private Association: Opportunity for the Laity", in *Health Progress*, 67 (1986), no. 7, pp. 46-50. See also CHA, *Alternative Sponsorship: Two Options, Private Juridic Person and Private Association of the Christian Faithful*, St. Louis, MO, CHA, Division of Member Services, 1991, 24p., and HOWARTH, "Juridic Person or Private Association", p. 51.

⁸⁰*CIC 1983*, c. 215: "Integrum est christifidelibus, ut libere condant atque moderentur consociationes ad fines caritatis vel pietatis, aut ad vocationem christianam in mundo fovendam, utque conventus habeant ad eosdem fines in communi persequendos." See also c. 299, §1.

CIC 1983, c. 298, §1: "In Ecclesia habentur consociationes distinctae ab institutis vitae consecratae et societatibus vitae apostolicae, in quibus christifideles, sive clerici sive laici sive clerici et laici simul, communi opera contendunt ad perfectiorem vitam fovendam, aut ad cultum publicum vel doctrinam christianam promovendam, aut ad alia apostolatus opera, scilicet ad evangelizationis incepta, ad pietatis vel caritatis opera exercenda et ad ordinem temporalem christiano spiritu animandum."

body with additional rights and obligations. Such an association may use the name "Catholic" only with consent of competent ecclesiastical authority (c. 300).⁸¹

Associations of the Christian faithful may seek varying degrees of recognition and approval, as well as juridic personality. Competent ecclesiastical authority must review a group's statutes before it can recognize the group as a private association in the Church (c. 299).⁸² A private association may receive private juridic personality by a formal decree from the competent ecclesiastical authority, but only after the same authority has approved its statutes. This approval does not change the private nature of the association (c. 322).⁸³ Ecclesiastical authority either establishes a public association on its own initiative or grants that status by decree to an association created through private initiatives. The decree which establishes a public association of the Christian faithful also confers public juridic personality *ipso iure* (c. 313). An association's statutes, letters requesting recognition, and ecclesiastical decrees indicate its status and type of juridic personality, if any.

All forms of private associations enjoy autonomy in their operations. A private association's own statutes regulate membership requirements, the selection of moderators and officers, and rules of order. If it wishes, a private association may choose a spiritual

⁸¹*CIC 1983*, 300: "Nulla consociatio nomen 'Catholicae' sibi assumat, nisi de consensu competentis auctoritatis ecclesiasticae, ad normam can. 312." See also c. 216.

⁸²*CIC 1983*, c. 299, §3: "Nulla christifidelium consociatio privata in Ecclesia agnoscitur, nisi eius statuta ab auctoritate competenti recognoscantur."

See M.R. SCHROEDER and J.I. MANSFIELD, "Creating a Private Association: The St. Francis Experience", in *Health Progress*, 67 (1986), no. 7, pp. 52-54, for an account of a recognized private association which at the time sponsored a 637 bed hospital in Memphis, TN.

⁸³*CIC 1983*, c. 322, §1: "Consociatio christifidelium privata personalitatem iuridicam acquirere potest per decretum formale auctoritatis ecclesiasticae competentis, de qua in can. 312.

§2: "Nulla christifidelium consociatio privata personalitatem iuridicam acquirere potest, nisi eius statuta ab auctoritate ecclesiastica, de qua in can. 312, §1, sint probata; statutorum vero probatio consociationis naturam privam non immutat."

counsellor from among the priests lawfully ministering in the diocese, subject to confirmation by the local ordinary. A private association administers its goods according to its own statutes, not by the canons of Book V, subject to the vigilance of competent ecclesiastical authority to see that those goods are used for the purposes of the association (cc. 307, 321, 324, and 325).⁸⁴ Its statutes determine the conditions under which a private association ceases to exist and the subsequent distribution of its goods, with due attention to the intentions of donors and acquired rights (c. 326).⁸⁵ In contrast, the canons and ecclesiastical authority play a much greater role in regulating the affairs of public associations (cc. 312-320).

All associations remain subject to the vigilance of the competent ecclesiastical authority, who must see that they maintain integrity of faith and morals and who guards against any abuse of ecclesiastical discipline. Competent authority possesses the right of visitation according to the norm of law and the statutes. It can suppress an association

⁸⁴*CIC 1983*, c. 307, §1: "Membrorum receptio fiat ad normam iuris ac statutorum uniuscuiusque consociationis." The general law gives no further regulations for membership in private associations.

CIC 1983, c. 321: "Consociationes privatas christifideles secundum statutorum praescripta dirigunt et moderantur."

CIC 1983, c. 324, §1: "Christifidelium consociatio privata libere sibi moderatorem et officiales designat, ad normam statutorum.

§2: "Christifidelium consociatio privata consiliarium spiritualem, si quemdam exoptet, libere sibi eligere potest inter sacerdotes ministerium legitime in dioecesi exercentes; qui tamen indiget confirmatione Ordinarii loci."

CIC 1983, c. 325, §1: "Christifidelium consociatio privata ea bona quae possidet libere administrat, iuxta statutorum praescripta salvo iure auctoritatis ecclesiasticae competentis vigilandi ut bona in fines associationis adhibeantur."

⁸⁵*CIC 1983*, c. 326, §1: "Extinguitur christifidelium consociatio privata ad normam statutorum; suppressi etiam potest a competenti auctoritate, si eius actio in grave damnum cedit doctrinae vel disciplinae ecclesiasticae, aut scandalo est fidelium.

§2: "Destinatio bonorum consociationis extinctae ad normam statutorum determinanda est, salvis iuribus quaesitis atque oblatores voluntate."

if its activities cause serious harm to doctrine or discipline or cause serious scandal (cc. 305, 386, 392, and 394).⁸⁶

C. *Some unresolved issues concerning private juridic persons and private associations of the Christian faithful*

At least four areas remain unclear regarding private juridic persons and private associations of the Christian faithful.

1. *Public and private purposes*

The first issue relates to the distinction between public and private purposes in the Church. Ecclesiastical authority establishes public juridic persons, including public associations, to fulfill an allotted mission in the name of the Church. Private juridic persons act for the sake of the mission of the Church in their own name, yet under recognition and authorization of the Church through approval of its statutes and the granting of juridic status. As A. Gauthier comments:

So, one may think that the difficulty has not been resolved entirely. The difficulty seems in fact to be linked with the very character of canon law, where the frontier between the public and the private are never quite clear. Nevertheless, one can admit that the use of the distinction in the area of juridical persons, and particularly in the area of associations, has the advantage of bringing into light the right of association, without involving the hierarchy too heavily in all the activities of private groups, no matter how legitimate their action may be.⁸⁷

⁸⁶*CIC 1983*, c. 305, §1: "Omnes christifidelium consociationes subsunt vigilantiae auctoritatis ecclesiasticae competentis, cuius est curare ut in iisdem integritas fidei ac morum servetur, et invigilare ne in disciplinam ecclesiasticam abusus irrepant, cui itaque officium et ius competunt ad normam iuris et statutorum easdem invisendi; subsunt etiam eiusdem auctoritatis regimini secundum praescripta canonum, qui sequuntur."

CIC 1983, c. 386, §2: "Integritatem et unitatem fidei credendae mediis, quae aptiora videantur, firmiter tueatur, iustam tamen libertatem agnoscens in veritatibus ulterius perscrutandis."

See CHA, *Alternative Sponsorship*, Enclosure 2, for a model set of standards and behaviors which can serve as a sponsorship review to help a bishop in his vigilance of private associations of the Christian faithful.

⁸⁷GAUTHIER, "Juridical Persons in the *Code of Canon Law*", p. 91.

J.A. Doyle distinguishes public and private status partly on the basis of the nature and scope of the purpose of the entity. If, for instance, it fulfills its purpose for the general public good, it could be expected to possess public character. If its purpose concerns a limited constituency, then its character remains private.⁸⁸ However, what determines the "public good"? How does one measure the extent of a "limited constituency"? Do these qualities simply depend on the desire of the entity seeking recognition in the Church?

2. *Competent ecclesiastical authority*

The second issue concerns the competency to grant juridic personality. Canon 312 identifies the competency to establish public associations of the Christian faithful, an act which *ipso iure* creates a public juridic person. Does this canon then define the extent of competencies for granting public and private juridic personality? Can a bishop grant it for bodies established to operate in several dioceses? One interesting case concerns a multi-institutional healthcare system involving eight religious congregations operating in nineteen dioceses. When it sought public juridic person status, it approached the archbishop of the location of its headquarters. He in turn consulted with the NCCB, who consulted CICLSAL, an agency of the Holy See. Eventually, of the various possible options, CICLSAL granted the decree.⁸⁹ If the system had not originated with religious congregations, who could then have acted?

Since the 1983 Code does not include an equivalent of c. 1489, §1, of the 1917 Code, identifying only the local ordinary as the one competent to grant juridic personality to hospitals, orphanages, and other similar institutions, does that norm remain the same or has the Code's silence broadened the possibilities? For example, could major

⁸⁸J.A. DOYLE, *Civil Incorporation of Ecclesiastical Institutions*, p. 48.

⁸⁹CICLSAL, Rescript, 8 June 1991, SpR 631/85. See also I. HITE and J.E. POE, "An Innovative Way to Continue the Ministry: A Catholic Multi-institutional Healthcare System Achieves Public Juridic Person Status", in *Health Progress*, 73 (1992), no. 7, pp. 56-58.

religious superiors establish juridic persons within the context of the congregation's apostolic ministry?⁹⁰

3. *Necessary decrees*

A third issue relates to decrees. The 1983 Code contains much the same kind of ambiguity as the 1917 Code did regarding formal decrees issued by ecclesiastical authority and the resultant canonical status. Canon 322, §1, clearly requires competent authority to issue a formal decree for a private association of the Christian faithful to receive private juridic personality. Would a decree of "public establishment" of a private association automatically confer private juridic personality?⁹¹ Or, does this require a decree specifically granting such personality? Canon 322, §2, requires the approval of the statutes of a private association before the conferral of private juridic personality. Would a decree of approval of the statutes grant private juridic personality?⁹² Or, would each effect require a separate decree, in accord with the tenor of Jullien's 1940 interpretations under the 1917 Code?⁹³ It would seem reasonable to hold that the separation of the requirements into different paragraphs of c. 322 suggests that a private association could receive approval of its statutes without necessarily acquiring juridic

⁹⁰On this point, see F.G. MORRISSEY, "Decimo anno...On the Tenth Anniversary of the Code of Canon Law", in *Studia canonica*, 28 (1994), pp. 110-111.

⁹¹See E. KNEAL, "Associations of the Christian Faithful (cc. 298-329)", in *The Code of Canon Law: A Text and Commentary*, J.A. CORIDEN, T.J. GREEN, AND D.E. HEINTSCHEL, eds., Commissioned by CLSA, New York/Mahwah, NJ, Paulist Press, 1985, p. 254. One must read Kneal carefully in order to avoid confusing his ecclesiastical establishment of a private association of the faithful conferring private juridic personality (c. 322, §1) with the ecclesiastical establishment of a public association of the faithful, which by definition confers public juridic personality (c. 313).

⁹²F.G. MORRISSEY says of private associations of the Christian faithful, "The approval of the statutes would give the group juridical personality," in "The Right of Association as a Basic Right of the Faithful", in *Das konsoziative Element in der Kirche: Akten des VI. Internationalen Kongresses für kanonisches Recht, München, 14-19 September 1987*, W. AYMANS, et al., eds., St. Ottilien, EOS Verlag Erzabtei, 1989, p. 13.

⁹³See above, p. 25.

personality. The surest way of proceeding, then, requires clear declarations by decree for each point.⁹⁴

4. *Categories of juridic persons and associations of the Christian faithful*

The fourth issue concerns differentiation among the various juridic persons and associations in the Church. Distinctions in the Code for these entities can lead to a bewildering number of closely related possibilities.⁹⁵ The Canadian Conference of Catholic Bishops has used some of these categories to develop a four step process for a group desiring to obtain the status of national association of the Christian faithful, with either private or public juridic personality.⁹⁶ Still, greater clarity in this area would help people make better informed choices.

D. *Catholic institutions and canonical status*

Catholic institutions can assume a variety of juridic forms as they serve to further the Church's mission of compassion and education. An aggregate of persons as a private association, with or without private juridic personality, or a public association with public juridic personality could own and operate institutions recognized as Catholic. One or several institutions as an aggregate of goods could possess juridic personality either

⁹⁴On the other hand, Morrissey makes a good point when he observes: "In rare instances such personality might be considered to have been acquired through custom" (F.G. MORRISSEY, "Church Law's Role in Collaborations", in *Health Progress*, 74 [1993], no. 9, p. 26).

⁹⁵For example, the considerations of the previous section could suggest at least three varieties of private associations with status in the Church: a recognized association with reviewed statutes (c. 299, §3); an established association with approved statutes; an established association with approved statutes and juridic personality (c. 322). Actually, since both cc. 298 and 299 refer to associations "praised or recommended", one could imagine even more forms of associations. However, at present the law provides no further clarifications about this distinction.

⁹⁶CANADIAN CONFERENCE OF CATHOLIC BISHOPS, COMMISSION FOR RELATIONS WITH ASSOCIATIONS OF PRIESTS, RELIGIOUS AND LAITY, *Recognition of National Catholic Associations: Guidelines for the CCCB and Associations of the Faithful*, Ottawa, Canadian Conference of Catholic Bishops, 1993, pp. 41-45. See also MORRISSEY, "The Right of Association as a Basic Right of the Faithful", pp. 16-17.

public or private. Under this schema, religious congregations sponsoring healthcare institutions operate as public juridic persons owning and governing Catholic institutions, assuming that the institutions do not possess juridic personality in themselves. Other institutions may operate as Catholic, be perceived by the public as Catholic, even have received recognition of its Catholicity by the local bishop, yet not possess any formal juridic status at all.⁹⁷

The institution as private juridic person model emphasizes the institution as property governed through a group of moderators, a model comparing closely to a civil corporation. The private association model, in contrast, concentrates on the people comprising the association who sponsor Catholic institutions. Some might prefer the first model, especially in areas with relatively few Catholics, because the focus remains on the institution and its governance. An association model could lead to undue concern over the ecclesial status of individual members of the association, such as their membership in the Church or their involvement in irregular marriage unions. On the other hand, an association model more directly expresses the laity's right and power to participate in the mission of the Church.⁹⁸

As some religious congregations in North America recognized that they needed to dissociate themselves from sponsoring institutions, they recognized that they must first ascertain those institutions' current ecclesial status. Do they possess juridic status in their own right? If they do, what kind? Answering these questions can prove a complex task, as most often institutions were established in conjunction with religious houses. A formally erected house would have received juridic personality *ipso iure*, but did the

⁹⁷For a discussion of these and other concepts in this section in a healthcare context, see CHA, *The Search for Identity* pp. 19-25, 49-58.

⁹⁸See MORRISEY, "The Right of Association as a Basic Right of the Faithful", p. 20.

institution receive juridic personality in its own right? If it did so before 1983, it received public juridic personality. Do any institutions with juridic personality hold property? If so, then that property does not belong to the religious house or province, since canonical ownership of property belongs to the juridic person which lawfully acquired it (c. 1256).⁹⁹

St. Ignatius Province undertook such a study for its institutions in 1990 as part of its restructuring process. It examined the documents establishing the institutions, gathering information from seven (arch)diocesan archives, the archives of the generalate of the Sisters of Providence, and Sacred Heart and St. Ignatius provinces. In addition, it examined provincial and institutional chronicles, written histories, letters of the superiors general, and newspaper accounts.¹⁰⁰

Jullien's 1940 rotal decision can provide a criterion for determining proof of juridic personality for an educational or charitable institution: the presence of documents from the diocesan bishop bestowing juridic personality on the institution separately from an associated religious house, either directly or indirectly by granting it power to act in a manner proper only to juridic persons, such as ownership of property or the right to stand in ecclesiastical court. A document which simply establishes the institution would not suffice. Actions presuming implicit bestowal of juridic personality by the diocesan bishop also would not suffice without a formal decree.¹⁰¹

⁹⁹See F.G. MORRISEY, "Canonical Issues to Anticipate and Resolve in Mergers and Joint Ventures Involving Catholic Health-Care Institutions" (= "Canonical Issues to Anticipate and Resolve"), in *Magister canonistarum*, Salamanca, Universidad Pontificia de Salamanca, 1994, p. 220.

¹⁰⁰H. MASON, Letter to F.G. Morrisey, 1 December 1990, Providence Archives, Spokane, WA, 2p.

¹⁰¹See above, p. 25. Also, on this point see MORRISEY, "Church Law's Role in Collaborations", pp. 26-27.

The evidence abundantly indicated the ecclesiastical approval or establishment of the institutions of St. Ignatius Province. In most cases the bishop himself called for or initiated their establishment before the sisters' arrival. However, the study did not present documentary evidence of bishops specifically bestowing juridic personality on those institutions.¹⁰² In the author's opinion, the study's results did not necessarily prove or disprove juridic personality, rather it failed to demonstrate it.

Jullien's criteria provide a precise methodology for judging the presence of juridic personality, perhaps too precise for the frontier situation which did not readily envision the institutions apart from the sisters. One could bring forth the argument of custom. Have the bishops consistently treated these institutions as separate entities possessing rights in the Church? If so, since many of them span generations in their existence, that condition would qualify as immemorial. A new examination of the evidence from St. Ignatius Province with refocused questions might lead to different conclusions.¹⁰³

CONCLUSION

During the decade of the 1980s, the Sisters of Providence in both Sacred Heart and St. Ignatius provinces turned its attention to collaboration in its sponsorship of institutions. While the congregation had never conducted its ministry apart from others who worked with the sisters, it had governed and administered those ministerial works through its own members. As the ministry expanded and its own numbers decreased both absolutely and proportionately, it looked to incorporating others into those roles to an ever increasing extent. Expansion of the involvement of others than Sisters of

¹⁰²See MASON, Letter, 1 December 1990, enclosure.

¹⁰³See J.P. MCINTYRE, *Customary Law in the Corpus iuris canonici*, Washington, DC, The Catholic University of America, 1989, iv-215p., Canon Law Studies, no. 527, for a treatment of the principles of custom in canon law.

Providence in the governance and administration of the institutions characterized the decade.

Sacred Heart Province developed a sophisticated central administration and support services system for its healthcare ministry. It also underwent a new round of reorganization of its governance structures, motivated by the desire for the provincial superior to focus her leadership on sponsorship rather than managerial issues, concern for greater liability protection, and greater ability to respond to people in the local civic communities. The initial assumptions of the reorganization process placed a majority of congregation members in all significant roles of authority as a way to assure the mission of the Church. By the end of the period the Sisters of Providence Health System had grown at a far faster rate than the number of sisters directly involved in it. Continuance of the mission could not rely on a majority of sisters in the roles of authority. Instead, the system needed to enroll everyone into active responsibility for the mission. At the same time, the sisters needed to identify the essential functions to reserve to themselves as the sponsoring group, while they and their collaborators proceeded together into the future.

St. Ignatius Province, with its smaller numbers, recognized even earlier that governance and central administration could not rely on members of the province. It underwent a deliberate process of developing a new model which maintained the necessary canonical links with the congregation, but transferred as many of those functions as possible to its collaborators in ministry. The move provided the basis for assuring that the ministry could outlast the sisters' direct involvement with it.

Meanwhile great forces for revolution in healthcare delivery were gathering momentum in United States public life. President Clinton made healthcare reform one of the major issues of his 1992 election campaign. Fundamental changes in the very

concept of healthcare delivery were taking place which would severely challenge the carefully crafted canonical regulations and strategies for assuring the Church's mission in healthcare institutions. Chapter IV examines some of these challenges.

CHAPTER FOUR

SPONSORSHIP TODAY

This study has traced the development of the sponsorship of Catholic institutions by the Sisters of Providence throughout its history in its two western United States provinces. Today in 1995, the story continues to develop. The sisters of both provinces remain very much involved in these institutions both in terms of the work of individuals and of province level governance, though more so in Sacred Heart Province. Today's firestorm of activity affecting sponsorship largely concerns the healthcare institutions. This chapter examines some of those challenges and presents possible approaches for responding to them.

The methodology of this chapter changes somewhat in that previous chapters discovered canonical concerns about sponsorship by examining the history of the Sisters of Providence and its relationship to its institutions. This chapter focuses on current developments and issues in United States healthcare, which in their stead are raising canonical concerns. Since the Sisters of Providence is taking part in these events as one among several participants, this chapter turns to the Sisters of Providence as an illustration rather than as a source of those concerns.

I. CURRENT CHALLENGES TO SPONSORSHIP

A. *Healthcare reform in the United States*

Even though the United States Congress did not pass a healthcare reform bill in 1994, reform is taking place throughout the country on the state level and through private

initiatives. It is transforming the shape of healthcare delivery, including that provided under Catholic sponsorship. Because the nation has not yet reached a consensus on what the new form of healthcare will look like, uncertainty and frantic activity characterize the present moment as institutions, systems, sponsors, physicians, and insurers scramble to attain a favorable position in the new order of things.

A thorough analysis of the reasons leading to reform and of the various proposals now under discussion would take this paper too far afield. However, an overview does illustrate some of the canonical challenges.¹ Analysts often cite three primary causes motivating healthcare reform in the United States: lack of access by an increasing proportion of the population; spiralling costs; and the destabilizing effects of segmenting insurance risks by for-profit insurers, all leading to frustration on the part of the voting public.² Among the various reform proposals, most differences concern the methods of paying for medical coverage and the amount and kind of government involvement. Strategies for a renewed approach to healthcare delivery come closer to agreement. These strategies will most directly challenge the ways in which Catholic sponsors have applied canon law to their institutions.

From the time of the Reagan presidency, healthcare delivery in the United States has operated under a regime of fierce competition, producing a model focused on physicians and institutions vying with each other to cure sick patients. A variety of

¹Given the extremely active nature of the debate about healthcare reform in the United States, any overview runs the risk of obsolescence from the moment of its formulation. Keane gives a good view of the topic in P.S. KEANE, *Health Care Reform: A Catholic View*, New York, Paulist Press, 1993, viii-232p.

²Ibid., pp. 9-31. See also W.J. COX, "Health Care Reform: The Catholic Perspective", in *Catholic Lawyer*, 35 (1993), pp. 217-224, and D.C. CODDINGTON, address to the Sisters of Providence Board-Management-Medical Staff Leadership Training Conference, *Restructuring Health Care Delivery for the Changing Times Ahead*, 31 March 1992, San Diego, CA, 18p.

sources fund these services, but they do not cover everyone.³ The situation resembles a shopping mall in which various institutions, physicians, clinics, etc., compete to offer the "customer", that is, the sick patient, various types of products and services for healing, with acute care hospitals holding positions comparable to anchor department stores. Some of those institutions may belong to a system or a chain of other similar institutions located in similar "malls" in other places. Such chains often possess competitive advantages because they can use volume buying, shared services, and central administrations. Some of the institutions, perhaps some of the chains, may operate under Catholic sponsorship. The responsibility for obtaining a complete range of services relating to the person's healthcare, usually healing from sickness, rests in the hands of the individual or that person's primary care physician. The system has produced magnificent "malls", but fewer and fewer people can afford to use them.

Reform proposals advocate creating a limited number of competitive healthcare delivery systems which utilize a combination of health maintenance organizations (HMOs), integrated delivery networks (IDNs), and uniform benefit packages.⁴ Such systems more readily resemble self-contained clubs than shopping malls. Clients enroll in an HMO, also called a managed care plan, for a monthly fee, a system called a "capitated payment system". The HMO provides the client with access to a full range of health services from health promotion to healing catastrophic illness. An IDN coordinates physicians and a wide range of programs and institutions to provide a spectrum of health services. It may consist of primary care physicians, specialists, various clinics, hospitals, longterm care facilities, home health programs, elderly day

³See Appendix E, p. 231.

⁴See Appendix E, p. 232.

care, hospice care, etc.⁵ A HMO may contract with one or more IDNs to obtain the services it needs to provide for its members, or HMOs and IDNs may join together to form comprehensive systems. In either case, the IDN receives a standard monthly amount per enrolled member which it uses to pay its expenses.

Since the monthly fees generated by an HMO and paid to an IDN remain the same no matter what the health of the client, each component benefits more if the clients remain healthy and if the IDN(s) can provide cost effective services. In this system, the healthcare providers take the risks.⁶ By contrast, in the "shopping mall" situation, the sicker the patient, the more the various components benefit, while the patients take the risks. The new delivery system changes the role of hospitals, the primary focus of the older system. Since the emphasis now lies with the less costly strategy of keeping people well, high technology and expensive hospitals are becoming more of a debit item in contrast to their previous role as income generators.

Uniform benefit packages complete the picture. In general, healthcare has suffered in recent years because some for-profit insurers have lowered their costs by refusing to cover people with higher risks, such as older persons, the chronically ill, the poor, and the unemployed; or they have refused to pay for various less profitable categories of healthcare including, ironically, preventative care. The government has provided insurance for these populations, but it has not paid healthcare providers enough to cover their costs. In response to this situation, some providers have gone bankrupt; others have shifted their costs to other components of their operations. A number of

⁵See P.J. KARST, "IDN Development: Issues to Resolve", in *Health Progress*, 74 (1993), no. 2, pp. 24-25, 31.

⁶See J. CASSIDY, "Capitation: Prepare for the Knock on the Door", in *Health Progress*, 75 (1994), no. 7, pp. 18-20.

reform plans would require an HMO to provide a minimum uniform benefit package to spread the risk, stabilize costs, and allow more people access to healthcare.

Obviously, the current scenario bears little resemblance to the 1970 situation when B.E. Lundberg was fashioning a group of autonomous hospitals into the beginnings of a system sharing some common services. This new environment will not readily accommodate free-standing, independent healthcare institutions or even single institutions in a locality representing a larger chain. It appears that they will survive only by joining regional IDNs. At the same time, these regional networks can benefit by the advantages of today's geographically broader chains. Thus, healthcare providers, including Catholic sponsors, are in the process of entering into new relationships with others in order to expand their geographical breadth for the sake of competitive advantage and their regional depth to assure their ability to provide a full range of services.⁷ Five years ago only a few HMO organizations, such as Kaiser Permanente, could begin to fit this description.

B. *Catholic response to healthcare reform*

Catholics as a church, as sponsors of Catholic healthcare institutions, and through national organizations are actively participating in this changing environment. In 1993, the United States bishops offered a set of criteria for evaluating healthcare reform measures based on the fundamental principle of society's responsibility to provide for its weak and vulnerable members. The eight criteria include: respect for life; priority

⁷For example, see "A Hospital Leader Widens the Gap", in *The New York Times*, 6 October 1994, p. D1, which reports on the merging of two for-profit chains, Columbia/HCA and Healthtrust. Together they will operate 311 hospitals and 125 outpatient centers in 37 states, with 120,000 employees. Their services range from high-technology urban hospitals to rural health clinics, which will serve as feeder systems to the hospitals. Their joint revenues come to about 15 billion dollars. While one might desire healthcare reform to produce a non-profit system with overall coordination focused solely on the health of the populace, events are not moving in that direction.

concern for the poor; universal access; comprehensive benefits; pluralism; quality; cost containment and controls; and equitable financing.⁸ In November 1994, the United States bishops approved a revised version of its *Ethical and Religious Directives for Catholic Health Care Services*, which includes a new section on the bishops' involvement in new partnership arrangements involving Catholic healthcare institutions.⁹ CHA has provided a comprehensive working proposal for healthcare reform. It has held national and regional conferences on the topic, while its journal, *Health Progress*, has published numerous articles on related issues.¹⁰

The Sisters of Providence Health System, as well as other Catholic healthcare systems, has contributed to national and state level discussions on healthcare reform.¹¹ As a means of organizing itself to meet the challenges of this new environment, the Sisters of Providence Health System is operating managed healthcare plans in Washington and Oregon. It is also increasing its regional depth of coverage by forging its facilities into regional integrated delivery networks. To accomplish this integration, the system

⁸NCCB, "Resolution on Health Care Reform", in *Origins*, 23 (1993-1994), p. 100.

⁹NCCB, Directives, "Ethical and Religious Directives for Catholic Health Facilities" (= *Ethical and Religious Directives*), 17 November 1994, in *Origins*, 24 (1994-1995), pp. 449, 451-462.

¹⁰CHA, *Setting Relationships Right: A Working Proposal for Systemic Healthcare Reform*, St. Louis, MO, CHA, 1992, 44p. A summary of the proposal appears in CHA, "Health Care Reform Proposal", in *Origins*, 22 (1992-1993), pp. 60-63. See also "On the Path to Healthcare Reform", in *Health Progress*, 74 (1993), no. 6, pp. 41-65, and in the same issue, "Resources in Healthcare System Reform", pp. 70-71, for a bibliography of its recent articles on healthcare reform.

¹¹K. Dufault, chairperson of the board of directors of the Sisters of Providence Health System represented Catholic healthcare at President Clinton's Prayer Breakfast on 8 September 1994, see "Presidential Summons", in *In Brief: A Newsletter for the Employees of the Providence Health System*, September 1994, p. 1. The Sisters of Providence Health System has prepared position papers for both the national and state healthcare reform efforts. See "Sisters of Providence Health System Comments on National Health System Reform", and "Sisters of Providence Health System Position on Health Care System Reform in Washington State", in SP CORP, SHP, *A Guide to Health Care Issues & Resources*, System Office, Seattle, 1992, Section: Position Papers, pp. 1-15, and M. McWILLIAMS, "Oregon Health Plan Supported", in *Origins*, 21 (1991-1992), p. 269.

has brought its facilities in a given region under common management, has established regional networks of primary care clinics, and has created new relationships with other healthcare providers, Catholic or otherwise, ranging from acquisitions and mergers to contractual services.¹² Acquisitions have included the practices of primary care physicians, who now work in the clinics as employees of the system rather than in the traditional physician/hospital relationship.¹³

C. *Challenges to current models of sponsorship*

Current developments in healthcare in the United States raise serious questions about the continued sponsorship of Catholic healthcare institutions by the Sisters of Providence or anyone else, for that matter. Already, healthcare delivery has grown far beyond the scope of its sponsoring bodies in terms of the number of people, geographical extent, and complexity, to say nothing of the financial resources involved. Reform is creating new healthcare systems which may be sponsored by networks of several

¹²See Appendix E, p. 233, for a summation of the Sisters of Providence Health System's strategic plan. Organization charts dated 1991 and 1994 graphically illustrate some of the directions which the Sisters of Providence Health System has taken. In 1991 almost all component elements consisted of institutions and their associated foundations for raising charitable funds. The 1994 chart shows the increasing complexity of the system and the growing importance of programs relative to institutions with buildings and real estate. See Appendix C, p. 223.

¹³For an account of the process of developing a regional IDN out of the system's facilities in Portland, OR, see C. HAGLUND, "The Road to Regionalization: A System Keeps its Regional Network All in the Family", in *Health Progress*, 70 (1989), no. 9, pp. 49-52, 56. The July 1994 issue of *In Brief* illustrates the scope and pace of current system activities when it reports on events that were taking place in the state of Washington: The ground-breaking and/or opening of three new primary care clinics in the Seattle area; the formation of a new combined primary care medical group consisting of 140 doctors working through 20 clinics in the Puget Sound area, jointly sponsored by the Sisters of Providence Health System and the Franciscan Health System; the acquisition of a 15-physician primary care practice in Monroe, in north-central Washington; the contract agreement between a major private HMO and a Providence longterm care facility and hospital in Olympia, WA; the merger of Providence Hospital and Everett General Medical Center in Everett, WA, to form a new Providence facility, Providence General Medical Center; the growth of enrollment in medical plans sponsored by the Sisters of Providence Health System in Washington. A similar volume and range of activities were taking place in Oregon. See Appendix E, p. 244 for a further account of the health system's activity.

religious congregations or in which Catholic sponsored institutions may comprise only a component.¹⁴ These factors suggest the need for a new and broader approach to the issue of Catholic identity. It can no longer rest solely with an institution's association with and the control of its governance by a particular religious congregation.

The public, HMOs, state governments, and perhaps eventually the federal government are demanding uniform benefit packages which may require procedures not permitted in Catholic facilities, particularly those related to female reproductive issues and to the dying process. Already mergers between Catholic and other healthcare providers are facing challenges in the courts on anti-trust grounds because of the exclusion of these procedures in the new entity.¹⁵ These and other matters can create situations of misunderstanding or even conflict between the sponsors of Catholic healthcare institutions and local bishops, a situation calling for a more developed expression of that relationship.

Since the evaluation of assets in the new order of things may depend more on the percentage of equity in partnerships or in programs than on land and buildings, the identification of stable patrimony and the application of canonical requirements for supervision in financial matters come under challenge, raising the question of the relevance of some aspects of canon law on temporal goods. The remainder of this work looks at some possibilities for approaching the issues raised by developing forms of

¹⁴See V. GILLIS, "Sponsorship Networks", in *Health Progress*, 74 (1993), no. 3, pp. 34-37, 41, where the author gives an account of the networking of 12 Catholic hospitals in St. Louis, MO. See also B. NEWMAN and P. TRICE, "Systems Merger Will Help Preserve a Catholic Presence in Baltimore", in *Health Progress*, 75 (1994), no. 5, pp. 18-19, 59, for an account of the creation of a new entity composed of Catholic and non-Catholic components in Baltimore, MD.

¹⁵"ACLU May Sue Over Dropped Services", in *Modern Healthcare*, 25 (1995), no. 7 (February 13, 1995), p. 41.

sponsorship, with particular reference to the Sisters of Providence in the western United States.

II. CATHOLIC IDENTITY

The Catholic identity of healthcare institutions in the United States has taken on a new and more urgent significance in canonical discussions over the past ten years. Before that time, such discussions largely assumed Catholic identity through sponsorship by religious congregations and dioceses. For this reason, they focused on the governance and administrative demands entailed by such an identity.

As Chapters One through Three show, the frame of reference for those discussions has shifted over time. They begin with a focus on the charism and structures of religious congregations. As administration of the institutions began to include other than congregation members, the focus moved to congregational control through governance structures. Then, as governance moved beyond the scope of congregation members alone into collaborative ventures between themselves and others, the focus moved to the ecclesiastical status of charitable institutions.¹⁶

Today, reform is encouraging Catholic healthcare institutions to enter into new collaborative relationships, resulting in delivery systems sponsored by consortia of several religious congregations, or by Catholics and other partners. These new entities may not always permit Catholic control of their governance, nor will they necessarily

¹⁶See MAIDA and CAFARDI, *Church Property, Church Finances, and Church Related Corporations*, passim, and F.G. MORRISEY, "What Makes an Institution Catholic?", in *The Jurist*, 47 (1987), pp. 531-544.

possess juridic status in the Church. The situation necessarily is leading to a new focus on the fundamental elements of Catholic identity itself.¹⁷

Since the Catholic identity of institutions relates primarily to the mystery of the Church, no single formulation can completely capture its essence. However, all expressions recognize that Catholic institutions participate in the mission of Jesus, and that healthcare shares in his healing ministry. Two kinds of elements constitute this ministry, the faith response to Jesus Christ and the practicalities of belonging to a visible Church with institutional structures.¹⁸

A referent system for the Catholic identity of charitable institutions suitable for these times must recognize both of these dimensions. It must also allow for the possibility of various levels of participation in the Church's mission and structures. The Second Vatican Council's teaching of the Church as communion, or *communio*, can provide such a framework (*LG* 1, *passim*). This theological concept originates in the deep Christian experience of God, both on the individual and the collective level, in both its internal and its external dimensions. The Christian lives by faith in personal communion with God and with other Christians. At the same time, Christians live in externally organized societal relationships. *Communio* describes a dynamic reality

¹⁷For example, see CHA, *The Dynamics of Catholic Identity in Healthcare: A Working Document*, St. Louis, MO, CHA, 1987, viii-52p.; J.H. PROVOST, "Catholic Identity for a Hospital", in *Roman Replies and CLSA Advisory Opinions*, Washington, DC, CLSA, 1988, pp. 48-53; CHA, *The Search for Identity*, 1993; CCHC, *Critical Choices*, 1993; J.P. BEAL, "Catholic Hospitals: How Catholic Will They Be?", in *Concilium*, 1994, no. 5, pp. 81-90; and CHA, "How to Approach Catholic Identity in Changing Times", in *Health Progress*, 75 (1994), no. 3, pp. 23-29.

¹⁸Maida and Cafardi call these two categories matters of faith and matters of administration, in *Church Property, Church Finances, and Church Related Corporations*, p. 53; Provost calls them internal and external elements in "Catholic Identity for a Hospital", p. 50, and in his "Canonical Aspects of Catholic Identity in Light of *Ex corde Ecclesiae*" (= "Canonical Aspects"), in *Studia canonica*, 25 (1991), pp. 155-191; CHA treats these concepts in terms of theological and institutional elements of Catholic identity, in *The Search for Identity*, pp. 19-34.

because it finds its source in relationships, which by their nature can never remain static, implying the possibility of various levels and degrees of communion.¹⁹

A system of law can never fully translate a theological concept such as *communio* into juridic language. It can only identify its externally verifiable elements while acknowledging the deeper reality of faith. Accordingly, the 1983 Code presents three elements which indicate the presence of communion in a member of the Church: the bonds of the profession of faith; the sacraments; and ecclesiastical governance (c. 205). All the Christian faithful are bound to preserve this communion at all times (c. 209).²⁰

Communio's vitality depends on concrete expression. Pope John Paul II in his apostolic exhortation, *Christifideles laici*, speaks of the apostolate of groups of laity as a "sign of the communion and of unity of the church of Christ."²¹ Because of the necessity to discern accurately the authenticity of such a sign, he presents five criteria for judging the "ecclesiality" of these activities, which R. Pagé considers exhaustive:

1. The primacy given to the call of every Christian to holiness;
2. The responsibility of professing the Catholic faith;
3. The witness to a strong and authentic communion in filial relationship to the pope, and with the local bishop;
4. Conformity to and participation in the church's apostolic goals, that is, the evangelization and sanctification of humanity;

¹⁹R.J. KASLYN, *"Communion with the Church" and the Code of Canon Law: An Analysis of the Foundation and Implications of the Canonical Obligation to Maintain Communion with the Catholic Church*, Queenston, ON, The Edwin Mellen Press, 1994, pp. 131-137. Kaslyn provides a comprehensive treatment of the subject of *communio*.

²⁰*CIC 1983*, c. 205: "Plene in communione Ecclesiae catholicae his in terris sunt illi baptizati, qui in eius compage visibili cum Christo iunguntur, vinculis nempe professionis fidei, sacramentorum et ecclesiastici regiminis."

CIC 1983, c. 209, §1: "Christifideles obligatione adstringuntur, sua quoque ipsorum agendi ratione, ad communionem semper servandam cum Ecclesia."

²¹JOHN PAUL II, *Christifideles laici*, p. 575.

5. A commitment to a presence in human society, which in light of the church's social doctrine, places it at the service of the total dignity of the person.²²

These criteria translate the Code's three elements of profession of faith, a sacramental life which leads to action in the real world, and the bonds of ecclesiastical governance.

The 1983 Code does not specifically apply *communio* to charitable institutions. In fact, it never even mentions them as such. So one cannot look to the Code for detailed information about their Catholic identity. On the other hand, the Code does treat of Catholic universities in cc. 807-821, a topic which has been fully developed in the two apostolic constitutions, *Sapientia christiana*, on ecclesiastical universities, and *Ex corde Ecclesiae*, on other Catholic colleges and universities.²³ In addition, Catholic institutes of higher education, with their greater distance from sponsoring bodies and because of the pressures they have faced, have engaged in conversations about Catholic identity for a longer period of time than healthcare institutions.²⁴ These sources can contribute to an understanding of the Catholic identity of healthcare institutions, at least by analogy.²⁵

²²Ibid., p. 575; R. PAGÉ, "Note sur les 'critères d'ecclésinalité' pour les associations de laïcs", in *Studia canonica*, 24 (1990), p. 460.

²³JOHN PAUL II, Apostolic Constitution, 15 April 1979, *Sapientia christiana*, in AAS, 71 (1979), pp. 469-499 (English translation in *Origins*, 9 [1979-1980], pp. 33, 35-45), and Apostolic Constitution, *Ex corde Ecclesiae* (= *EcE*), 25 September 1990, in AAS, 82 (1990), pp. 1475-1504 (English translation in *Origins*, 20 [1990-1991], pp. 265, 267-276).

²⁴To trace the main outlines of the continuing discussion of the Catholic identity of institutes of higher education, see ÖRSY, *The Church: Learning and Teaching*; A. GALLIN, "On the Road toward a Definition of a Catholic University", in *The Jurist*, 48 (1988), pp. 536-558; PROVOST, "Canonical Aspects", pp. 161-168; and R. PAGÉ, "From the University Which is Really Catholic to the University Which is Legally Catholic", in *Concilium*, 1994, no. 5, pp. 91-99.

²⁵The fact that there exists no Vatican juridic documents concerning Catholic healthcare institutions, does not mean that the Church has ignored healthcare. However, most documents present pastoral directives for healthcare workers and medical moral teachings. For example, see CONGREGATION FOR THE DOCTRINE OF THE FAITH, Statement, *Responses to Some Questions on Hysterectomy and Tubal Ligation*, 31 July 1993, in *Origins*, 24 (1994-1995), pp. 211-212. *Origins* also reports the issuance of a 122 page document, not yet available in North America, PONTIFICAL COUNCIL FOR PASTORAL ASSISTANCE TO HEALTH CARE WORKERS, "Charter for Health Care Workers", 23 November 1994, reported in *Origins*,

A. *Faith dimensions of Catholic identity*

The internal faith dimensions of Catholic identity for healthcare institutions concern the fundamental values at play in participating in Jesus' ministry of healing, or in *communio* terms, in the bonds of faith and sacramental life. *Ex corde Ecclesiae* describes a Catholic institution as one which

by institutional commitment, brings to its task the inspiration and light of the Christian message... Catholic ideals, attitudes and principles penetrate and inform its activities... It operates as an institution in which Catholicism is vitally present and active (*EcE* 14).

Catholic institutions are to live up to the goals and standards of comparable institutions in society, while Catholic values and ideals are to inform their activities and character.

The United States bishops, in their 1981 pastoral letter, *Health and Health Care*, identified several values and ideals as characteristic of the Catholic healthcare ministry. These included: personalized holistic patient care which recognizes human dignity; observance of the Church's teaching on medical moral issues, specifically as expressed in the *Ethical and Religious Directives* issued by the National Catholic Conference of Bishops in 1971 and revised in 1994;²⁶ presenting a prophetic voice to society regarding care of the poor; and observing principles of social justice in the workplace.²⁷

To counterbalance today's approach to healthcare as a market commodity, current Catholic thought is emphasizing healthcare as a ministry of compassion. It participates in Jesus' healing activities, at the same time recognizing with him the role of suffering

24 (1994-1995), pp. 451-452, margin notes. This document appears to focus on medical moral teaching.

²⁶NCCB, *Ethical and Religious Directives*, November 1971 (rev. 1975), in *Pastoral Letters of the United States Catholic Bishops*, vol. 3, 1962-1974, H.J. NOLAN, ed., Washington, DC, NCCB, United States Catholic Conference, 1984, pp. 275-282; 1994 revised version in *Origins*, 24 (1994-1995), pp. 449, 451-462. O.N. GRIESE uses adherence to these directives as equivalent to Catholic identity in *Catholic Identity in Health Care: Principles and Practice*, Braintree, MA, The Pope John Center, 1987, 537p.

²⁷NCCB, Pastoral Letter, *Health and Health Care*, 19 November 1981, in *Origins*, 11 (1981-1982), pp. 400-401.

and death in life.²⁸ This kind of formulation might present healthcare values as a ministry including as major components, quality care, pursuit of social justice, and concern for the poor.²⁹

1. *Quality care*

Today's concept of quality encompasses many dimensions. According to the Sisters of Providence Health System's strategic plan, "quality" includes compassionate, personalized, holistic, and appropriate care; care that responds to patients and their families, providing maximum benefit and minimum waste within limited resources. Such care respects and supports all stages of the life cycle. It presupposes both a commitment by all healthcare providers to continuous improvement and an adequately trained staff and administration committed to a ministerial focus in their work.³⁰

2. *Pursuit of social justice*

Pursuit of social justice involves justice both within the context of Catholic institutions and in the wider society. It requires that the Church act and that others perceive it to act as a just employer observing honest business practices. Not only does civil and canon law require it, but the Church's credibility as a prophetic voice demands it. Secondly, it entails actively working to influence public policy in the establishment

²⁸For example, see CCHC, *Critical Choices*, pp. 28-29, which expresses Catholic identity in terms of five ministries: to the community; to the individual served; to the employees; to promote and protect life; and one which prizes the earth. See also CHA, "How to Approach Catholic Identity in Changing Times", p. 23.

²⁹BEAL, "Catholic Hospitals", pp. 88-89. See Appendix B, p. 218, for a slightly different formulation as the foundational values of the Sisters of Providence Health System.

³⁰SISTERS OF PROVIDENCE HEALTH SYSTEM, *System Strategic Plan for Health Care 1993-1995*, System Office, Seattle, 1993, p. 62.

of appropriate, effective, just, and cost-effective systems of healthcare delivery accessible to all.³¹

3. *Advocates of the poor*

Catholic healthcare must also recognize that no system, no matter how just, adequately provides for all of society's members. The poor will always be with us (Mt. 16:11). So, besides working for just systems, Catholic healthcare must also act as an advocate for the poor. It can never rest satisfied with abandoning the poor for the sake of financial solvency.³²

Catholic healthcare institutions do not hold a monopoly on these values. Nonetheless, their particular configuration constitutes a characteristic pattern for authentic Catholic healthcare institutions. They provide a basis for assessing a particular institution's fidelity to its mission and a context for the negotiation process in creating new partnerships and relationships.³³

B. *Institutional dimensions of Catholic identity*

The living out of any value by an institution entails moving it into the realm of external organization. The third element of *communio*, the bond of ecclesiastical governance, requires organizational form to specify an institution's relationship to the Church. A number of arrangements for the ecclesiastical governance of Catholic

³¹See CLSA, "Canonical Standards in Labor-Management Relations: A Report", in *The Jurist*, 47 (1987), pp. 545-575, and A. NEALE, "A Matter of Integrity: To Uphold Their Social Justice Tradition, Catholic Healthcare Providers Must Become Public Policy Advocates", in *Health Progress*, 73 (1992), no. 3, pp. 54-55, 64.

³²See CHA, *No Room in the Marketplace: The Health Care of the Poor*, St. Louis, MO, CHA, 1986, 65p.

³³See CCHC, *Critical Choices*, pp. 26-28. See also R. WILSON and T.S. SCHINDLER, "Tradition in Transition: What It Means to be a Catholic Healthcare Facility Today", in *Health Progress*, 71 (1990), no. 8, pp. 26-31.

institutions formulated during the past few decades compare more to useful strategies for carrying out the Church's mission than to definitive requirements of canon law.³⁴ Thus, the fact that today particular institutions may not find themselves in situations allowing them to conform completely to those strategies does not necessarily preclude them from participating in Catholic identity. In the face of the 1983 Code's silence concerning charitable institutions, one must use indirect means to determine the possibilities for their organizational bond to the Church. An analysis can proceed in one of two ways, inductively, starting from the actual lived situation, or deductively, starting with the law.

1. *The lived experience*

CHA has provided an inductive analysis of organizational bonds to the Church for healthcare institutions. It asks the question, "What is a Catholic healthcare facility?", which it answers as, "a healthcare facility that people perceive as connected or associated with the Catholic Church." It then presents various actual organizational models of association found in the United States:³⁵

- a. A secular institution, i.e., non-ecclesiastical institution, under the management of an ecclesiastical entity, such as a religious congregation. The contractual agreement establishing this arrangement would regulate the situation, not canon law, although the Catholic managers would be bound by the obligations of *communio* in the

³⁴Maida's list of reserved powers for civilly incorporated institutions serves as a prime example of a useful strategy rather than as a canonical requirement. See MAIDA and CAFARDI, *Church Property, Church Finances, and Church Related Corporations*, p. 157.

³⁵CHA, *The Search for Identity*, pp. 21-25. The authors based this analysis on Örsy's schema for Catholic universities in his *The Church: Learning and Teaching*, pp. 114-121.

manner of other Catholics. Members of religious congregations would also be bound by their own proper law.³⁶

b. A Catholic unit, managed under Catholic auspices, while owned and operated within a larger secular institutional framework, such as a Catholic campus within a largely secular hospital. Again, contractual and civil law documents, as well as the local bishop would specify the extent and manner of the unit's relationship with the Church.³⁷

c. A facility or system which operates in the Catholic tradition but which possesses no civil or juridic bonds to the Church. In this situation the personal commitment of the governing authorities and staff maintains the ecclesial connection. Canon law would not apply to the facility itself, but the Catholics involved would be subject to some of its regulations, such as the need for the bishop's permission to call the facility Catholic.³⁸

d. A facility or system which operates in the Catholic tradition and which incorporates that commitment into its civil law documents and policies, but which does not possess juridic bonds to the Church. For example, its articles of incorporation may

³⁶The Sisters of Providence Health System manages two healthcare facilities under this kind of arrangement, the Mary Conrad Center, a longterm care facility in Anchorage, AK, and Mark Reed Hospital, McCleary, WA. In addition, it manages eight low-income housing facilities. See Appendix A, p. 208.

³⁷In 1992, Providence Hospital, Oakland, merged with a secular hospital. The Sisters of Providence withdrew sponsorship of the former Providence Hospital, allowing for the creation of a new secular entity, Summit Medical Center. The new corporation agreed to abide by the *Ethical and Religious Directives* and to retain the Catholic identity of the Providence unit, operating it according to Catholic values and philosophy, providing religious worship services and pastoral care services, and exhibiting external religious symbols. In addition, it would seek and maintain a relationship with the Bishop of Oakland. See *Memorandum of Understanding By and Between Merritt Peralta Medical Center, Samuel Merritt Hospital & Sisters of Providence in California*, 1 November 1991, Sisters of Providence Archives, Seattle, pp. 3-5.

³⁸At the present time the Sisters of Providence does not operate any such entities. However, Regina Medical Center of Hastings, MN, may provide an example. See B. JAPSEN, "Keeping a Catholic Identity", in *Modern Healthcare*, 24 (1994), no. 34 (August 8, 1994), p. 80.

commit it to follow Catholic ethical guidelines, or it may require representation on its board of directors from a religious congregation. The facility would not possess juridic standing in the Church. Again, canon law would not directly regulate such an institution, but it would regulate individual Catholics involved. The facility would require the bishop's permission to call itself Catholic.³⁹

e. Facilities or systems with formal juridic ties to the Church. These facilities would fall into one of two major categories: 1) those institutions operating under a public juridic bond, either a) their own public juridic personality obtained by virtue of their establishment by ecclesiastical authority and the granting of juridic personality either by law or specific action of ecclesiastical authority (c. 116); or b) through their establishment by and integration into another public juridic person, such as a religious congregation, a diocese, or a public association of the faithful; 2) those institutions operating under a private juridic bond, either their own private juridic personality granted by ecclesiastical authority (c. 116), or through their establishment by and integration into associations of the faithful with private juridic personality. Presently, most healthcare facilities and systems in the United States come under the first category, works of the apostolate of public juridic persons, including most of those operated by the Sisters of Providence Health System and Providence Services.⁴⁰

The above categories of institutions fall into three broad classes: 1) institutions with formal juridic bonds to the Church (e); 2) institutions without formal juridic bonds, but which have obtained the bishop's recognition as Catholic (some institutions from a-d);

³⁹At the moment, no facility related to the Sisters of Providence Health System operates under this kind of relationship to the Church, though Summit Medical Center exhibits some of these characteristics. Many U.S. Catholic universities would come under this category, including many of those sponsored by religious congregations.

⁴⁰See Appendix A, p. 208, for a listing of the institutions currently integrated into the juridic persons of Sacred Heart Province and St. Ignatius Province of the Sisters of Providence.

3) institutions operated by Catholics without either a formal juridic bond or recognition (remaining institutions in a-d). J. Provost would call the institutions from the first two categories "Catholic works", and institutions from the third category "works of Catholics".⁴¹

In the United States, the *Official Catholic Directory* and diocesan directories provide an additional component of Catholic identity in the realm of lived experience. The federal government recognizes the *Official Catholic Directory* as an official listing of entities and agencies of the Catholic Church for the purposes of tax status. The bishop determines which organizations from his diocese to submit for the publication, which action may argue for his granting them some measure of recognition as Catholic.⁴²

2. *Requirements from the law*

The second form of analysis of organizational bonds to the Church starts with the requirements found in the law.

a. The 1983 Code. CHA has identified six elements derived in part from the law relating to educational institutions, which it has applied to healthcare institutions:

1. The institution is to be under the sponsorship of the competent ecclesiastical authority, or acknowledged as Catholic (c. 803, §1);
2. The principles of Catholic moral theology and medical ethics must underlie all activity in the hospital or healthcare center (c. 803, §2);
3. The competent authority has authorized the recognition as Catholic (c. 803, §3);
4. Pastoral care and practice is subject to the authority of the Church (c. 804, §1);
5. The diocesan bishop or his delegate has a right of visitation (c. 805).

⁴¹PROVOST, "Canonical Aspects", pp. 168-172.

⁴²J.M. FITZGERALD, "The Official Catholic Directory: Civil and Canon Law Requirements", in *Catholic Lawyer*, 30 (1986), pp. 107-133. In recent years, bishops have taken more careful cognizance of the implications of including organizations in the directories. Today, they can make a distinction between those entities listed for information's sake and those officially recognized as Catholic.

6. The institution's temporal goods are administered according to the applicable canonical principles.⁴³

These regulations compare to a number of John Paul II's principles of ecclesiality, though with a much stronger emphasis on ecclesiastical authority and control.

b. *Ex corde Ecclesiae*. According to *Ex corde Ecclesiae*, which further develops the basic law, Catholic institutions are linked with the Church either by "a certain constitutive and legitimate bond" or through an "institutional commitment made by the sponsors" (*EcE* 2, §2).⁴⁴ Provost distinguishes between the two kinds of links:

The difference between the two seems to be that the first type of linkage entails a commitment by both Church authorities and the institution to maintain a formal linkage, recognized legally, and constitutive of the institution as such. This may be expressed in several ways (statutes of the institution, laws of a country, etc.). The second type of linkage entails a commitment by the institution but no formal commitment by Church authorities in return.⁴⁵

⁴³CHA, *The Search for Identity*, p. 56. See also MORRISEY, "What Makes an Institution Catholic?", pp. 537-538.

CIC 1983, c. 803, §1: "Schola catholica ea intellegitur quam auctoritas ecclesiastica competens aut persona iuridica ecclesiastica publica moderatur, aut auctoritas ecclesiastica documento scripto uti talem agnoscit.

§2. "Institutio et educatio in schola catholica principiis doctrinae catholicae nitatur oportet; magistri recta doctrina et vitae probitate praestent.

§3. "Nulla schola, etsi reapse catholica, nomen *scholae catholicae* gerat, nisi de consensu competentis auctoritatis ecclesiasticae."

CIC 1983, c. 804, §1: "Ecclesiae auctoritati subicitur institutio et educatio religiosa catholica quae in quibuslibet scholis impertitur...Episcoporum conferentiae est de hoc actionis campo normas generales edicere, atque Episcopi dioecesani est eundem ordinare et in eum invigilare."

CIC 1983, c. 805: "Loci Ordinario pro sua dioecesi ius est nominandi aut approbandi magistros religionis, itemque, si religionis morumve ratio id requirat, amovendi aut exigendi ut amoveantur."

⁴⁴*Certo vinculo constitutivo et legitimo*, and *ex officio institutional* ab eius sponsoribus sumpto, translated by Provost, in "Canonical Aspects", pp. 172-173. As far as the author of this paper knows, *Ex corde Ecclesiae* represents the first time a papal document uses the term "sponsors" in relationship to Catholic institutions.

⁴⁵PROVOST, "Canonical Aspects", p. 173.

These links lead to three categories of Catholic institutions: 1) those established or approved by the hierarchy; 2) those established by other public juridic persons, with the consent of the hierarchy; 3) and those established by other ecclesiastical or lay persons which have received recognition as Catholic. Other institutions may participate in Catholic identity while not qualifying as Catholic institutions. *Ex corde Ecclesiae* requires that Catholic universities of the first two categories must seek approval of their statutes by competent ecclesiastical authority.⁴⁶ In the case of the third category, the institutions receive recognition as Catholic by competent ecclesiastical authority "in accordance with the conditions upon which both parties shall agree" (*EcE* 3).⁴⁷ Catholic institutions are to make known their status through public documents, such as mission statements or corporate charters.

The establishment of a Catholic institution carries with it the responsibility for maintaining its Catholic identity which rests primarily with the institution itself, first its

⁴⁶This directive extends the requirements of the Code, which only requires approval of the statutes as a prerequisite for granting juridic personality (*CIC* 1983, cc. 117; 314; 322, §2). Thus, this extended directive would not apply to other Catholic institutions (c. 18).

CIC 1983, c. 18: "Leges quae poenam statuunt aut liberum iurium exercitium coarctant aut exceptionem a lege continent, strictae subsunt interpretationi."

CIC 1983, c. 314: "Cuiuslibet consociationis publicae statuta, eorumque recognitio vel mutatio, approbatione indigent auctoritatis ecclesiasticae cui competit consociationis erectio ad normam can. 312, §1."

⁴⁷Some controversy has risen over the interpretation of this article concerning the role of episcopal authority in the Catholic identity of institutions founded by laity or other ecclesiastical persons, but without public juridic ties to the Church. *EcE* requires the consent of competent ecclesiastical authority in order that: "eiusmodi universitas poterit Universitas Catholica haberi...", which Provost translates as, "Universities of this type can be considered Catholic universities...". The Vatican English translation here differs in meaning, translating it: "such a university may refer to itself as a Catholic university." These both differ from c. 808, which refers to the permission required for a university to use the term "Catholic" in its name, "even if it really be Catholic."

CIC 1983, c. 808: "Nulla studiorum universitas, etsi reapse catholica, titulum seu nomen *universitatis catholicae* gerat, nisi de consensu competentis auctoritatis ecclesiasticae." Provost argues strongly for the priority reading of the 1983 Code. See PROVOST, "Canonical Aspects", pp. 175-179.

governing and administrative personnel, then with all involved. Everyone associated with the institution must know about that Catholic identity and its implications. They must promote its values or at least respect them. The constitution recommends that if possible Catholics make up a majority of the professional personnel of the institution. A Catholic institution is to promote the spiritual development of all those associated with the endeavor, providing for this through a sufficient staff of adequately trained personnel (*EcE* 4, 6).

After its establishment, a Catholic institution's relationship to the Church hinges on three factors: 1) maintaining *communio* with the entire and the local Church; 2) recognizing the local bishop's responsibility to promote the institution's welfare and maintain vigilance over it for the sake of preserving and strengthening its Catholic character; and 3) maintaining communication with competent ecclesiastical authority through regular reports (*EcE* 5).

In order to address better the needs of modern society, Catholic institutions should cooperate with each other on the local, national, and international levels. When appropriate, they should also cooperate with government and other national and international programs in the interests of justice, development, and progress (*EcE* 7).

In summary, using *Ex corde Ecclesiae* analogously, one can describe a Catholic healthcare institution as one of society's institutions which consciously participates in the healing ministry of Jesus, especially toward the poor, according to the values and tradition of the Catholic Church. That institution has forged some link of greater or less formality with the Church and operates in a *communio* relationship with the entire Church and the local bishop. In addition to Catholic healthcare institutions, Catholics may operate other healthcare institutions which honor Catholic values and tradition, but which have not formed a formal linkage with the Church. In these cases, the individual

Catholics, but not the institution itself, maintain a *communio* relationship with the local bishop.

This analysis and the relationships it describes do not provide a scale for measuring the intensity of Catholic identity. It could easily happen that an institution with no juridic tie to the Church actually operates as and is perceived as one with a much greater degree of Catholicity than an institution formally established by the hierarchy. L. Örsy observes:

The intensity of religious dedication should be always distinguished from legal structures and corporate charters. High-sounding statutory statements may not cover deep convictions, and vice versa, deep convictions may be present even if there are no legally sanctioned expressions.⁴⁸

Nor does this analysis provide a scale for ever more desirable organizational options. As Örsy states further (in a university context):

There is nothing, absolutely nothing, in any of the... types that would be objectionable from a Catholic theological point of view. All are honest and respectable combinations of academic and religious dedication. The question, however, *which must be raised*, is whether or not a given combination is the best (the most prudent, the most efficient) way of upholding human and religious values in a given place and at a given time.⁴⁹

Determining Catholic identity remains an inexact science.

C. *Catholic identity and sponsorship*

How do the concepts of Catholic identity relate to sponsorship? Sponsorship denotes a type of guarantee. In the context of Catholic institutions, the term has developed as a guarantee by a Catholic entity for the congruence of an institution's values and activities with those of the Catholic Church, a participation in Catholic identity. Sponsorship entails, among other things, an institution's use of a sponsor's name. Canon

⁴⁸ÖRSY, *The Church: Learning and Teaching*, p. 120.

⁴⁹*Ibid.*

law reserves the authorization of the use of the term "Catholic" to ecclesiastical authority. In a similar manner, Catholic entities, such as religious congregations, which have themselves been approved by ecclesiastical authority, can bestow the use of their name on institutions of the apostolate. For an institution to use a sponsor's name it must maintain some degree of *communio* with the sponsor. However, even in common usage the term "sponsor" designates a considerable range of relationships. At times, the term indicates an institution's integral relationship with the sponsor, implying close oversight of its governance, usually through the use of reserved powers. At other times the term may denote a relationship closer to endorsement of a particular activity, for example the joint sponsorship of a community vaccination project. At a minimum, the sponsor is guaranteeing the institution's compatibility with fundamental Catholic values. At a maximum, it is guaranteeing the Catholic identity of the institution.⁵⁰

In this period of changing relationships and developing understandings, the implications of Catholic identity and sponsorship are still unfolding. Considerable debate and uncertainty surround a number of issues, a debate that will intensify in the years ahead as healthcare moves away from an institutional to a programmatic focus. The next sections examine some of the ways these developments are changing relationships and the issues they raise.

III. COLLABORATION WITH DIOCESAN BISHOPS

In all discussions involving sponsorship of Catholic institutions, ecclesiastical authority plays a key role. Diocesan bishops or the Holy See, either directly or indirectly, grant juridic ties to Catholic institutions. For Catholic institutions without

⁵⁰See F.G. MORRISEY, "New Skins (?) for New Wine: The Bishops, the Congregation and the Laity: Partnership Implications and the Need for Collaboration", in *CHAC Review*, 21 (1993), no. 1, p. 11.

juridic ties, bishops grant the recognition of their catholicity. The realignment of sponsorship, the increased involvement of laity other than members of religious congregations in the governance of Catholic institutions, and partnerships with non-Catholic entities are challenging the limits of the law and practice. The uncertainties of the situation can cause missteps and strained relationships between sponsors and bishops.

A. *The bishop as coordinator of the apostolic activity of a diocese*

Until recently, diocesan bishops usually did not concern themselves too directly with the Catholic healthcare ministry. J. Bernardin, cardinal archbishop of Chicago, characterizes their previous role as that of a "cheerleader".⁵¹ They played an instrumental role in its establishment, then left its operation and governance to religious congregations. Once some Catholic facilities began to face closure because of financial pressures, or others the loss of sponsorship by religious congregations, a number of bishops began to take a more active role in healthcare. The form and manner of their involvement varies from person to person, depending on a bishop's personality, attitude, and direct interest in the ministry. By this involvement, bishops are exercising their role as coordinators of the apostolate in their dioceses.

1. *Role of the bishop as coordinator of apostolic activity*

The Second Vatican Council proclaimed that all apostolic activity conducted in a diocese, including that of religious congregations, is subject to the coordination, the oversight, and vigilance of the diocesan bishop (*LG* 45 and *CD* 35).⁵² The 1983 Code

⁵¹J. BERNARDIN, "Crossroads for Church's Health Care Ministry", in *Origins*, 22 (1992-1993), p. 410.

⁵²SECOND VATICAN COUNCIL, Decree on the Pastoral Office of Bishops, *Christus Dominus* (= *CD*), 28 October 1965, in *AAS*, 58 (1966), pp. 673-701 (English translation in FLANNERY, vol. 1, pp. 564-590).

includes these responsibilities in cc. 394, 397, and 678.⁵³ Some of the ways that the Code provides for the bishop's role in the apostolate include: teaching the faith and its moral principles (cc. 386, 747, and 753); granting permission to a religious congregation to establish a house with its attendant works (cc. 609 and 611); coordinating the kind and distribution of works of the apostolate in the diocese, in consultation with superiors of religious congregations, which includes approving the change in focus of a religious house and consulting in the suppression of a house (cc. 394, 612, 616, and 678); appointing or confirming priests as chaplains to institutions of the apostolate (c. 565); granting public or private juridic personality to groups or institutions after approving their statutes (cc. 116 and 117); approving certain acts of administration and alienation of property for some groups according to the law or their statutes (cc. 634, 1291, and 1295); granting groups or institutions without juridic personality the permission to use the name "Catholic" (cc. 216 and 300); conducting visitations and correcting abuses if he finds them (cc. 392, 397, and 683).⁵⁴ These provisions furnish

⁵³*CIC 1983*, c. 397, §1: "Ordinariae episcopali visitationi obnoxiae sunt personae, instituta catholica, res et loca sacra, quae intra dioecesis ambitum continentur."

CIC 1983, c. 678, §1: "Religiosi subsunt potestati Episcoporum, quos devoto obsequio ac reverentia prosequi tenentur, in iis quae curam animarum, exercitium publicum cultus divini et alia apostolatus opera respiciunt." See also cc. 673-683.

⁵⁴*CIC 1983*, c. 565: "Nisi iure aliud caveatur aut cuidam specialia iura legitime competant, cappellanus nominatur ab Ordinario loci, cui etiam pertinet praesentatum instituere aut electum confirmare."

CIC 1983, c. 609, §1: "Instituti religiosi domus eriguntur ab auctoritate competenti iuxta constitutiones, praevio Episcopi dioecesani consensu in scriptis dato."

CIC 1983, c. 611: "Consensus Episcopi dioecesani ad erigendam domum religiosam alicuius instituti secumfert ius:

"2° opera instituto propria exercendi ad normam iuris, salvis condicionibus in consensu apposis."

CIC 1983, c. 612: "Ut domus religiosa ad opera apostolica destinetur diversa ab illis pro quibus constituta est, requiritur consensus Episcopi dioecesani; non vero, si agatur de conversione, quae salvis foundationis legibus, ad internum regimen et disciplinam dumtaxat referatur."

the bishop and the faithful of the diocese with specific means for living out the *communio* relationship in the field of the apostolate.

2. *Collaboration between bishops and religious congregations in apostolic activity*

The principle of the subjection of the apostolic activity of religious congregations to the authority of the diocesan bishop brings with it the need for dialogue and cooperation, as these works of the apostolate also operate under the authority of the superiors of the religious congregations. The document *Mutuae relationes* addresses collaboration between bishops and religious congregations in the Church.⁵⁵ It bases its teaching and provisions on the principle of *communio*:

Elements which differentiate the various members of the Church—the gifts, the offices, the functions—act in a complementary manner and are truly related to the one communion and mission of the same Body (*MR* 2).

CIC 1983, c. 616, §1: "Domus religiosa legitime erecta supprimi potest a supremo Moderatore ad normam constitutionum, consulto Episcopo diocesano..."

CIC 1983, c. 683, §1: "Ecclesias et oratoria, quibus christifideles habitualiter accedunt, scholas aliaque opera religionis vel caritatis sive spiritualis sive temporalis religiosi commissi, Episcopus dioecesanus visitare potest, sive per se sive per alium, tempore visitationis pastoralis et etiam in casu necessitatis; non vero scholas, quae exclusive pateant propriis instituti alumnis.

§2. "Quod si forte abusus deprehenderit, frustra Superiore religioso monito, propria auctoritate ipse per se providere potest."

CIC 1983, c. 747, §1: "Ecclesiae, cui Christus Dominus fidei depositum concredidit ut ipsa, Spiritu Sancto assistente, veritatem revelatam sancte custodiret, intimius perscrutaretur, fideliter annuntiaret atque exponeret..."

§2 "Ecclesiae competit semper et ubique principia moralia etiam de ordine sociali annuntiare, necnon iudicium ferre de quibuscumque rebus humanis, quatenus personae humanae iura fundamentalia aut animarum salus id exigant."

CIC 1983, c. 753: "Episcopi, qui sunt in communione cum Collegii capite et membris, sive singuli sive in conferentiis Episcoporum aut in conciliis particularibus congregati, licet infallibilitate in docendo non polleant, christifidelium suae curae commissorum authentici sunt fidei doctores et magistri..."

⁵⁵SCRIS and SACRED CONGREGATION FOR BISHOPS, Document, Directives for Mutual Relations Between Bishops and Religious in the Church, *Mutuae relationes* (= *MR*), 14 May 1978, in *AAS*, 70 (1978), pp. 473-506 (English translation in *FLANNERY*, vol. 2, pp. 209-243).

Bishops, superiors, and members of religious congregations are to work together in mutual respect and harmony, each acknowledging the role of the other (*MR Conclusion*). The norms of *Mutuae relationes* restate the principle of the right of supervision by the bishop in matters of apostolic activity. They do not mention institutions of charity of religious congregations, but they do treat of their schools:

Catholic schools conducted by Religious are also subject to the local Ordinaries as regards their general policy and supervision, without prejudice however, to the right of the Religious to manage them (*MR 44*).

The norms direct that works of the apostolate be distinguished between those *entrusted* to religious congregations and those *proper* to them by virtue of their constitutions. Entrusted works include those works assigned to a religious congregation through a contractual agreement between a bishop and the competent superior of a religious congregation (*MR 57*). The norms also call for the establishment of organs of communication between bishops and religious superiors on the diocesan, national, and international levels which can help facilitate the organization and coordination of apostolic activity (*MR 59-66*).

B. *Resolving conflict between bishops and sponsors of healthcare institutions*

Calls for unity, however, have not prevented challenges or tensions between bishops and sponsors in these times of changing relationships. Bernardin remarks:

The relationship between bishops and the sponsors and administrators of Catholic institutions within their dioceses is often characterized by personal warmth and good will, but too often not real collaboration until it is too late. We may fail to communicate about issues of mutual concern and accountability until a crisis is apparent.⁵⁶

Issues of mutual concern may arise from the practical order or from issues of the law.

⁵⁶BERNARDIN, "Crossroads for Church's Health Care Ministry", p. 410.

1. *Concerns arising from the practical order*

Bernardin identifies three areas of mutual concern for sponsors and bishops:⁵⁷

a. The maintenance of Catholic sponsorship of healthcare institutions and the preparation of new leadership in the face of declining numbers of religious women and men present new, and possibly insurmountable, challenges to the local Church. This matter takes on special dimensions if sponsorship is transferred to non-Catholic entities. How can a *communio* relationship be maintained?

b. The great financial stress and the cultural hostility to the Catholic values of care of the poor and protection of life which characterize the present money-driven environment may threaten a healthcare facility's survival. Financial strains can make Catholic hospitals vulnerable to takeovers by for-profit providers, thereby removing the ministry, at least in that form, from a local Catholic community.⁵⁸ Cultural hostility has not always resided solely with non-Catholics. The more than twenty years of possible excessive emphasis on female reproductive issues by those interpreting and applying the *Ethical and Religious Directives* has made Catholic hospitals susceptible to being known more for what they do not do than for what they do and for casting cultural hostility into a feminist debate.⁵⁹ Hopefully, the application of the 1994 revised text of the directives will provide some balance to this situation.

c. The creation of multi-institution healthcare systems can cause remote and impersonal relationships for a local Church which may need to communicate with central

⁵⁷Ibid., pp. 410-411.

⁵⁸See S. LUTZ, "Not-for-Profits Up for Grabs by the Giants", in *Modern Healthcare*, 24 (1994), no. 24 (May 30, 1994), pp. 24-28.

⁵⁹See W.T. REICH, "Policy and Truth: Medical Directives Criticized", in *Origins*, 1 (1971-1972), pp. 409-410, for a critique of the directives. For a contrasting approach to national policy on ethical directives, see the Canadian version, CATHOLIC HEALTH ASSOCIATION OF CANADA, *Health Care Ethics Guide*, Ottawa, Catholic Health Association of Canada, 1991, 91p.

authorities in perhaps another diocese or another state. From the healthcare provider's perspective, the same situation causes it difficulty in relating to different bishops of different dioceses with different local laws. For example, responsibility for interpreting and implementing the *Ethical and Religious Directives* lies with each local bishop. Thus, practices that one diocese may prohibit, the diocese across the river may permit, complicating the administration of HMOs and IDNs which cross diocesan lines.

2. *Concerns arising from provisions of the law*

Good working relationships between healthcare providers and bishops depend on communication and mutual education leading to mutual trust. At times bishops and sponsors will need to relate on a regional level with several bishops in the conversation. At other times the communication will depend on personal relationships with individual bishops, sponsors, and administrators.⁶⁰

Nevertheless, conflicts do arise. At present, ecclesiastical law and practice remain ill-equipped to handle conflict between sponsors and bishops in matters of apostolic activity. Several factors contribute to this situation:

a. A *communio* basis for law depends on trust and mutual understanding. Sinful, weak human beings do not always possess these qualities, even with the greatest of good will.

b. While the 1983 Code proclaims the right of the laity to engage in apostolic activity and even provides the mechanism of private juridic persons, most of its provisions envision such activity as carried out by priests or religious institutes. Those provisions concerning religious institutes presume an apostolic activity located within the context of a religious house, which for the most part does not reflect the actual situation

⁶⁰In recent months the Sisters of Providence Health System leadership have met several times with the bishops of Washington State to explore ethical issues relating to providing healthcare under Washington State healthcare reform which mandates uniform benefit packages including abortion coverage.

in the United States. The law does not envision works of the apostolate administered and governed directly by a congregation's central authority through a sponsorship relationship.

c. Legislative texts present apostolic activity in terms of the care of souls, divine worship, teaching, and other works of the apostolate.⁶¹ The Code of Canon Law does not directly treat of institutions of charity and social service. This entails the analogous application of directives formulated for other works, such as education.

d. The law for remedying abuses or settling conflicts concerning apostolic activities largely bases itself on the personal authority of bishops and religious superiors regarding their subjects. It provides almost no rules or principles for scrutinizing and adjudicating claims of administrative violations of rights, that is, conflicts between superiors and their subjects. As J. Provost observes:

There is a basic weakness in the canonical system as it now stands. Any system of law needs an effective means whereby persons can vindicate and protect their rights. The Code Commission recognized this; the 1967 Synod of Bishops affirmed it; the preface to the promulgated Code acknowledged it. Yet in the final product of the Code there is a regrettable lack of structure and procedure in this regard.⁶²

Because of this lack, conflict can cause sponsors and bishops to suffer profound insecurity as neither party can act with an assurance of a safe means for its resolution. Sponsors know that ultimately an institution of the apostolate operates on the sufferance of the bishop, while the bishop knows that, especially in cases involving institutions sponsored by religious congregations of pontifical right, a conflict may end up with the Holy See. No one knows the shape of the rules, especially on the diocesan level.

⁶¹For example, *CIC 1983*, c. 678, §1, states: "Religiosi subsunt potestati Episcoporum, quos devoto obsequio ac reverentia prosequi tenentur, in iis quae curam animarum, exercitium publicum cultus divini et alia apostolatus opera respiciunt."

⁶²J. PROVOST, "Protecting and Promoting the Rights of Christians: Some Implications for Church Structure", in *The Jurist*, 46 (1986), pp. 313-314.

Conflicts can devolve into power struggles and arbitrary actions, or at least appear to do so. R.T. Kennedy considers this a most serious danger for the Church:

The problem we face... is not so much injustice as it is *supposed* injustice... When one does not *know* that a particular decision was made fairly, when there is no guarantee that it will be made fairly, human beings are exposed to rather widespread suspicion of arbitrary action... (Bishops) are often accused unjustly of being arbitrary and unfair, simply for the want of structures and procedures of which people are aware and from which they derive assurance of the fairness of their actions.⁶³

In any case, conflict situations may very well permanently break the bonds of *communio* for lack of effective means of resolution.

3. *Proposed methods for resolving conflicts between bishops and sponsors*

Canonists have proposed several approaches to address the situation. In c. 1733 the Code calls for the use of the processes of mediation, conciliation, and arbitration to resolve administrative conflicts, without however, establishing procedures or norms for these processes. The Code revision process provided for administrative tribunals of various grades to handle administrative conflicts in the Church. These were dropped at the very last minute, although two canons, 149, §2, and 1400, §2, still mention them, suggesting that the local Church may establish administrative tribunals.⁶⁴ The only process which the Code does provide for resolving administrative conflicts lies in

⁶³R.T. KENNEDY, "Commentary", in CLSA, *Protection of Rights of Persons in the Church: Revised Report of the Canon Law Society of America on the Subject of Due Process*, Washington, DC, CLSA, 1991, pp. 46-47.

⁶⁴*CIC 1983*, c. 149, §2: "Provisio officii ecclesiastici facta illi qui caret qualitatibus requisitis, irrita tantum est, si qualitates iure universali vel particulari aut lege foundationis ad validitatem provisionis expresse exigantur; secus valida est, sed rescindi potest per decretum auctoritatis competentis aut per sententiam tribunalis administrativi."

CIC 1983, c. 1400, §2: "Attamen controversiae ortae ex actu potestatis administrativae deferri possunt solummodo ad Superiorem vel ad tribunal administrativum."

Canon 1400, §2, declares the judicial tribunals incompetent to handle administrative matters. For a comprehensive treatment of the subject, see K. MATTHEWS, "The Development and Future of the Administrative Tribunal", in *Studia canonica*, 18 (1984), pp. 4-233.

hierarchical recourse (cc. 1732-1737). T.J. Paprocki explores the development of this process for the local Church. Since the Code does not provide any principles or procedures for this method, he advocates adapting civil law models of administrative justice, particularly in dioceses with an English common law tradition.⁶⁵ The United States bishops endorsed a report of CLSA on due process in 1969, which received a *nihil obstat* from the Holy See in 1971. The Society prepared a provisional revision in 1991, which it is now testing in certain dioceses.⁶⁶ These approaches serve to address conflicts once they have occurred. J. Beal proposes methods for preventing the violation of rights on the diocesan level even before they occur, including required forms of consultation and checks against arbitrary decisions or the abuse of authority.⁶⁷

If, in accord with cc. 397 and 683, a bishop determines that abuses serious enough to threaten the *communio* relationship do in fact occur in a healthcare facility, he

⁶⁵T.J. PAPROCKI, *Vindication and Defense of the Rights of the Christian Faithful through Administrative Recourse in the Local Church*, JCD dissertation, Romae, Pontificia Universitas Gregoriana, 1991, xiii-344p.

⁶⁶NCCB, *On Due Process*, rev. ed., Washington, DC, NCCB, 1972, 51p.; CLSA, *Protection of Rights of Persons in the Church*, vi-54p.; "Due Process Project Moves Towards Implementation", in *Canon Law Society of America Newsletter*, March 1994, pp. 1-2.

⁶⁷J.P. BEAL, *Toward Discretionary Justice in the Church: A Study of the Applicability in Canon Law of an American Law Model for Confining, Structuring and Checking Administrative Discretion*, Washington, DC, The Catholic University of America Press, 1983, ix-665p., *Canon Law Studies*, no. 515. See also his "Confining and Structuring Administrative Discretion", in *The Jurist*, 46 (1986), pp. 70-106.

can proceed in one of several ways.⁶⁸ As R.A. Hill suggests, these abuses must meet some criteria:

The abuses which are considered here have to be related to the apostolic work as apostolic, i.e., related to the mission of the Church itself. They have to concern actions or lack of action which are truly and certainly harmful and which are not trivial or the subject of legitimate differences of informed opinion... Otherwise the long-term cooperation and mutual trust between the diocese and religious communities will be seriously eroded.⁶⁹

The bishop can withdraw recognition from facilities that he has recognized as Catholic and which do not possess juridic personality (c. 216). This holds true especially if the alleged abuses violate an agreement that accompanied his recognition, parallel to that provided for in *Ex cordae Ecclesiae* 3. If a diocesan bishop has granted juridic personality to an institution of the apostolate distinct from that of a religious house or province, he can extinguish that juridic personality in accordance with the law (c. 120). He can make a formal complaint to a congregation's superiors for cases involving facilities they sponsor. If that proves in vain he can by his own authority deal with the matter (c. 683). The law provides that he can "for the gravest of reasons", forbid a particular member of a religious congregation to remain in his diocese, in which case he

⁶⁸Canon 683, §1, includes a serious interpretational difficulty, as it refers to the episcopal visitation of schools and other works of charity "entrusted to religious" (*religiosis commissa*), which might appear to exempt works proper to the institute, such as Sisters of Providence Health System institutions. However, as R.A. Hill points out, the source of the canon lies in *Ecclesiae sanctae* I, 38 and 39.2, which clearly include such works (R.A. HILL, "The Apostolate of Institutes: Canons 673-683", in J. HITE, S. HOLLAND, and D. WARD, eds., *A Handbook on Canons 573-746*, published under the auspices of CLSA, Collegeville, MN, The Liturgical Press, 1985, pp. 219-220, fn. 34; PAUL VI, Apostolic Letter, *Ecclesiae Sanctae* I, 6 August 1966, in *AAS* 58 (1966) pp. 757-775 [English translation in FLANNERY, vol. 1, pp. 591-610]). On the other hand, Pinheiro would seem to suggest that the restrictive reading of the canon protects the just autonomy of the religious institute (A. PINHEIRO, *Bishop-Religious Relationship in the Apostolic Activities of the Diocese According to the Code of Canon Law*, JCD dissertation, Romae, Pontificia Universitas Lateranense, 1986, pp. 98-101).

⁶⁹HILL, "The Apostolate of Institutes", p. 218.

must immediately report it to the Holy See (c. 679).⁷⁰ According to c. 1320, he can impose penalties upon a member of a religious congregation in matters in which that member comes under his authority, including the apostolate of the diocese.⁷¹

Canon 609 directs that a religious congregation must receive permission from the local bishop to establish a house. Upon its establishment, a religious house acquires permanent juridic personality *ipso iure* and the right to exercise its attendant proper works (cc. 611 and 634). Thus, once established, a house's continued existence does not depend on the bishop's perduring permission or approval. A religious congregation must obtain the consent of the diocesan bishop to change the nature of the works of a house (c. 612). The power to suppress a house and its works belongs to the supreme moderator of the congregation, in accordance with the constitutions, after consultation with the diocesan bishop (c. 616). Other actions of the bishop depend on his discretion, rather than on specific provisions of the law.⁷² Authorities in charge of institutions of the apostolate may challenge any administrative action of the bishop through hierarchical recourse if they consider it to violate their rights, even to the level of the Apostolic Signatura if their case merits it (cc. 1732-1737).

⁷⁰CIC 1983, c. 679: "Episcopus dioecesanus, urgente gravissima causa, sodali instituti religiosi prohibere potest quominus in dioecesi commoretur, si eius Superior maior monitus prospicere neglexerit, re tamen ad Sanctam Sedem statim delata."

⁷¹CIC 1983, c. 1320: "In omnibus in quibus religiosi subsunt Ordinario loci, possunt ab eodem poenis coerceri."

⁷²For example, the bishop could publicly declare that he no longer recognizes an institution sponsored by a religious institute as Catholic, which could produce a large public relations effect, even if it may do nothing directly in the canonical arena. On the other hand, one might also consider the fact that such an action could be considered to constitute a form of alienation through the worsening of the patrimonial condition of the juridic person in the sense of c. 1295, perhaps requiring the formalities of the alienation process, including the action of the Holy See in cases which exceeded the maximum competence for alienation (cc. 638, §3, and 1292, §2).

The principles of *communio* and of the operation of works of the apostolate under the authority of the bishop would suggest that ultimately institutions of the apostolate could continue as such only with the bishop's approval. Most bishops and sponsors of these institutions agree with this principle.⁷³ Yet, none of the Second Vatican Council documents, nor *Mutuae relationes*, nor the law offer a mechanism for activating this conclusion. The situation clearly suffers the danger of the appearance of arbitrary action if a conflict between bishops and sponsors ever reached a level involving such interventions.

Given the changing circumstances concerning the mutual relationship between bishops and the sponsors of healthcare institutions, it cannot be expected that the present situation would remain at the current level. The traditional equation of the episcopacy's personal authority over religious congregations as a means of supervising institutions of the apostolate no longer suffices because those works no longer reside in the context of religious houses, nor their governance with a congregation's superiors alone. Laity other than members of religious congregations, who have never been included in this equation, now constitute almost all but the ultimate levels of authority in institutions of the apostolate. The Church must formulate structures and processes which embody the principles of *communio*, include all the faithful, and give everyone the security of operating in a system of fairness and protection from the arbitrary. Otherwise, the civil courts might be called upon to act as the arbiter of ecclesiastical conflicts.

⁷³For example, Bernardin has expressed his intention to consider revoking his recognition of the Catholic identity of healthcare institutions or "the canonical approval for a particular apostolic work of a religious community" in the archdiocese of Chicago if they join, without his approval, a non-Catholic rather than a Catholic healthcare system. J. BERNARDIN, *Protocol for Evaluating Joint Ventures and Affiliations Relating to Catholic Health Care Ministry*, 31 August 1994, Chicago, Archdiocese of Chicago, p. 2, and reported in "Bernardin Raps Hospitals", in *Crain's Chicago Business*, 19 September 1994, p. 1.

IV. COLLABORATION AMONG HEALTHCARE PROVIDERS

Healthcare reform, the need for responsible use of resources, and competitive market forces are leading to new relationships among healthcare providers. Former rivals may now see each other as potential allies who need to formalize new relationships, with Catholic healthcare institutions proving no exception to this trend.⁷⁴ Collaboration among Catholic sponsors and institutions would appear to be a natural move and pose no threat to the Catholic identity of the institutions.⁷⁵ Other arrangements may tell a different story. Establishing new relationships requires careful thought and often untested procedures.

Before entering into a new collaborative relationship, the parties need to investigate each other and the proposed relationship thoroughly. Will the action enhance the ability to pursue Jesus' healing mission? Do the parties hold compatible values and corporate cultures? Do they trust each other? Do the details of the proposed relationship provide sufficient protection for each other's interests? Will the new venture improve each other's business position? What does each party stand to gain? What does each stand to lose? What kinds of civil and canonical actions does the new relationship require? What issues can scuttle the negotiations? Can the parties back out gracefully

⁷⁴Following *Ex corde Ecclesiae*, the expression "Catholic institutions" shall refer to institutions with juridic ties to the Church or institutions recognized as Catholic by ecclesiastical authority, as distinct from institutions with no formal tie to the Church even though sponsored by Catholics. "Catholic sponsors" shall refer to sponsors of Catholic institutions.

⁷⁵Even though collaboration among Catholic institutions would appear to pose the least amount of difficulty because of common mission and value bases, this has not always proven true. P. Cahill reports: "I think it's the collective responsibility of persons entrusted with the ministry of Catholic health and human services agencies and institutions to collaborate in order to assure our collective future existence, if not in the same distinct pieces present today, in a reconfiguration that makes sense for the people we serve." However, she continues by observing: "A basic destabilizing truth in the process is that Catholic sponsors don't trust one another... There is the great fear of giving something up to one another on the one hand and the almost naive willingness to cut the same deal with a non-Catholic entity" (P. CAHILL, "Collaboration Among Catholic Health Providers", in *Origins*, 24 [1994-1995], pp. 213-214).

if things go wrong? Only after addressing these kinds of questions can a new venture hope to succeed.⁷⁶

When collaborative relationships involve Catholic institutions, they involve the interests of the Church. This may require some actions in the ecclesiastical sphere, although canon law regulates very few matters in this regard. The nature of these actions will depend on some basic canonical and ethical principles, the identity of the parties, and the kind of transactions made to forge the new relationships.⁷⁷

A. *Canonical and ethical principles*

Two fundamental principles underlie the Church's relationship to Catholic institutions: 1) all institutions, their assets, and their activities exist for the purpose of accomplishing the mission of Jesus according to the teachings, the values, and the tradition of the Catholic Church; 2) all Catholic entities must maintain some type of *communio* relationship with ecclesiastical authority. The latter principle finds partial expression in the requirements that ecclesiastical property belong to juridic persons, and that Catholic institutions seek permissions and approvals by ecclesiastical authority for certain matters, depending on their degree of communion. Individual institutions may accomplish their *communio* objectives on their own or through a relationship to another Catholic entity, such as a religious congregation.

In addition to these fundamental principles, collaborative relationships must take into consideration other factors, including respect for the intentions of the donors, and

⁷⁶See R.J. KRAMER, "Partnerships for the Future: A New Vision for the Catholic Healthcare Ministry", in *Health Progress*, 72 (1991), no. 5, pp. 42-45, 55.

⁷⁷For discussions on the role of canon law and collaborative relationships, see MORRISEY, "Canonical Issues to Anticipate and Resolve", pp. 215-236, as well as his "Church Law's Role in Collaborations", pp. 24-29. See also CHA, *The Search for Identity*, pp. 62-76, and T.H. VOWELL, "Preserving Catholic Identity in Mergers: An Ethical and Canon Law Perspective", in *Health Progress*, 73 (1992), no. 2, pp. 28-33.

the prescriptions of relevant canonical and civil legislation. A Catholic sponsor, like other sponsors for that matter, must use any assets given to it for the purposes stipulated by the donor. This includes government funding and charitable donations. If the new relationships will not allow this type of usage, the sponsor must make other appropriate arrangements for the funds or return them to the donors. Because of this, Catholic sponsors and institutions must clearly distinguish their own assets from those dedicated to specific purposes by the donors.

Respect for relevant legislation entails observance of the various grades of canonical legislation: universal law; the particular law of a given diocese; the proper law of other sponsors found in the constitutions of religious congregations or in relevant statutes. In addition, transactions forming collaborative relationships must follow applicable civil legislation, especially those laws pertaining to anti-trust activities and to contracts, provided such legislation does not violate divine law or that canon law does not stipulate otherwise (c. 1290).

B. *The parties*

In general, the parties to a collaborative relationship involving Catholic institutions will come from one of three categories: subunits of the same Catholic sponsor; institutions belonging to two or more Catholic sponsors; and institutions without Catholic affiliation. Many of the requirements for the involvement of Catholic institutions in collaborative relationships will derive not from canon law, but from requirements established by the parties themselves. In addition, the local bishop, as the coordinator and monitor of the ministry provided in his diocese, also participates to some degree as a party to each relationship. The more substantially a new relationship affects

the ministry, the greater his role and the earlier his need to be informed. The 1994 *Ethical and Religious Directives* Part 6, §§67-68, states:

§67. Decisions that may lead to serious consequences for the identity or reputation of Catholic health care services or entail the high risk of scandal should be made in consultation with the diocesan bishop or his health care liaison.

§68. Any partnership that will affect the mission or religious and ethical identity of Catholic health care institutional services must respect church teaching and discipline. Diocesan bishops and other church authorities should be involved as such partnerships are developed, and the diocesan bishop should give the appropriate authorization before they are completed. The diocesan bishop's approval is required for partnerships sponsored by institutions subject to his governing authority (e.g., institutions sponsored by the diocese, or religious congregations of diocesan right); for partnerships sponsored by religious institutes of pontifical right, his *nihil obstat* should be obtained.⁷⁸

Since this directive, the interpretation of which depends on the local bishop, represents a new type of involvement in healthcare in the United States for the local bishop, it remains to be seen how it will be applied.

1. *Subunits of the same Catholic sponsor*

The consolidation of two or more institutions sponsored by the same Catholic sponsor, or the formation of a healthcare system from several of a sponsor's independently operating institutions serves as an example of collaboration with subunits of the same Catholic sponsor. In the case of a religious congregation or of a diocese, although the partnership may involve the formation or modification of civil corporations, if the canonical ownership and/or sponsorship of the new entity remains with the same sponsor, then it possesses the authority to conduct the transaction without the permission of higher ecclesiastical authority. This kind of action is not considered an alienation subject to the prescriptions of cc. 638, 1292, or 1295.⁷⁹ However, if the congregation's or the

⁷⁸NCCB, *Ethical and Religious Directives*, 1994, p. 460.

⁷⁹MORRISEY, "Conveyance of Ecclesiastical Goods", p. 129.

diocese's own law considers the arrangement an act of extraordinary administration, then the transaction must honor the required formalities.⁸⁰ In the case of other Catholic sponsors, their statutes would govern the transaction.

2. *Institutions belonging to two or more Catholic sponsors*

Institutions sponsored by different Catholic entities can enter into a collaborative relationship such as establishing a single health system or contracting for shared services. The new relationship can usually safely assume agreement on the canonical principle of participating in the mission of Jesus and on the ethical principles guiding the apostolate. Nonetheless, sponsors need to reflect on how this particular transaction can enhance their ability to accomplish the mission. If this new relationship substantially changes the *communio* relationship to the bishop or the nature of the ministry in his diocese, the parties must at least inform him, if not seek his permission in some matters.⁸¹ If the process involves the alienation of property beyond certain limits, it will also require ecclesiastical permission. The proposed relationships could ultimately lead to the creation of new juridic persons, or to the extinction or absorption of existing ones, which again would require the involvement of competent ecclesiastical authority. On the other hand, if the arrangements simply consist in contractual agreements without any transfer of property, substantial alteration of ministry, or the creation or alteration of juridic persons, then the sponsors' proper law alone would probably govern the situation.

⁸⁰The Sisters of Providence classifies establishing a new corporation, and dissolving or substantially modifying an existing civil corporation as matters of extraordinary administration requiring the authorization of the superior general and her council. See SISTERS OF PROVIDENCE, GENERAL ADMINISTRATION, *Administration of Temporal Goods*, p. 26.

⁸¹For example, establishing a new health system may result in a new entity relating to the bishop. For some issues he may need to communicate with a central headquarters in another diocese instead of the local hospital. A merger may transfer the sponsorship of a local facility to a religious congregation that does not presently operate in his diocese and would need his permission to establish itself there. Or a consolidation may substantially change the character of the healthcare ministry such as transforming an acute care facility to a longterm care facility.

3. *Catholic institutions and others without Catholic sponsorship*

When Catholic institutions enter into collaborative relationships with non-Catholic institutions and wish to retain their Catholic identity, they must first assure themselves that the proposed transaction does not prevent their participating in the mission of Jesus according to Catholic values and tradition. Some areas of conflict could most likely arise around the expression of the values of advocacy for the poor, a cultural style respectful of the dignity of all people, social justice, and protection of life at all its stages.⁸² Additionally, any partnership arrangement must permit the Catholic party to maintain some form of *communio* with ecclesiastical authority.

C. *Types of collaborative relationships*

At present, collaborative ventures can take place in a multitude of ways. In the rapidly changing healthcare environment, one must remember that today's collaborative relationship may need reevaluation and revision tomorrow. The Church's law simply cannot keep abreast of all the new possibilities, a condition which continually calls for creative responses faithful to fundamental principles. In some circumstances, wrong decisions will certainly be made. Collaboration may involve several kinds of actions which to varying degrees can affect the nature and independence of the parties.⁸³

1. *Contracts, partnerships, and joint ventures*

Parties generally enter into contracts, partnerships, or joint venture relationships through a written agreement detailing each one's responsibilities and expectations around some activity, for example shared laundry services, or providing services for an HMO.

⁸²This listing does not intend to suggest that Catholic institutions always respect these principles and that those not so sponsored do not. However, Catholic institutions operate under the obligation to espouse these values publicly. Other sponsors may not desire to do this or to espouse them in the same manner.

⁸³See MORRISSEY, "Canonical Issues to Anticipate and Resolve", pp. 226-229. Also see CHA, *The Search for Identity*, pp. 62-70.

A contractual relationship does not imply the binding of the parties to each other beyond the terms of the agreement. If, however, it leads to a permanent cession of the right to recover assets, or the permanent loss of veto power concerning their disposition, or the inability to set major policy, then this could entail a type of alienation and may require Catholic sponsors to seek prior permission of higher ecclesiastical authority.⁸⁴

2. *Affiliations*

Affiliation agreements, usually a species of contractual agreement, today often concern long-term participation in regional delivery systems. They may allow the parties to maintain their separate existence and identity as they agree to collaborate on specific activities.⁸⁵ The same concern about alienation found with joint ventures holds true here. If necessary, especially in cases of affiliation with largely non-Catholic systems, the agreement will most likely require specifications concerning the ability of the Catholic institution to operate in accord with its Catholic identity.

3. *Mergers, acquisitions, and consolidations*

Mergers, acquisitions, and consolidations all involve the extinction of one party as an independent entity and its absorption into a second one, or the extinction of both parties and the creation of a new entity. For example, a Catholic sponsor can transfer the sponsorship of an institution to another Catholic sponsor better positioned to continue the institution's mission.⁸⁶ In such types of actions one party assumes the assets and

⁸⁴See K.D. O'ROURKE and D. BRODEUR, *Medical Ethics: Common Ground for Understanding*, vol. 2, St. Louis, MO, CHA, 1986, pp. 112-115, for a discussion of joint ventures in the light of Catholic ethical considerations.

⁸⁵For example, Bethany of the Northwest, a Lutheran nursing home, and Providence General Medical Center, both of Everett, WA, have reached a long range affiliation agreement in which Bethany's residents will receive longterm care on the top three floors of one of the medical center's facilities.

⁸⁶The Spokane Dominicans transferred sponsorship of several healthcare institutions to Providence Services of St. Ignatius Province for this purpose.

liabilities of the other, or the new entity does so for both parties. In addition, large sums of money can change hands or the action can take place with no further monetary exchange.⁸⁷ For transactions between a sponsor or an institution with public juridic personality and another entity, these activities usually involve alienations of large enough monetary value to require approvals by competent ecclesiastical authority. For other Catholic sponsors, their statutes would determine any necessary approvals. The new relationship may involve the extinction of a juridic person, such as a religious house, or even the eventual creation of new juridic persons, such as a health system, in which case they require the action of competent ecclesiastical authority.⁸⁸ If a non-Catholic institution participates as a party to the agreement, especially as a majority partner, and the Catholic institution is to continue to operate as Catholic, the agreement will need to include stipulations providing for that effect.

D. *Resultant Catholic identity*

Examining the Catholic identity of the resultant entity provides another perspective for analyzing collaborative relationships. As discussed above, Catholic identity of institutions refers to a range of possibilities. Thus, the entities resulting from mergers, acquisitions, and consolidations can fall within a continuum of possibilities of Catholic identity. They could possess a different degree of Catholic identity than any one

⁸⁷In the recent merger of Providence Hospital, Everett, and Everett General Medical Center in Everett, WA, the Sisters of Providence Health System assumed Everett General's assets and liabilities, with no additional money involved. On the other hand, when the health system acquired Newberg Community Hospital, it assumed the hospital's assets and liabilities. In addition, the health system dedicated a fund of \$5.2 million to "enhance health care in the community through programs, medical clinics and expanded service" (D. TAYLOR, Letter to Sisters of Providence, 1 July 1994, Providence Archives, Seattle, 1p.).

⁸⁸For example, Catholic Health Corporation of Omaha, NE, a system sponsored by eight religious congregations, has received public juridic person status. Canons 121-123 provide for the extinction, amalgamation and division of public juridic persons, with accompanying directives for the disposition of their property. A private juridic person's statutes would provide directives for like actions on its part.

Catholic institution did before entering into the relationship. Or a collaborative relationship could end up with no Catholic components at all.⁸⁹ A resultant Catholic entity would most likely fit into one of the following three situations.

1. *All components possess Catholic identity, a "governance" position*

A transaction could result in an entity composed exclusively of Catholic components. Examples include a health system consisting of Catholic institutions sponsored by one sponsor or a consortium of sponsors, or a Catholic system acquiring a non-Catholic entity which subsequently acquires Catholic identity.⁹⁰ This type of resultant entity operates under a model entailing some degree of ecclesiastical control of governance. The Catholic identity of both the components and the whole entity demands some type of *communio* relationship with ecclesiastical authority regarding its governance. However, even this category denotes a range of possible degrees of Catholic identity. For instance, the assets of Catholic entities with public juridic ties to the Church, as ecclesiastical goods, are governed by the provisions of canon law. The form of ecclesiastical governance developed in the last few decades involving public juridic persons and reserved powers most appropriately fits this type of entity. On the other hand, Catholic institutions and systems with private juridic ties to the Church, as well as their assets, are governed through ecclesiastically approved statutes. These two kinds of collaborative entities would make the most suitable candidates for separate juridic personality, public or private. Then, thirdly, Catholic institutions and systems with no juridic ties to the Church, but which have received ecclesiastical recognition as

⁸⁹A non-Catholic system could simply purchase a Catholic institution and operate it as a non-Catholic facility. See CCHC, *Critical Choices*, p. 38, for a graphical illustration of some of these possibilities.

⁹⁰This occurred with the acquisition of Newberg Community Hospital by the Sisters of Providence Health System. The previously secular hospital became Providence Newberg Hospital, a Catholic hospital.

Catholic, operate under the vigilance of ecclesiastical authority to assure that they abide by the terms of the agreement they made in receiving Catholic recognition.

2. *A majority of components possess Catholic identity, an "influence" position*

Some forms of collaboration will produce a resultant entity with the majority of components possessing Catholic identity, while others will not possess it. In these types of arrangements the non-Catholic entity retains its identity without assuming a Catholic character. One configuration would allow a Catholic entity, such as a healthcare system, to hold some non-Catholic components.⁹¹ In another configuration, an entity juridically without Catholic identity in itself, but perhaps popularly perceived as Catholic, could consist of a majority of Catholic components. Some degree of influence describes ecclesiastical involvement in the governance and operation of the non-Catholic components of this model. Usually, the greater the majority of Catholic holdings in the entity, the greater the Catholic influence.⁹² While the non-Catholic components would not assume Catholic identity, the closer the association with largely Catholic entities, the more they would need to operate in harmony with fundamental Catholic values, especially those related to the protection of life and service of the poor. Catholic and non-Catholic components would need to respect the expression of each other's values and traditions in both the public and private spheres.

These relationships raise some important questions. If a Catholic healthcare system as a separate juridic person, or as an integral part of one, acquired a non-Catholic component which remained non-Catholic, would that component share in the system's juridic personality? It would appear contradictory for a non-Catholic component to share

⁹¹For example, Catholic Healthcare West of San Francisco, a healthcare system sponsored by three religious congregations, includes as one of its hospitals Methodist Hospital of Sacramento.

⁹²See R.M. PINT, "Risks and Responsibilities: To Make Collaboration Work, Sponsorship Modes Must Stress Influence Rather than Control", in *Health Progress*, 72 (1991), no. 5, pp. 36-38, 54.

juridic personality, a public expression of official ecclesial identity and action in its name, or at least publicly approved action and *communio*. A more appropriate juridic stance for the relationship could rest in approaching non-Catholic components as investments for the juridic person. As F.G. Morrissey observes:

When we are involved with one Catholic institution and another one which has no religious affiliation, then it is usually not appropriate for the diocesan bishop to establish a juridic person for the new entity. It might be preferable for the Catholic component to acquire a certain percentage of the new entity, as if it were a stockholder, and consider this to be an investment of its stable capital.⁹³

Of course, the investment could not violate fundamental Catholic values, as a juridic person may hold assets only for the furtherance of its mission. If the system itself did not seek Catholic identity, then the relationship of the Catholic components could remain juridically a contractual one. A majority of Catholic components would, hopefully, allow them to exercise considerable influence on the overall operation of the system.

Could a Catholic sponsor, such as a Catholic healthcare system, especially one with public juridic ties to the Church, sponsor a non-Catholic component which it acquires? This question raises the issue of multiple levels of meaning of the word "sponsor". If sponsorship implies a guarantee that an institution is acting in the name of, or with the approval of the Church, then it would appear that a Catholic sponsor could not sponsor a non-Catholic institution except at the level of investment, or something similar. From this perspective, although a Catholic sponsor might participate in the oversight of the component's activities and governance to assure compatibility of values, the component should not directly assume the sponsor's name. Instead it could use a formula such as "affiliated with".

⁹³MORRISSEY, "Canonical Issues to Anticipate and Resolve", p. 228. Also see B.R. HOPKINS, "Partnerships or Joint Ventures as Vehicles to Achieve Charitable Objectives", in *Catholic Lawyer*, 31 (1987), pp. 123-129, where he investigates this approach from a civil law perspective.

If sponsorship designates a guarantee or endorsement of an enterprise because of a degree of compatibility with Catholic values, then the answer could be "yes", as long as the component did not operate in opposition to those values. From this perspective, a Catholic entity could not sponsor a euthanasia clinic, although it might sponsor an Adventist nursing home or a community youth employment program. The situation compares to the two biblical passages, "Whoever is not with me is against me," and "Whoever is not against you is for you," both found in Luke, both expressing an aspect of the truth (Lk. 9:50, and 11:23). Perhaps the time has come for a new terminology which expresses these two aspects of the truth with greater precision.

3. *A minority of components possess Catholic identity, an "advocacy" position*

Collaboration could result in an entity with a minority of Catholic components, such as a regional healthcare delivery system with a small proportion of Catholic healthcare facilities. In this case no question arises about the Catholic identity of the resultant system, as it clearly does not possess it. The relationship between the Catholic component(s) and the parent system originates by contractual agreement. If the Catholic component is to retain its Catholic identity, the contract should certainly include stipulations to guarantee that effect. "Advocacy" might describe the ecclesial involvement in this type of relationship. Since the Catholic components do not hold a position strong enough to assure the system's adherence to their values, they must take the position of persuasion, especially on behalf of the poor and of life at risk. While the Catholic component does not sponsor the system juridically, it does to some extent sponsor it in the sense of endorsing it by participating in it. Because of the many levels of concerns that collaborative relationships raise, Catholic sponsors do well to establish

in advance guidelines to help them express their mission, organizational, and operational goals in the negotiation process for establishing new partnerships.⁹⁴

In summary, collaborative relationships can take place among a variety of parties in a variety of ways and produce a range of results from the perspectives of Catholic identity and sponsorship. A number of years ago, the concern about collaboration focused on members of religious congregations collaborating with others than their membership in the areas of administration and governance. Today, collaboration focuses on Catholic institutions and their relationships with other institutions, Catholic or not. Just as the Church of the United States learned how to accommodate works of the apostolate administered and governed by members of religious congregations collaborating with others, it is now learning how to accommodate such works conducted by Catholic institutions collaborating with others without Catholic identity.

V. STABLE PATRIMONY

Discussion of today's collaborative relationships in healthcare leads to the final topic of this chapter, stable patrimony. New collaborative relationships often bring with themselves new arrangements of assets, including land and buildings, the traditional components in a juridic person's stable patrimony. M. Lopez Alercón defines stable patrimony as follows:

Stable patrimony is comprised of those goods that constitute the minimum secure financial basis to enable the juridical person to subsist autonomously and to attend to the purposes and services proper to it; there are no absolute rules, however, for establishing the stability of a patrimony, since this depends not only on the nature and the quantity of the goods, but also on the financial requirements for the fulfillment of the

⁹⁴For example, see SISTERS OF PROVIDENCE HEALTH SYSTEM, *Guidelines for Evaluating Collaboration Opportunities*, June 1994, System Office, Seattle, 3p., Appendix E, p. 238.

objectives, as well as on the stationary or expansive situation of the institution when discharging its commitments.⁹⁵

Along with traditional components of stable patrimony, today's healthcare relationships may just as well involve equity in partnerships, physicians' practices, "capitated lives", i.e., insurance policies for those enrolled in an HMO, or various healthcare programs, all often much more valuable than real estate. In fact, in the current situation hospitals can prove more a liability than an asset. How does stable patrimony relate to these new circumstances?

A. *Stable patrimony in canon law*

Canons 638 and 1290-1298 specially regulate the treatment of stable patrimony. They serve as a check on the imprudent or even unscrupulous dispersal of those assets by requiring consultation and permission of higher authority, including at times the Holy See, before they can be alienated. In order to adhere to these canons, a juridic person must clearly identify the stable assets it owns, which generally consist of immovable assets, traditionally land, buildings, and dedicated funds. "Dedicated", or "immobilized" funds, designate funds which a juridic person has permanently set aside for a specific purpose, for example, endowments and foundations, often in order to generate income through interest. They differ from funds set aside for a short-term purpose, such as a capital fund. Stable patrimony may also at times consist of items of precious or historic interest, of special cultural value, and goods donated by virtue of a vow (c. 1292).

⁹⁵M. LOPEZ ALERCÓN, "Commentaries to cc. 1254-1310", in *Code of Canon Law Annotated: Latin-English edition of the Code of Canon Law and English-language translation of the 5th Spanish-language edition of the commentary prepared under the responsibility of the Instituto Martín de Azpilcueta*, E. CAPARROS, M. THÉRIAULT, and J. THORN, eds., Montreal, Wilson & Lafleur Limitée, 1993, p. 797.

A juridic person owns assets in the canonical sense if it possesses the right to use and dispose of them freely for its own purposes in accord with the law (c. 1255).⁹⁶ If, on the other hand, it holds those assets in trust, for example, donations or government funds given for specific purposes, then it does not "own" those assets or exercise full *dominium* over them, and they would not constitute part of the stable patrimony.⁹⁷ The juridic person which lawfully acquired the assets owns them canonically, even if this does not correlate exactly with civil law arrangements (c. 1257). Thus, if a province or a house of a religious congregation sponsors a healthcare facility as an integral part of its juridic personality, the facility's stable assets make up part of the province's or house's stable patrimony, even if that facility has been civilly incorporated. Similarly, if a healthcare facility has received juridic personality in its own right, its stable assets belong to itself and not to the religious congregation, whether the facility is incorporated or not. In either case, the sponsor should clearly distinguish between the stable assets of the two categories.

Free assets, in contrast to stable patrimony, include those assets available for use in the immediate or short-term future. Usually they consist of money, such as operating and other non-permanent funds. However, they could consist of immovable assets, such as those awaiting conversion into cash, or acquired and held for trade in future partnership arrangements. In these cases, the assets would come under the canonical regulations for administration rather than for alienation, unless proper law dictates

⁹⁶*CIC 1983*, c. 1255: "Ecclesia universa atque Apostolica Sedes, Ecclesiae particulares necnon alia quaevis persona iuridica, sive publica sive privata, subiecta sunt capacia bona temporalia acquirendi, retinendi, administrandi et alienandi ad normam iuris." See above, p. 27, for a discussion of canonical ownership.

⁹⁷For example, Hill-Burton funds would not make up part of the stable patrimony. See CHA, *Inventorying Church Property and Other Administrative Matters* (= *Inventorying Church Property*), St. Louis, MO, CHA, 1994, p. 3.

otherwise (cc. 635, 638, and 1273-1289). What distinguishes a short-term from a permanent time frame? By analogy, one could use the period for establishing a custom or the period of prescription for liabilities, in both cases, thirty continuous years (cc. 26 and 1270).⁹⁸ Under these criteria, a given immovable asset or fund used exclusively to support a juridic person and its works for more than thirty continuous years would presumably become part of its stable patrimony.

Canon law does not directly require a juridic person to define its stable assets, although proper law may do so.⁹⁹ Once assets are stabilized, the law provides special protection for them involving the granting of permissions by higher authorities, including the Holy See, to alienate amounts above certain limits. Canon 638 requires the written permission of the competent superior, with the consent of council, for any act of alienation of stable patrimony of a religious congregation. For cases of alienation exceeding a figure that the Holy See has approved, it also must grant permission. In 1992, CICLSAL granted a rescript permitting religious congregations to use the same alienation limit of \$3,000,000 established by the U.S. Conference of Bishops for goods belonging to dioceses. This general permission does not, however, prejudice arrangements made between individual religious congregations and the Holy See.¹⁰⁰

⁹⁸CIC 1983, c. 26: "...consuetudo viginti iuri canonico...vim legis obtinet tantum, per annos triginta continuos et completos servata fuerit."

CIC 1983, c. 1270: "Res immobiles, mobiles pretiosae, iura et actiones sive personales sive reales quae pertinent ad Sedem Apostolicam, spatio centum annorum praescribuntur; quae ad aliam personam iuridicam publicam ecclesiasticam pertinent, spatio triginta annorum." See CHA, *Inventorying Church Property*, p. 3.

⁹⁹CHA, *Inventorying Church Property*, p. 2.

¹⁰⁰"Maximum Amount for Alienation of Church Goods", in *Roman Replies and CLSA Advisory Opinions 1992*, p. 15. Sacred Heart Province of the Sisters of Providence operates under a rescript granting a \$100,000,000 limit.

B. *Determining stable patrimony*

Given the very active nature of the healthcare ministry and the number of new partnerships forming, sponsors need to know the exact extent and kind of their assets, both in the civil and canonical arenas. An inventory of the current stable patrimony of sponsors and institutions of the apostolate necessitates identifying the juridic persons involved and the particular actions they have used to stabilize assets. The law defines the juridic personality of religious congregations and their entities, while institutions of the apostolate can receive juridic personality by episcopal decree and perhaps through custom (cc. 116 and 634). A stabilization of assets has taken place according to a juridic person's own procedures and possibly through custom. Investigating these matters requires examining historical documents such as statutes, episcopal decrees, acts of council, deeds, conditions accompanying donations, etc., which can admittedly lack completeness or detail. When documents are lacking, a sponsor could safely presume the stability of land, buildings, endowments, and foundations, especially if it has held them for more than thirty years.¹⁰¹

The study with its resultant inventory can clarify which assets belong to sponsors and which assets belong to institutions of the apostolate. It can identify those assets subject to the permissions required for alienation, either by universal or by proper law. Finally, it may suggest some modifications in a sponsor's statutes, policies, and procedures to conform better to current situations and to help make informed decisions about the acquisition and disposition of assets in the future. As an illustration, proper

¹⁰¹CHA, *Inventorying Church Property*, pp. 3-4. This publication also provides on pp. 17-40 some very useful forms for making an inventory of stable patrimony.

law may need to make some provision for non-traditional assets, such as equity in partnerships.¹⁰²

All of these concerns come into particular importance if an entity must substantially modify its relationship to its sponsored works, especially through withdrawal of sponsorship or through sale or merger. These transactions will proceed much more smoothly and fairly if there already exists a careful analysis distinguishing between the sponsor's assets and those of the institution, even if that analysis has included some judgement calls made in good faith.

CONCLUSION

Sponsorship of Catholic healthcare institutions is undergoing very rapid change because of the evolving healthcare delivery environment in the United States. As healthcare moves into integrated regional delivery networks offering services through managed care plans, the traditional acute care facilities sponsored by religious congregations are finding themselves unable to survive on their own. Even today's healthcare chains must change because of their wide geographical spread. The change in focus from a sick patient base to a health maintenance base leads to a greater emphasis on broad-ranged health programs rather than on treatment of catastrophic illness. A payment system based on a constant membership fee, regardless of the client's state of health, changes hospitals from income generators to cost centers. These forces are

¹⁰²According to the Sisters of Providence financial directory, "community patrimony consists of the sum of all goods, rights and obligations of the community and its works", which is mainly constituted of "land, buildings, furniture, equipment, vehicles, works of art, investments, retirement funds and insurance" (SISTERS OF PROVIDENCE, GENERAL ADMINISTRATION, *Administration of Temporal Goods*, p. 19). This wording might preclude the occasional holding of land and buildings on a short-term basis as free assets, which may suggest the desirability of modifying the directory to accommodate such circumstances.

leading to new evaluations of resources and new alliances among healthcare providers, both Catholic and others.

As a result of these factors, the focus of identity for Catholic healthcare institutions has shifted from their operation and governance by the founding religious congregations and their associates, such as the Sisters of Providence, to a broader ecclesial basis, highlighting their communion with the local bishop and the entire Church. An analysis of that basis, however, relies on documents and policies formulated not for institutions of the social apostolate in general, or healthcare institutions in particular, because such do not exist outside the field of medical ethics. Instead, it depends on juridic documents formulated for higher education institutions, particularly *Ex corde Ecclesiae*. This analysis identifies two essential elements of Catholic identity, first, its conscious operation as a healing ministry of Jesus, especially in response to the needs of the poor, within the teachings and tradition of the Catholic Church, and secondly, a *communio* relationship with the entire Church and the local bishop. This latter relationship comes about either through some form of formal juridic tie or through recognition of the institution as Catholic by competent ecclesiastical authority.

With the shift in focus of Catholic identity, the local bishop plays a more direct role in the healthcare ministry than he did beforehand. For centuries bishops have generally relied on religious congregations to operate and oversee the healthcare ministry. If a bishop took direct action at all, he would usually do so in terms of his personal authority over particular congregation members. Since religious superiors did govern the institutions of the apostolate, this sufficed, and the law reflected the arrangement. However, today, religious superiors often occupy only the ultimate levels of governance, at times from a location in another diocese. The ever greater involvement of public governmental structures are exerting strong pressures on healthcare institutions regarding

some aspects of Catholic teachings in medical ethics. The United States bishops have responded by issuing a revised version of its *Ethical and Religious Directives*, the specific applications of which are left to the interpretation of individual bishops. These circumstances are encouraging some bishops to take a more direct role in the oversight in the healthcare ministry in their dioceses. The same circumstances may lead to the creation of a regional healthcare delivery system operating in several dioceses under different regulations. The common law does not contain procedures and mechanisms for resolving potential conflicts between sponsors and bishops, particularly with laity in governance positions. The situation could lead to considerable difficulty and uncertainty on all sides.

While the relationship between bishops and healthcare institutions is changing, the relationships among healthcare sponsors is also changing. New partnerships and alliances are rapidly forming, even among former bitter rivals. Some religious congregations are withdrawing or transferring sponsorship of given institutions in order to coordinate their efforts regionally. Some are merging with other sponsors, Catholic or not. Other sponsors are finding they must sell or close, as the new delivery configurations are making some facilities redundant.

The new circumstances are leading to new ways of identifying Catholic healthcare institutions and systems. All authentic Catholic healthcare institutions must operate as a ministry of compassion, offering quality care supportive of life in all its stages, which pursues social justice, and provides advocacy for the poor. Some systems, such as the Sisters of Providence Health System, consist almost exclusively of Catholic institutions. In these cases, the system can operate with the kind of control of governance formulated and advocated by Maida in the last few decades. Other systems include a majority of Catholic institutions and some non-Catholic components. In these cases, the system can

exert a considerable amount of influence on the governance policies of the whole, while respecting the rights and identity of the other entities. In other systems, Catholic institutions will make up only a minority element. Here the Catholic component must take an advocacy position on behalf of its special concerns. Canon law, because it makes very few fundamental requirements for the structures of Catholic institutions, can accommodate the whole range of Catholic identity.

The final element in this chapter concerns stable patrimony. Situations are changing, including the economic base of healthcare. As healthcare changes from a hospital, i.e., building and equipment, base to a health maintenance, i.e., program, base, the evaluation of assets is also changing. The traditional identification of components of stable patrimony and the mechanisms adopted in proper law to protect them may need reevaluation. Here, again, the universal law includes very few provisions and can accommodate new conditions.

In general, this chapter shows that sponsorship, including sponsorship by the Sisters of Providence, is undergoing great challenges. However, sponsorship itself developed with religious congregations as a means of responding to the Church's purpose of ministering to the multiple needs of the poor in Jesus' name. While sponsorship, especially sponsorship of healthcare institutions, will certainly change its form, the fundamental call to ministry remains. Change does not do violence to the general law, as the latter remains very fundamental. Proper law and recent applications of the law may need to adjust, but the universal law provides the flexibility to respond to the challenge.

GENERAL CONCLUSION

I. SUMMARY OF THE PRECEDING CHAPTERS

Sponsorship has served the Catholic Church in the United States well for the last several decades. It has provided a mechanism allowing the Church to make the necessary transitions in its relationship to its institutions of education and social welfare. Neither canon law nor civil law contains the concept of sponsorship. Rather, it has developed as a practical means for adapting to changing conditions. This dissertation investigates the canonical implications of sponsorship as it has developed over the last three decades, particularly as it relates to healthcare. It does so by tracing the evolution of sponsorship with the Sisters of Providence in the western United States since the Second Vatican Council in the belief that their history illustrates the basic story of sponsorship for the whole country.

Before the Second Vatican Council, religious congregations almost exclusively operated and governed Catholic charitable institutions. The law and the actions of episcopal authority usually assumed such a relationship. Since the Council, the degree and kind of involvement in these institutions by members of religious congregations have changed. They no longer participate in the numbers they did in the past. While they once administered almost all Catholic charitable institutions, today they do not. Sponsorship has permitted religious congregations to provide a stable governance environment for such institutions during these changes, which in turn has permitted the congregations and institutions to continue their primary mission in service of the Lord and his people.

Through sponsorship, a group of people takes responsibility for an institution of the apostolate of the Catholic Church, assuring that its fundamental directions, structures, and activities conform to its initial purposes. The sponsoring group may not be able to take part in all the activities of the institution, but it does provide oversight and control in critical areas of the institution's life. In addition, it provides a structural link to the local and universal Church. By assuring an institution's mission and ecclesial bonds, Catholic sponsors guarantee an institution's catholicity.

For the Sisters of Providence, sponsorship began in the late 1960s and the 1970s with the integration of people other than congregation members into the administration of its institutions. This move separated the governance of institutions from that of the religious houses in which they were originally established. The congregation still maintained exclusive control of that governance through its province level superiors. During this time, the congregation was also beginning to forge its chain of independent hospitals into a healthcare system.

A major canonical controversy during this time concerned the identification and control of ecclesiastical property which also had been civilly incorporated. J.J. McGrath held that civil incorporation removed it from the category of ecclesiastical property and from the regulations of canon law. To counter McGrath, A.J. Maida, now cardinal archbishop of Detroit, MI, proposed that civil incorporation did not withdraw the property from canonical regulation. Instead, it served only as a means of securing protection for property in the civil order. Though they disagreed, both Maida and McGrath concurred in proposing that civil incorporation include governance structures assuring the Catholic nature and Catholic control of the institutions.

McGrath's proposal particularly suited the Sisters of Providence in the West, especially Sacred Heart Province, for two reasons: first, the congregation had acquired

all its property under civil incorporation and secondly, at that time canonical regulations of temporal goods seriously lagged behind the exigencies of the world economy. This latter factor lead to considerable difficulty in the financial governance and administration of modern healthcare institutions. At least in practice, Sacred Heart Province followed the McGrath proposal in its governance of temporal goods for a number of years. The promulgation of the 1983 *Code of Canon Law* with its greater flexibility, especially regarding alienation of property, and greater regard for civil law, allowed the congregation to establish workable financial policies conformable to both canon law and civil law.

The second stage in the evolution of sponsorship, which took place during the 1980s, saw the integration of people other than congregation members not only into administrative structures, but also into institutional governance structures on the local and province level. At the same time, the Sisters of Providence recognized that since governance personnel held responsibility for assuring the mission of the institution, these new personnel required a thorough grounding in the Catholic mission and the Providence mission in particular. Indeed, in order for an institution to live up to its purpose, all its people need to take responsibility for its mission. Thus, this second stage saw the twin movements of the reorganization of governance structures to include others beside congregation members and the initiation of a concentrated and ongoing mission education process for the institutions' leaders and employees. With time, mission education broadened its scope to "mission integration", or the incorporation of mission concerns into all aspects of an institution's life and decision-making. This development has lead inevitably to the formulation and thinking about mission in broader ecclesial terms than only the charism of the Sisters of Providence. Such now speak more directly of the mission of all the baptized Christian faithful.

In St. Ignatius Province, reorganization of governance structures raised an even wider range of canonical questions. Because of its smaller numbers, it desired from the outset to establish structural forms that did not depend on the continuance of the congregation's involvement. This meant exploring the law's range of possibilities for laity other than religious to sponsor Catholic institutions. It examined, among other things, private juridic persons and private associations of the Christian faithful. While in the end it did not adopt either of these strategies, its healthcare system structurally requires only the minimum involvement of the sisters. Minor modifications could change it into a lay organization completely separated from the congregation.

The third stage in the evolution of sponsorship of healthcare institutions has come about as the result of current efforts at healthcare reform, which is leading to a reconfiguration of healthcare delivery in the United States into regionally based integrated delivery networks. Catholic institutions are creating new alliances with other sponsors, Catholic or others, to form a whole range of new kinds of healthcare entities. Sponsorship is shifting its focus from individual sponsoring groups, such as the Sisters of Providence, to a broader ecclesial base. These actions are leading to a greater emphasis on the role of the local bishop as coordinator and supervisor of the apostolate in his diocese.

The broader ecclesial base places a sharper focus on the foundations of Catholic identity of institutions, rather than on the charism and structures of individual sponsoring groups. In order to find an expression of Catholic identity applicable to healthcare institutions, though, one must look to the realm of Catholic education, as legislative texts, including the Code, and most other ecclesial documents do not directly address Catholic institutions of social welfare, except in terms of medical ethics. The apostolic constitution on Catholic universities, *Ex corde Ecclesiae*, presents two aspects of the

Catholic identity of institutions: fidelity to the mission of Jesus in the tradition of the Catholic Church; and a *communio* relationship with the entire Church and the local bishop, either through a formal juridic bond or through the recognition of an institution as Catholic by competent ecclesiastical authority. This analysis allows for a wide range of possibilities for participation by institutions in Catholic identity.

The combination of the governance of Catholic institutions by a larger number of lay persons not belonging to religious congregations and the growing importance of the broader ecclesial base of an institution's Catholic identity brings into bold relief the present lack of mechanisms in the law for resolving administrative disputes in the Church. The law largely assumes the structures of a religious congregation and the relationship of personal authority existing between the bishop and a congregation's members. Since those structures and relationships do not pertain to other laity, it leaves no assurance that conflict involving bishops and Catholic institutions can come to resolution without apparent recourse to the arbitrary.

This study's review of the history of sponsorship leads to a number of suggestions and recommendations for sponsors, Catholic healthcare institutions, and the law.

II. RECOMMENDATIONS

The following recommendations pertain to sponsors, to Catholic institutions, and to the Church as law-giver. Those addressing sponsors apply to the sponsoring groups in themselves. Likewise, those addressing institutions apply to Catholic healthcare institutions or systems in themselves, though that may involve members of the sponsoring group. This discussion addresses primarily religious congregations, the greatest number of Catholic sponsors.

A. *Recommendations for sponsors*

1. *Determine the nature and scope of a group's sponsorship goals*

Sponsors of Catholic healthcare institutions must first clarify for themselves the nature and scope of their goals for future involvement in Catholic institutions. The kind of role a sponsor, usually a group of religious women, wishes to take can range from a significant involvement throughout an institution's apostolic activity, administration, and governance, to a role limited to only the ultimate concerns of an institution's mission, direction, and major actions.

A sponsor may find that its sponsorship goals vary. It may determine that sponsoring particular types of institutional works or participating in certain roles within them more closely expresses its mission. For example, a religious congregation may decide that its charism leads it to direct service and pastoral care rather than institutional governance, which may even lead it to withdraw from the role of sponsorship. Or, a sponsor may determine that in an environment of integrated healthcare delivery it wishes to concentrate on certain geographical regions. It may determine that some works have outlasted their time or that others could sponsor them better. On the other hand, it may decide to initiate new types of works in order to gain greater a range of services for its region.

A sponsor's desire to maintain a Catholic identity for its institutions may itself prove a crucial issue. A hostile cultural environment may prevent an institution from functioning if it tries to apply the *Ethical and Religious Directives* in a manner acceptable to the local bishop. Given the considerable controversy even within the Church around some of its official stances regarding women and female reproductive issues, sponsors

of Catholic healthcare institutions, for the most women, may need to examine their own ability or willingness to continue to sponsor formal Catholic healthcare institutions.¹

Often the first answer to these questions about the nature and scope of continued sponsorship expresses a sponsoring group's convictions based on its understanding of its mission and its history. When it evaluates its available resources and the actions necessary to accomplish them, it may find that it needs to revise its goals, or determine how to reach those goals in a manner involving others than themselves to a substantial degree.

2. *Identify personnel needs and resources*

A sponsor must look at the requirements for fulfilling its present sponsorship goals. At the same time, it also needs to plan for the future. It needs to determine what actions will continuously assure the accomplishment of those goals. Personnel issues probably play the greatest role here. As early as the 1960s the Sisters of Providence embarked on changes in its relationship to its institutions for personnel reasons, not because of a change in membership numbers, but because of the assessment of its preparedness for the task at hand. In order conscientiously to sponsor a modern Catholic healthcare apostolate, a group must include, or at least be able to consult, people thoroughly grounded in the mission of Jesus, the charism of the sponsoring group, and

¹D. Gottemoeller, president of the Institute of the Sisters of Mercy of the Americas, addresses some of the struggles these issues raise: "We know ourselves to be, and want recognition as, congregations within the Roman Catholic Church. This desire persists despite the growing pain caused by the transformation of our consciousness as women and our realization that the Church itself institutionalizes sexism within and fails to denounce it without. How can we justify this continued commitment to public identification with the Church, and what does it call us to?... Sometimes this is not an easy place to be... To allow ourselves to be alienated from the Church is to surrender our birthright; it is to deprive ourselves of life-giving nourishment; it is to be exiled from our true home. Furthermore, public estrangement from the Church deprives its other members of the witness of our love, our truth, and our fidelity" (D. GOTTEMOELLER, "Apostolic Religious Life: Ecclesial Identity and Mission", in *Origins*, 24 [1994-1995], p. 254).

Of course, a Catholic sponsor could not substantially change the nature of an institution without the consent of the local bishop (c. 612). Sponsors can, however, withdraw their sponsorship.

the requirements of belonging to a visible institutional Church, as well as in the professional disciplines of healthcare. People with these resources need to participate in the decision-making process and the formation of leadership personnel. As sponsors identify their present personnel strengths, they also need to determine the steps they will take to provide for any lacking expertise for now and the future.

3. *Develop an appropriate relationship with the local bishop*

Sponsors usually provide the formal linkage between an institution and ecclesiastical authority. This dictates that sponsors maintain regular communication with local bishops, even if they reside in other dioceses. As a result of §§67-68 of the *Ethical and Religious Directives*, bishops may now play an expanded role in healthcare decision-making processes. Thus, sponsors and bishops must clearly identify the types of decisions involved in this new relationship and develop workable processes acceptable to all parties. Ideally, ongoing communication will allow each to educate the other regarding their real issues and concerns in order to develop a relationship of trust and collaboration that can weather possible tensions.

4. *Utilize accurate and consistent language*

Another area of concern for sponsors lies in language. Because a sponsor's name plays the role of guarantor, sponsors would do well to pay careful attention to its use. They could develop a rationale for naming its types of relationships to institutions, using such terms as "sponsorship", "affiliation", "ownership", etc. For example they could use the word "sponsor" only for those entities with formal juridic ties to the Church. Or they could use it for those institutions they govern, even if the entities do not possess such juridic ties. The matter requires care and at times delicacy, as sponsors will not want to destroy relationships in the name of accuracy. At the same time they do not

want to appear to offer guarantees they cannot honor. Perhaps CHA could help various sponsors throughout the nation to come to some common understandings and usages.

5. *Review decision-making and financial procedures*

No matter what the desires of a sponsoring group, the present activity in healthcare could lead to significant changes in any particular institution through new partnerships or closures, often on short notice. The situation suggests that religious congregations assure that their procedures can respond appropriately to particular situations in a timely manner and in a way that protects their fundamental interests. This especially holds true in congregations with multiple levels of authority. Procedures should enhance the accomplishment of goals while helping to avoid unnecessary dangers.

Religious congregations need to evaluate their present system of consultation and authorizations in the decision-making process to see if they provide the protection envisioned by the law within a context of reasonable flexibility and suitable time frames. Required procedures may prove unnecessarily or ineffectively rigorous, or they may not allow sponsors and institutions to accomplish suitably their own proper objectives, or they may not provide the intended protection for the various parties. Many sponsors have adopted the membership corporation model with certain powers reserved to the members. Sponsors could evaluate the scope of those powers and the roster of corporation members. If they find present configurations unsatisfactory, sponsors could modify them through changes in the articles of incorporation or the by-laws of the civil corporations. Or, they may desire to modify the proper law of the congregation.

Financial procedures also may need review. In order to protect assets dedicated to the support of the congregation, all sponsors need to separate them clearly from those of sponsored institutions if they have not already done so. If a congregation and/or province finds that its alienation limit imposes undue hardship in present circumstances,

it may desire to negotiate a separate arrangement with CICLSAL. Congregational policies regarding stable patrimony should provide protection and at the same time recognize the present economic reality of the shift from a real estate to a monetary and equity base. With this in mind, congregations may need to review their definitions of stable patrimony and procedures for stabilizing it.

6. *Ascertain the juridic component an institution's Catholic identity*

Catholic identity consists of two components, fidelity to the mission of Jesus and some form of bond with the Church. Sponsors usually brought the institutions of the apostolate into existence and their actions facilitated the creation of the ecclesial bond. As Chapter 4 demonstrated, that bond can take a variety of forms. It depends on matters such as juridic status, recognition by the local bishop, or the commitments made by an entity's sponsors or governors. The different forms of Catholic identity lead to different regulations regarding such matters as the involvement of the bishop in decision-making and the regulation of the administration and alienation of property.

In the present uncertain healthcare environment, an accurate determination of an institution's juridic status could avoid future difficulties, especially if a sponsor wishes to continue an institution's Catholic identity, but needs to change its present form. Unless there exists clear documentary evidence of the bishop's conferral of juridic personality on an institution, all should assume that an institution does not possess such identity in itself. Rather, it probably participates in the juridic personality of the congregation, though other arrangements are possible. If social or economic factors lead the religious congregation to conclude it can no longer continue that sponsorship, separate juridic personality could provide the institution a means to maintain a standing in the Church. Conditions may dictate that a particular institution could not survive if it operated with juridic ties to the Church or even formal recognition as Catholic by the

Church, but perhaps it could operate independently "in the Catholic tradition", in the manner of many universities popularly known as Catholic. To address these situations, or variations on this theme, a clear determination of an institution's present juridic status will help inform sponsors concerning the canonical actions they should take to achieve their future sponsorship goals. Though such a determination may pertain more properly to the institution itself, sponsors usually possess the relevant information and can more readily conduct the necessary research.

B. *Recommendations for Catholic institutions*

This section presents recommendations for Catholic institutions, all of which relate to their Catholic identity. While a sponsoring group provides oversight in these areas, the responsibility for their fulfillment lies primarily with the institution or system as such.

1. *Promote Catholic identity through continuous leadership development*

An institution's fidelity to Jesus' ministry of healing comprises a major component of Catholic identity. While all people involved in the institution participate in this mission, its leaders carry the greatest responsibility for it. Thus, an institution or healthcare system must provide the kind of leadership development in mission that it does for other kinds of concerns. This holds especially true if leaders themselves are not Catholic or operate in a largely non-Catholic environment, such as the Pacific Northwest of the United States. An institution cannot be expected to operate according to its mission if leaders do not lead with a thorough grounding in that mission.

2. *Develop Catholic identity through mission integration*

While Catholic institutions depend on dedicated and well prepared leaders, they will not operate as Catholic institutions unless that mission informs all aspects of their operation. The institution must operate as a mission-driven organization, which evaluates

all its actions and decisions in light of that mission. The concept of mission integration compares in many ways to the contemporary movement of continuous quality improvement. Both efforts can help to develop a truly excellent organization dedicated to Jesus' healing ministry.

3. *Formulate partnership guidelines*

Since new partnerships characterize the present moment in healthcare, institutions would do very well to prepare in advance a set of guidelines for assessing and participating in new collaborative relationships. Those guidelines can help an organization to keep focused on its primary goals while they participate in the often fast and furious process of negotiation. The guidelines can help to assure that sponsors remain true to their identity and mission.

4. *Maintain an active relationship with the local Church*

While the juridic bases for relationships between healthcare institutions and the local bishop usually lie with the governance structures of sponsors, the individual institution and its activities comprise a component of the apostolate of the diocese. This requires an ongoing relationship with the local bishop and the people of the local Church, as well as its participation in the diocese's apostolic goals. Such a relationship can provide the foundation for mutual trust between healthcare institutions and Church personnel. It can also provide a practical and ready-made base for a healthcare institution's presence in the neighborhoods.

C. **Recommended legislative developments**

This study has indicated some areas in the law, the modification of which would benefit the Church as it sponsors institutions of the apostolate dedicated to social service.

1. *Determine the competence to grant juridic personality*

Debate has taken place for decades over the competence for granting juridic personality. Now that healthcare institutions and systems are operating with either the joint sponsorship of several juridic persons or separated from those juridic persons which founded them, the question of competence grows in importance. A particular difficulty lies with the question of granting juridic personality to entities of multi-diocesan, but not national scope, as the Code does not identify the competent authority in these cases. Other questions concern the authority of major superiors of religious congregations. If a major superior establishes an institution within the context of a religious house, after obtaining the permission of the local bishop, the religious house, which carries with it a proper work, receives juridic personality by reason of the law. The law does not answer the question of whether a major superior can establish an institution with juridic personality but without an attached religious house. Nor does it clarify the resultant status of an institution if an original religious house has been removed. A definite answer to these questions would clarify the juridic status of many Catholic institutions and provide religious congregations with a clearer basis for making future decisions.

2. *Develop means for resolving administrative disputes*

Even before this study, many have recognized the need for a mechanism for resolving administrative disputes. The greater involvement in the administration and governance of the Church's institutions by lay persons not belonging to religious congregations makes that need more imperative and timely. Certainly sponsors and institutions can and should establish systems of administrative justice within their own contexts, and these can serve as models for the Church as a whole. However, the need for a developed system involving ecclesiastical authority only grows by the day. At least in the United States context, lay administrators will not remain committed to preserving

an institution's Catholic identity unless it perceives the Church as providing justice for its own people.

3. *Develop norms for institutions of the apostolate*

This study suggests the utility of developing basic norms for social service institutions of the apostolate comparable to those for Catholic universities found in *Ex corde Ecclesiae*. Since neither the code nor any other legislative text addresses these institutions, except for the field of medical ethics, presently all norms must come from analogy. On the other hand, to gain the support of those who would observe such norms, their formulation must come as the result of a broad-based consultative process willing to face the realities of operating in today's secularized environment.

4. *Revise legislation on religious houses*

Finally, the current legislation on religious houses does not correspond to the lived reality of most congregations dedicated to works of the apostolate. Its assumption that a religious institute's works reside in and are governed from the authority structure of the religious house no longer holds true. This disjunction between law and practice has led to ambiguity about the juridic status of Catholic institutions, the appropriate roles of superiors in the congregation regarding institutional ministry, and the role of laity in the apostolate. This does not even consider the effect of such a situation for regulating the community life of the members themselves. A revision of the law regarding religious houses and the authority of superiors regarding the apostolate could address many of these issues.

III. SOME FINAL WORDS

Sponsorship of Catholic institutions has undergone a rapid development and its story is still unfolding. The Church in the United States can take great pride in its

sponsors of Catholic healthcare institutions, mostly religious congregations of women. They have invested greatly of their resources and energies to develop truly excellent healthcare systems, while remaining faithful to their ecclesial mission. They have not hesitated to include others in a broadened definition of themselves in their mission, even if they needed to invent new structures beyond the law in order to accomplish the fact. They have strived mightily to pass on to others the lessons and wisdom they have learned over the years in their service to the Church.

The present moment is offering immediate challenges to these sponsors and to the Church, both from the external environment and from changes in the internal order. If the Church desires to maintain an institutional Catholic healthcare ministry in the United States, a goal it does not seem to pursue in many other countries, then it cannot afford to ignore the often difficult questions raised by a study of sponsorship. It especially needs to address those questions relating to laity and Catholic institutions. Nonetheless, some of the questions facing Catholic healthcare do not lie in the realm of law but in ethics and human relationships. The Church cannot look to the law for answers to those questions. Canon law can provide only the most basic guidelines for particular situations because of its universal scope and its general silence regarding institutions of social welfare. At the same time, though, the situation allows a considerable flexibility in applying the law.

Most assuredly sponsorship of Catholic healthcare institutions will change in the future as healthcare itself changes. No one can predict with confidence the shape of the role religious congregations will play in that future. However, Catholic healthcare in the United States today possesses a great foundation and great resources for facing the challenges thanks to the efforts of members of religious congregations. In doing so, it must always focus on its mission of addressing the unmet needs of society's poor, rather

than its survival as a business. No matter what the challenges and no matter what the outcome, the Sisters of Providence hold the confidence that God's Providence will prevail.

CARITAS CHRISTI URGET NOS!

**APPENDIX A: INSTITUTIONS OF THE SISTERS OF PROVIDENCE
IN THE WEST**

WESTERN MISSIONS OF THE SISTERS OF PROVIDENCE FOUNDED BETWEEN 1856 AND 1902

The western missions established between 1856 and 1902, during Mother Joseph of the Sacred Heart's life time, were influenced by her planning, designing, and building, as well as in her role of treasurer of "all missions of Providence in the diocese of Nesqually and far beyond", from 1866-1891.¹ The following list includes all the western missions opened in her life time, including those established after the 1891 creation of provinces.²

	OPENED	CLOSED
Providence of the Holy Angels, Ft. Vancouver, WA	1856	1966
St. Joseph Hospital, Ft. Vancouver, WA	1858	1967
Providence St. Joseph School, Steilacoom, WA	1863	1875
Providence St. Vincent Academy, Walla Walla, WA	1863	1959
St. Ignatius Indian School, St. Ignatius, MT	1864	1919
Our Lady of Seven Dolors Indian School, Tulalip, WA	1868	1901
St. Patrick Hospital, Missoula, MT	1873	
Sacred Heart Academy, Missoula, MT	1873	1974
Sacred Heart Indian School, Colville, WA	1873	1921
St. Vincent Hospital, Portland, OR	1875	
Providence St. Joseph Academy, Yakima, WA	1875	1969
Providence Notre Dame, Cowlitz, WA	1876	1898
Providence Hospital, Seattle, WA	1877	
Immaculate Conception Indian School, De Smet, ID	1878	1974
St. Mary Hospital, Walla Walla, WA	1880	
St. Mary Hospital, Astoria, WA	1880	1970
Providence St. Amable Academy, Olympia, WA	1881	
St. Martine School, Frenchtown, MT	1881	Soon after
Sacred Heart Hospital, Spokane, WA	1886	
St. Mary Hospital, New Westminster, BC	1886	
St. Clare Hospital, Ft. Benton, MT	1886	1974
Providence St. Joseph Academy, Sprague, WA	1886	1965

¹J.M.L. BLANCHARD, *The Institute of Providence*, vol. V, pp. 202-203.

²*Ibid.*, pp. 336-337.

	OPENED	CLOSED
St. Peter Hospital, Olympia, WA	1887	
St. John Hospital, Pt. Townsend, WA	1890	1975
St. Eugene Indian School, Kootenay, BC	1890	1929
Providence Hospital, Wallace, ID	1891	1967
St. Elizabeth Hospital, Yakima, WA	1891	
Columbus Hospital, Great Falls, MT	1892	
St. Ignatius Hospital, Colfax, WA	1893	1968
St. Bernard Mission, Grouard, AB	1894	1962
St. Paul Hospital, Vancouver, BC	1894	
St. Augustine Mission, Peace River, AB	1898	1951
Providence Orphanage, New Westminster, BC (Later Providence St. Genevieve)	1900	1959
St. Henry Mission, Ft. Vermillion, AB	1900	1973
St. Eugene Hospital, Cranbrook, BC	1900	1970
St. Martin Mission, Wabasca, AB	1901	

**INSTITUTIONS SPONSORED BY THE SISTERS OF PROVIDENCE
OF THE WESTERN UNITED STATES
AT THE TIME OF THE SECOND VATICAN COUNCIL (1965)**

SACRED HEART PROVINCE

	OPENED	CLOSED/ WITHDREW
<i>Hospitals³</i>		
St. Joseph Hospital, Vancouver, WA	1858	1967
•St. Vincent Hospital, Portland, OR	1875	
•Providence Hospital, Seattle, WA	1877	
St. Mary Hospital, Astoria, WA	1880	1970
•St. Peter Hospital, Olympia, WA	1887	
•St. John Hospital, Pt. Townsend, WA	1890	1975
•St. Elizabeth Hospital, Yakima, WA	1891	
•Providence Hospital, Oakland, CA	1902	1991
•Providence Hospital, Everett, WA	1905	
St. Joseph Hospital, Fairbanks, AK	1910	1968
•Sacred Heart Hospital, Medford, OR (Renamed Providence Hospital, 1966)	1911	
•Providence Hospital, Anchorage, AK	1938	
•Providence Hospital, Portland, OR	1941	
•St. Joseph Hospital, Burbank, CA	1942	
<i>Nursing Homes</i>		
•Mt. St. Vincent Nursing Home, Seattle, WA	1924	
Ozanam Nursing Home, Tacoma, WA	1929	1966
•Our Lady of Providence Child Center, Portland, OR	1941	
St. Luke Infirmary, Centralia, WA	1945	1969
<i>Social Service Center</i>		
St. Peter Claver Interracial Center, Seattle, WA	1947	1971

³The "*" denotes the hospitals and nursing homes involved in the Louis Allen and Associates management study of 1970-1973.

	OPENED	CLOSED/ WITHDREW
<i>Education⁴</i>		
†Providence Heights College of Sister Formation, Issaquah, WA (Including Provincialate, Novitiate, and Juniorate)	1961	1968
†Providence Academy, Vancouver, WA (Formerly, Providence of the Holy Angels)	1856	1966
†Providence St. Joseph Academy, Yakima, WA	1875	1969
†Providence High School, Burbank, CA	1955	
St. Michael's School, Olympia, WA (Formerly, Providence St. Amable Academy)	1881	
Holy Rosary School, Moxee, WA	1915	1967
Holy Family School, Seattle, WA	1927	
Sacred Heart School, Tacoma, WA	1929	
St. Catherine School, Seattle, WA	1941	
Immaculate Conception School, Fairbanks, AK	1946	
Our Lady of the Holy Rosary School, Sun Valley, CA	1950	1971
St. Finbar School, Burbank, CA	1953	
St. Joseph School, Vancouver, WA	1954	
Our Lady of Lourdes School, Vancouver, WA	1955	
St. Joseph School, Yakima, WA	1961	

Also taught in:

Blanchet High School, Seattle, WA
 Central Catholic High School, Portland, OR
 Monroe Catholic High School, Fairbanks, AK
 Catholic Junior High School, Anchorage, AK

⁴The "†" indicates those schools owned by the Sisters of Providence. Since 1965, all schools except Providence High School, Burbank, CA and College of Great Falls, Great Falls, MT, have been closed or their responsibility transferred to dioceses or parishes. Thus, many of the schools remain in operation, though the Sisters of Providence may no longer provide staff for them. In a few cases the Sisters formally withdrew from a particular school.

ST. IGNATIUS PROVINCE

	OPENED	CLOSED/ WITHDREW
<i>Hospitals⁵</i>		
‡St. Patrick Hospital, Missoula, MT	1873	
‡St. Mary Hospital, Walla Walla, WA	1880	
‡Sacred Heart Hospital, Spokane, WA	1886	
St. Clare Hospital, Ft. Benton, MT	1886	1974
Providence Hospital, Wallace, ID	1891	1967
‡Columbus Hospital, Great Falls, MT	1892	
St. Ignatius Hospital, Colfax, WA	1893	1968
Holy Family Hospital, St. Ignatius, MT	1921	1976
<i>Nursing Homes</i>		
St. Joseph Nursing Home, Spokane, WA	1925	
Mt. St. Joseph Infirmary, Spokane, WA (Including Provincialate)	1951	
<i>Children's Home and School</i>		
St. Thomas Children's Home, Great Falls, MT	1910	1982 (As a school/ residence)
<i>Education</i>		
†College of Great Falls, Great Falls, MT	1932	
†Sacred Heart Academy, Missoula, MT	1873	1974
Mary Immaculate Indian School, De Smet, ID	1878	1974
†Providence St. Joseph Academy, Sprague, WA	1886	1965
St. Alphonsus School, Wallace, ID	1906	1971
St. Gerard School, Great Falls, MT	1947	1974
St. Raphael School, Glasgow, MT	1949	1971
St. Rita School, Kellogg, ID	1960	
Also taught in:		
DeSales High School, Walla Walla, WA		
Great Falls Catholic Central High School, Great Falls, MT		
St. Patrick School, Walla Walla WA		
St. Francis Xavier School, Missoula, MT		
St. John School, Colfax, WA		
Sts. Peter and Paul School, Great Falls, MT		

⁵The "‡" denotes the institutions of St. Ignatius Province which constituted the Health Care Management Advisory Council (HCMAC).

**INSTITUTIONS SPONSORED BY THE SISTERS OF PROVIDENCE
1995**

SACRED HEART PROVINCE

INSTITUTIONS OF THE SISTERS OF PROVIDENCE HEALTH SYSTEM

**OPENED/
ACQUIRED**

Education

Providence High School, Burbank, CA	1955
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Hospitals and Medical Centers

Providence St. Vincent Medical Center, Portland, OR	1875
Providence Seattle Medical Center, Seattle, WA	1877
St. Peter Hospital, Olympia, WA	1887
Providence Yakima Medical Center, Yakima, WA	1891 ⁶
Providence Medford Medical Center, Medford, OR	1911
Providence Hospital, Anchorage, AK	1938
Providence Portland Medical Center, Portland, OR	1941
St. Joseph Medical Center, Burbank, CA	1942
Providence Centralia Hospital, Centralia, WA	1983
Providence Toppenish Hospital, Toppenish, WA	1985
Providence Milwaukie Hospital, Milwaukie, OR	1986
Providence General Medical Center, Everett, WA	1994 ⁷
Providence Newberg Hospital, Newberg, OR	1994

Hospital Leased to the Sisters of Providence

Providence Seaside Hospital, Seaside, OR	1981
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Long Term Care

Providence Mount St. Vincent, Seattle, WA	1924
Providence Child Center, Portland, OR	1941
Our Lady of Compassion Care Center, Anchorage, AK	1983
Mother Joseph Care Center, Olympia, WA	1991

⁶Formerly, St. Elizabeth Medical Center.

⁷A new medical center created in 1994 by the merger of Providence Hospital (est. 1905) and General Hospital Medical Center.

	OPENED/ ACQUIRED
<i>Managed Institutions, Including Housing</i>	
Vincent House, Seattle, WA	1985
Providence House, Yakima, WA	1985
Emilie House, Portland, OR	1987
Mary Conrad Center, Anchorage, AK	1987
Heritage House at the Market, Seattle, WA (Leased to Sisters of Providence)	1990
Providence House, Oakland, CA	1991
Mark Reed Hospital, McCleary, WA	1995
Morton General Hospital, Morton, WA	1995
Providence House, Portland, OR	1995
Providence Place, Centralia, WA	1995
Providence Horizon House, Anchorage, AK	1995
<i>Managed Care Plans</i>	
Providence Health Plans, Seattle, WA	1986
Providence Health Plans, Portland, OR	1987
<i>Other</i>	
Sisters of Providence Health System Office, Seattle, WA	1970
John Gabriel Ryan Corporation (Taxable Not-for-Profit)	1985
Medalia (Primary care physicians)	1994
<i>INSTITUTIONS OF THE PARISEAU ASSOCIATION</i>	
St. Joseph Residence, Seattle, WA	1966
Providence Hospitality House, Seattle, WA	1979
Sojourner Place, Seattle, WA	1987

*ST. IGNATIUS PROVINCE**INSTITUTIONS OF PROVIDENCE SERVICES***OPENED/
ACQUIRED***Education*

St. Thomas Child & Family Center, Great Falls, MT	1910
College of Great Falls, Great Falls, MT	1932

Health Care

St. Patrick Hospital, Missoula, MT	1873
St. Mary Hospital, Walla Walla, WA	1880
Sacred Heart Medical Center, Spokane, WA	1886
Columbus Hospital, Great Falls, MT	1892
St. Joseph Care Center, Spokane, WA	1925
Mt. St. Joseph Infirmary, Spokane, WA	1951
St. Brendan Nursing Home, Spokane, WA	1985
St. Joseph Hospital, Polson, MT	1990
Dominican Health Network:	1993
Holy Family Hospital, Spokane, WA	1993
Mt. Carmel Hospital, Colville, WA	1993
St. Joseph Hospital and Extended Care Unit, Chewelah, WA	1993
Dominicare (Chore Service), Chewelah, WA	1994
Deer Park Hospital and Community Health Center, Deer Park, WA	1995

APPENDIX B: STATEMENTS OF PROVIDENCE MISSION

CHARISM AND MISSION OF THE SISTERS OF PROVIDENCE

CHARISM OF THE SISTERS OF PROVIDENCE¹

The charism of our Providence Community is the manifestation of the mysteries of the Providence of God and Our Mother of Sorrows in compassionate love and creative prophetic solidarity with the poor.

General Chapter, 1978

MISSION OF THE SISTERS OF PROVIDENCE

God has called and united us as Sisters of Providence in the Church to proclaim the mysteries of Providence and Our Mother of Sorrows to the society of our time by our compassionate love and creative prophetic solidarity with the poor.

General Chapter, 1978

¹"Charism" and "Mission", in *Constitutions and Rules: Sisters of Providence*, Montreal, Providence Mother House, 1985, p. xxvi.

**MISSION OF SACRED HEART MEDICAL CENTER
SPOKANE, WASHINGTON²**

OUR MISSION

A COMMUNITY OF HEALING
founded by the Sisters of Providence,
inspired by the words and deeds
of Jesus

COMMITMENT TO EXCELLENCE
in offering health care services with
prudent stewardship to meet physical,
emotional and
spiritual needs.

COLLABORATION WITH CAREGIVERS
to form effective networks of caring
especially for those who are poor, in the
search for health and wholeness

KEY VALUES

- + Compassion/Care Concern
- + Respect for the Dignity of Each Individual
- + Quality Care of the Whole Person
- + Care of the Poor
- + Teamwork

²SACRED HEART MEDICAL CENTER, *Values and Mission*, Spokane, WA, Sacred Heart Medical Center, n.d., 2p.

**SISTERS OF PROVIDENCE CORPORATIONS
SACRED HEART PROVINCE
MISSION AND PHILOSOPHY
(1989)³**

**SISTERS OF PROVIDENCE RELIGIOUS COMMUNITY:
IDENTITY AND PURPOSE**

The Sisters of Providence, a religious community of women within the Catholic Church, are inspired by trust in Divine Providence. They are guided by the charism of compassionate love for the poor, manifested by Mother Emilie Gamelin, foundress of the community in Montreal in 1843. Mother Gamelin dedicated her resources and ultimately her life to serving the needy in a spirit of humility, simplicity, and charity. Impelled by the love of Christ and trust in Divine Providence that inspired Mother Gamelin, Mother Joseph of the Sacred Heart came West in 1856 to found hospitals, orphanages, schools, and homes for the aged.

Building upon this heritage, the Sisters of Providence continue to reach out to those in need. They live out their mission through individual and institutional ministries which serve the health, education, and social needs of others. In the name of the Catholic Church, the Sisters of Providence invite men and women to work with them in continuing Christ's work of caring, healing, and teaching. The Sisters bear witness to these Christian truths: human life is sacred, suffering and death have meaning, and Christ loves the poor. They value people as Christ did in the Gospels and dedicate themselves to loving and serving those in need, especially the poor. The responsibility for the commitments of the Sisters of Providence Religious Community and its ministries lies with the Provincial Superior and Provincial Council.

One manner in which the Sisters of Providence carry out their mission is to sponsor health, education and social services incorporated as the Sisters of Providence in Washington, Oregon, and California. These non-profit corporations function as an integrated Catholic system to meet the needs of people in a manner consistent with the values and philosophy of the Sisters of Providence. Responsibility for the actions of the Corporations lies with the Board of Directors, with delegated authority to the President and the administrators assure that the purposes and commitments of the organization are fulfilled.

³SISTERS OF PROVIDENCE CORPORATIONS, SACRED HEART PROVINCE, *Mission and Philosophy Statement*, Providence Archives, Seattle, 1989, 4p.

CORPORATIONS OF THE SISTERS OF PROVIDENCE: IDENTITY AND PURPOSE

We, the people who share the mission of the Sisters of Providence Corporations, dedicate ourselves to furthering quality of life through the provision of health, educational, and social services. We are faithful to the central Gospel value of love. This calls for the recognition of the dignity of the individual, identification with the poor, solidarity with the voiceless and powerless in society, compassionate concern for the healing of the total person, and respect for the sacredness of the human being throughout life, from conception through death to resurrection.

Through the health care ministry, we strive to meet the health needs of the communities we serve. We provide compassionate care for the sick, injured, dying, and grieving. We believe in providing quality health services which reflect standards of excellence and are sensitive and appropriate to individual needs. We have evolved into a comprehensive Catholic health care system which provides a full continuum of services including preventive care, home care, outpatient services, acute care, long-term care, mental health treatment, and hospice. Clinical training programs are also available at several of our institutions. We have accepted a leadership role in designing quality health care delivery and financing systems that promote access to needed care in a cost effective manner. In caring and comforting others, we seek always to meet the needs of the total person within an environment of Christian faith and love.

Through the education ministry, we seek to continue in the world today the liberating action of Jesus Christ, Teacher. We work to create an experience of living in a just and faith-filled community and strive to provide persons with an opportunities to develop self-awareness for ongoing personal growth. We teach students skills for understanding and judging society's systems and institutions and we foster the ability to direct change for the betterment of our world. Because the family is a source of support for the whole of society, we work to strengthen the family structure through education.

We have a special concern for the homeless and are helping to meet their needs through our endeavors in low-income housing. We strive against isolating ourselves from the socially and economically poor, either in lifestyle or in service. We seek creative ways to empower the powerless and to serve those whose growth is limited by social and economic circumstances.

Today, the Sisters of Providence Corporations operate acute care hospitals, long term care facilities, primary care clinics, educational facilities, housing units, and managed care plans in the states of Alaska, California, Oregon and Washington.

COMMITMENTS OF THE SISTERS OF PROVIDENCE CORPORATIONS

In living out our mission, we of the Sisters of Providence Corporations are committed to the following:

- **Sponsorship**

We demonstrate the sponsorship of the Sisters of Providence within the Catholic Church as we bear witness to the Gospel and follow the general and particular law of the Church.

We express our Catholic identity as we celebrate the Liturgy of the Mass, provide for reception of the Sacraments, confer with local Bishops, give visible witness to the customs and practices of the Church, and offer pastoral care services. Within the system, we welcome and collaborate with people of many faiths.

- **Service to Others**

We manifest our commitment to the people we serve, by providing service in a caring environment. We endeavor to meet the needs of the total person, providing for the physical, spiritual, social, psychological, and educational needs of those we serve. We are also sensitive to the special cultural needs of people. In health care our commitment to serve the poor is specifically reflected in our open-door policy of service without exclusion. We recognize that our efforts to serve people can only be accomplished through collaboration with physicians and other colleagues.

- **Respect for Colleagues**

We trust and respect all who participate in the Sisters of Providence mission. This includes employees, volunteers, medical staff, members of boards, and others who identify with our work. In striving to assure quality of work life, we commit ourselves to provide a structure through which employees may participate in decision-making processes which affect their well-being. We also commit ourselves to provide an environment where each person is affirmed and contributions are shared for the good of the individual and the organization. We work to develop, implement, and maintain human resource policies that reflect the Christian values of justice, love, and the dignity of the individual person.

- **Fiscal Responsibility**

We accept the responsibility for prudent stewardship of our fiscal and material resources and work to design and implement cost effective methods for delivering services. The intent of our fiscal resource policy is to provide quality care to those we serve and maximize affordable service to those in need. Both our fiscal commitment and our commitment to the communities we serve direct us to work cooperatively with other community agencies and health care organizations to enhance service to those in need.

- **Social Justice**

We are committed to change social structures and systems that oppress, degrade, or demean people. Because all God's people share a common humanity—an interdependence with one another—we embrace those in need with prayerful concern, strongly advocating public policies which further justice and peace and enable people to access needed health care and other basic services. We view our system as a means to effect fundamental change in social policy and demonstrate leadership in the expression of Christian values.

- **Developing Countries**

In 1856, members of the Sisters of Providence Religious Community were sent from Montreal to Vancouver, Washington, to care for people in need. Today the Sisters of Providence and their associates continue to hold a global perspective that is mindful of needs in other countries. The desire to serve those who suffer from poverty and illness throughout the world is based on the belief that our mission is universal in nature.

Just as the love of Christ urged Mother Gamelin to devote herself to service of the poor, it impels us to serve those in need and to take appropriate actions to assure the continuation of our mission through a strong commitment to the people served in our institutions and associated services.

CARITAS CHRISTI URGET NOS

**SISTERS OF PROVIDENCE HEALTH SYSTEM MISSION STATEMENT
(1994)⁴**

The Sisters of Providence Health System, a community of caregivers impelled by the love of Christ, provides compassionate care to people in need. A ministry of the Catholic Church, we have been serving in the West since 1856.

We are guided by values Christ teaches in the Gospels:

- respect for the dignity of each person;
- honor for the sacredness of life;
- service to the poor;
- comfort to those who suffer; and
- care and healing of the whole person.

We are committed to improving the well-being of people through the provision of health and social services. In accord with our long-standing open-door policy, we seek out, welcome, and offer assistance to individuals in need and their families. We strive to meet the health needs of people as they journey through life, endeavoring to improve health and also to provide compassionate care for those who are suffering or dying. We are resolved to promote justice and to serve as an advocate for the vulnerable and powerless, especially children and elderly. We continually seek to improve the quality of care we give and to maintain prudent stewardship of the human, physical, and financial resources that have been entrusted to us.

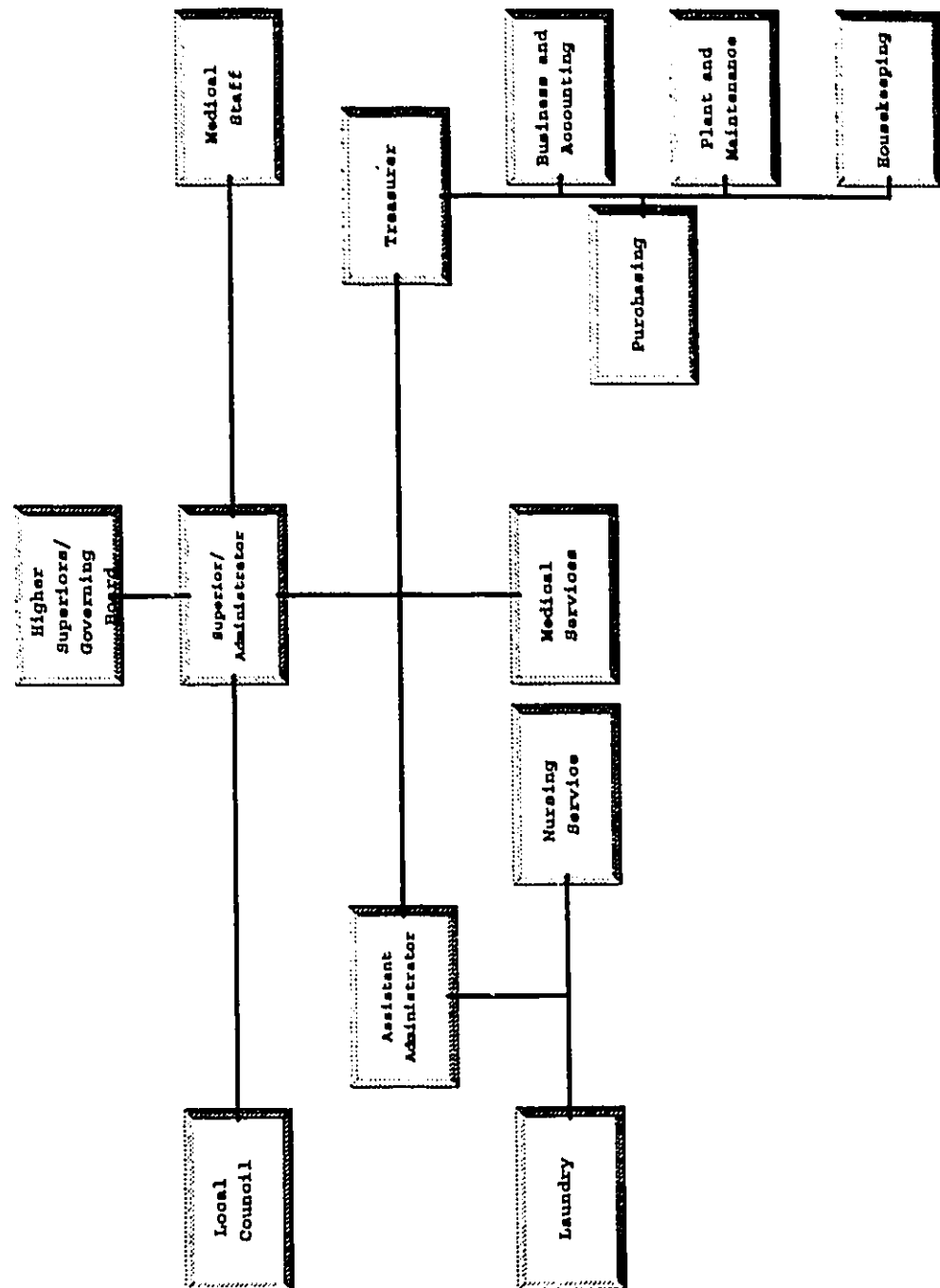
Our mission is realized through the combined efforts of our Sisters, employees, physicians, board members, benefactors, and volunteers. Service to one another is also central to our mission. We join with other religious, civic, and social service groups with whom we share common values to achieve the greatest good in the communities we serve.

We are inspired by the lives of Mother Emilie Gamelin, Mother Joseph of the Sacred Heart, and the many others who have gone before us. With trust in the Providence of God, we address the needs of our world, today and tomorrow.

⁴SISTERS OF PROVIDENCE HEALTH SYSTEM, *Mission Statement*, in *The Mission of the Sisters of Providence Health System: Guidelines for Integration*, Seattle, February 1994, p. 4.

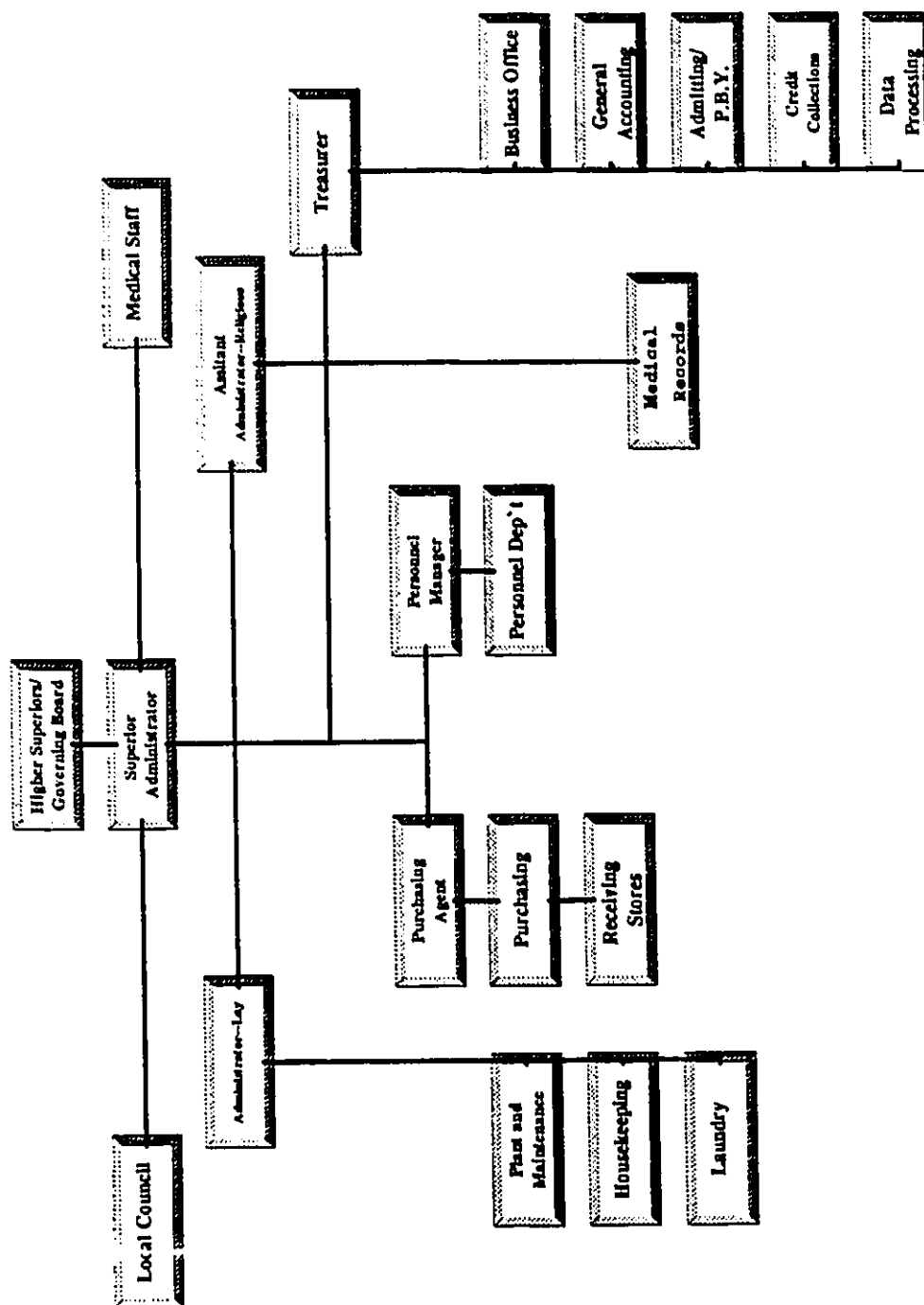
APPENDIX C: ORGANIZATIONAL CHARTS

A Small Institution--1964



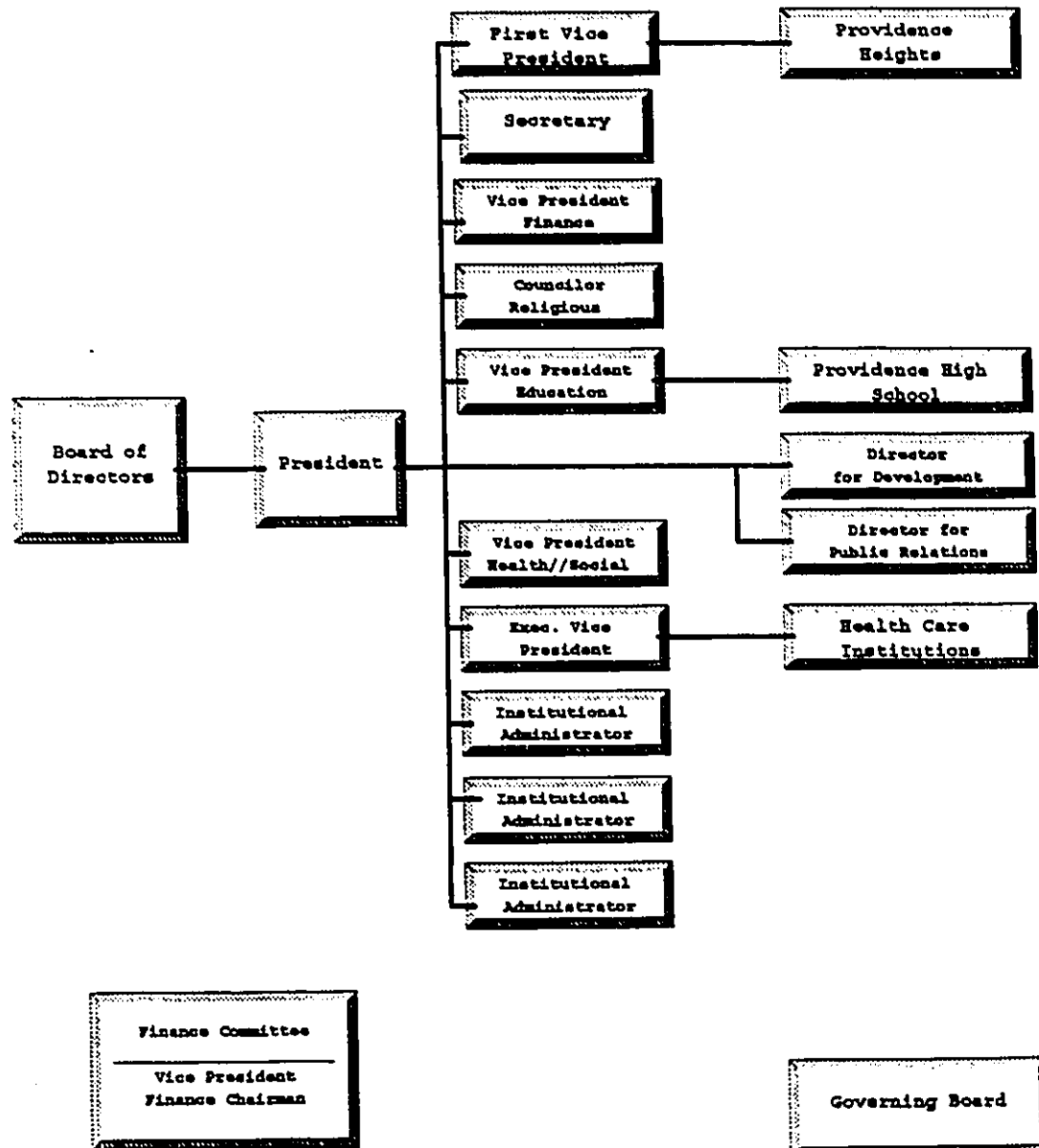
Source: "Decisions of the 1964 General Chapter", in *Circulars of the Superior General*, Montreal, Providence Mother House, vol. XIV, 1964-1970, between pp. 58-59.

A Large Institution--1964



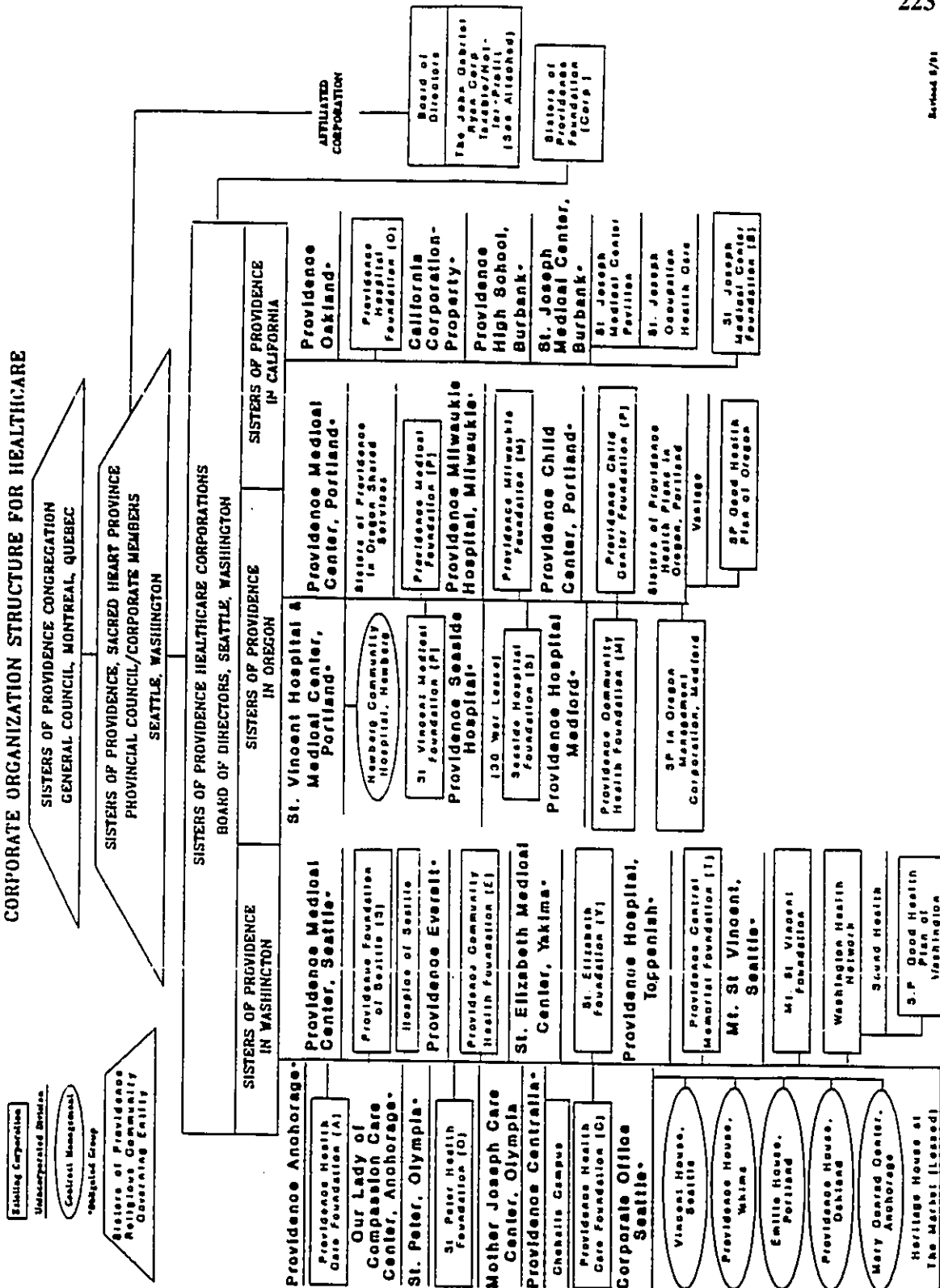
Source: "Decisions of the 1964 General Chapter", in *Circulars of the Superior General*, Montreal, Providence Mother House, vol. XIV, 1964-1970, between pp. 58-59.

*Corporate and Business Affairs
Sisters of Providence--1973*



Source: B.E. LUNDBERG, *Improving Management Action in a Chain of Eleven Hospitals*, Issaquah, WA, Sisters of Providence, Sacred Heart Province, 1973, p. 18.

SISTERS OF PROVIDENCE, SACRED HEART PROVINCE CORPORATE ORGANIZATION STRUCTURE FOR HEALTHCARE



SISTERS OF PROVIDENCE HEALTH SYSTEM CORPORATE ORGANIZATION STRUCTURE

Existing Corporation
Unincorporated Division
Center Management
*Original Group

Sisters of Providence
Religious Community
Governing Entity

SISTERS OF PROVIDENCE CONGREGATION
GENERAL COUNCIL, MONTREAL, QUEBEC

SISTERS OF PROVIDENCE, SACRED HEART PROVINCE
PROVINCIAL COUNCIL/CORPORATE MEMBERS
SEATTLE, WASHINGTON

SISTERS OF PROVIDENCE HEALTHCARE CORPORATIONS BOARD OF DIRECTORS, SEATTLE, WASHINGTON

Providence General
Medical Center
Everett*

Colby Campus
Pacific Campus

Hospice of
Snohomish

Providence Anchorage*

Providence Health
Care Foundation (A)

Our Lady of
Compassion Care
Center, Anchorage*

St. Peter, Olympia*

St. Peter Health
Foundation (B)

Mother Joseph Care
Center, Olympia*

Providence Centella*

Chabot Campus

Providence Health
Care Foundation (C)

St. Luke's Association
Pro-Memorial Place (C)

System Office
Seattle*

Contract Management
Parker Nursing

Mary Conrad Center,
Anchorage

Nemegen House at
The Market, Everett

SISTERS OF PROVIDENCE
IN WASHINGTON

Providence Medical
Center, Seattle*

Providence Medical Center
Foundation of Seattle (SI)

Hospice of Seattle

St. Elizabeth Medical
Center, Yakima*

St. Elizabeth
Foundation (VI)

Providence Hospital,
Toppenish*

Providence Foundation
of Toppenish (VI)

Mt. St. Vincent,
Seattle*

Providence Health Care Center
(St. Sholemish)

SISTERS OF PROVIDENCE
IN OREGON

Providence Child
Center, Portland*

Providence Child
Center Foundation (P)

Providence Seaside
Hospital*

Providence Seaside
Hospital Foundation (SI)

Providence Health
Care Foundation (SI)

Providence Health
Care Foundation (SI)

Providence Health
Care Foundation (SI)

Providence Health
Care Foundation (SI)

Providence Health
Care Foundation (SI)

SISTERS OF PROVIDENCE
IN CALIFORNIA

Providence Hospital
and Medical
Center, Medford*

Providence Community
Health Foundation (MI)

Providence Newberg
Hospital, Newberg*

Providence Newberg
Hospital Foundation (MI)

Providence Area Acute
Care Operations

Providence Medical
Center, Portland*

Providence Medical
Center Foundation (P)

St. Vincent Hospital and
Medical Center, Portland*

St. Vincent Medical
Foundation (P)

Providence Medical
Center, Portland*

Providence Medical
Center Foundation (P)

SISTERS OF PROVIDENCE
IN CALIFORNIA

California
Corporation-
Property*

Providence
High School,
Burbank*

St. Joseph
Medical Center,
Burbank*

St. Joseph
Group Home
Health Care

St. Joseph
Medical Center
Foundation (MI)

APPLICATED
CORPORATION

Board of
Directors

The John C. Chase
Ryan Corp.
Foundation
for Health
Care (MI)

St. Joseph
Medical Center
Foundation (MI)

St. Joseph
Medical Center
Foundation (MI)

St. Joseph
Medical Center
Foundation (MI)

St. Joseph
Medical Center
Foundation (MI)

Projects In Progress

Acute Acute Living Project, Anchorage

MI, Operations Start 4/94

Providence Education, Seattle

MI, Operations Start 1/94

Pariseau Association Housing Units

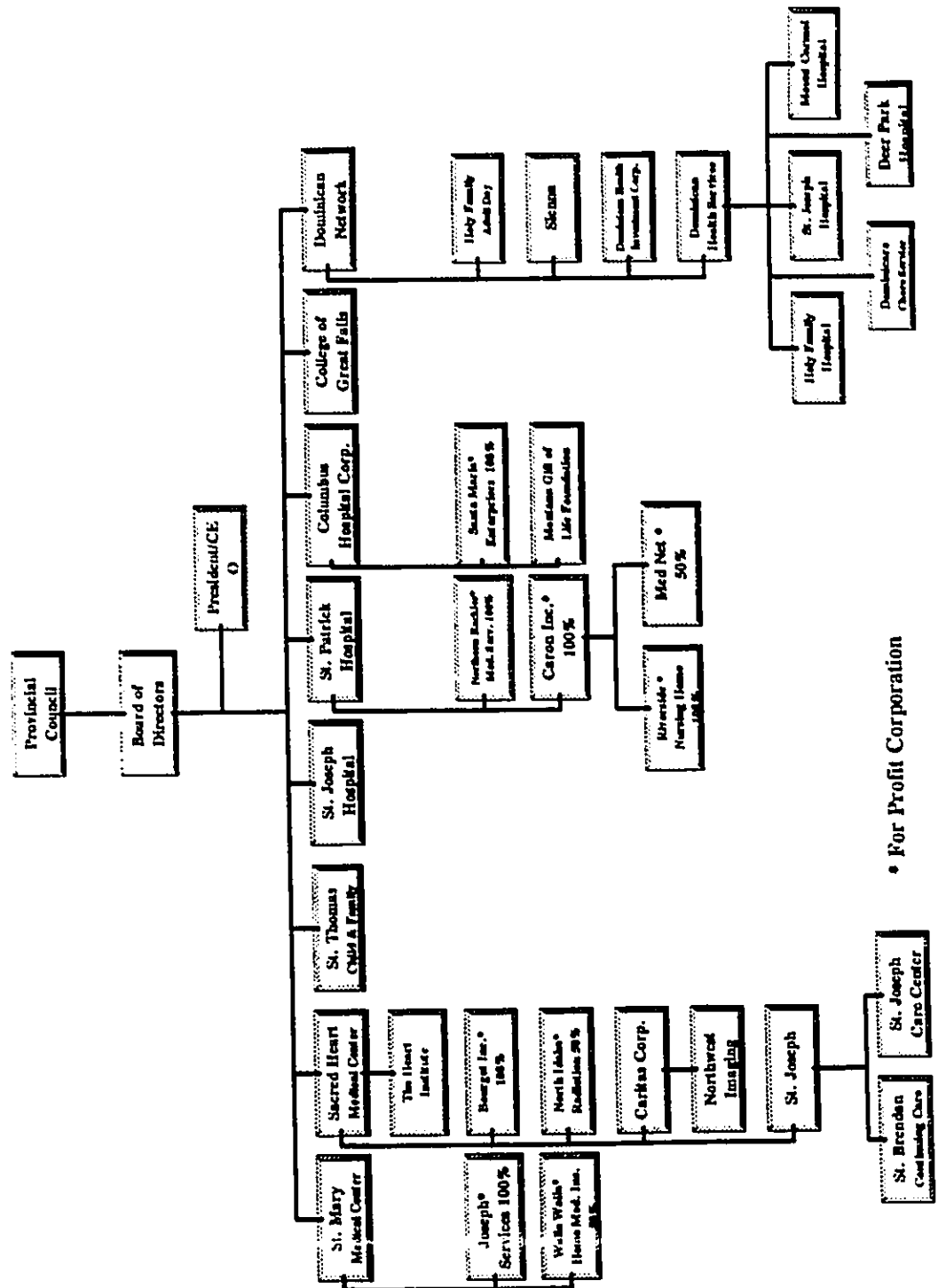
Virtual House - Seattle

Providence House - Tallahassee

Leola House - Portland

Providence House - Oakland

Source: Providence Services, 9 East Ninth Ave., Spokane, Washington, May 29, 1994, (updated).



APPENDIX D: RESERVED POWERS

**POWERS RESERVED TO THE MEMBERS OF THE
MINISTRY CORPORATIONS OF SACRED HEART PROVINCE¹**

2.13 POWERS OF THE MEMBERS. In addition to all matters required by law or by the Articles of Incorporation or other provisions of these Bylaws which are required to be approved by the Members, the Members may initiate and implement any proposal with respect to any of the following matters and if any proposal with respect to any of the following is otherwise initiated, it shall not become effective unless approved by an affirmative vote of a majority of the Members:

- A. To adopt or change the mission, philosophy, and values of this Corporation, and of any corporation of which this Corporation is the sole or controlling member or shareholder, including the corporate or system strategic plan and mission statement;
- B. To amend or repeal the Articles of Incorporation or Bylaws of this Corporation and the Articles and Bylaws of any corporation of which this Corporation is the sole or controlling member or shareholder;
- C. To fix the number of Directors, appoint the Board of Directors of this Corporation and to remove such Directors at any time with or without cause;
- D. To appoint the Chairperson of the Board of Directors, to determine the term of office and to remove such Chairperson with or without cause;
- E. To appoint and remove, with or without cause, the President/Chief Executive Officer of this Corporation after requesting a recommendation from the Board of Directors;
- F. To approve for this Corporation, or for any corporation of which this Corporation is the sole or controlling member or shareholder, the acquisition of assets, the incurrence of indebtedness or the lease, sale, transfer, assignment, or encumbering of the assets, if the amount involved in any such transaction is in excess of an amount specified from time to time by resolution of the Members of this Corporation or the sale or transfer of other property which may have either historical or religious significance;
- G. To approve the establishment of any new corporation in which this Corporation has a controlling interest;
- H. To approve the dissolution and/or liquidation of this Corporation or any corporation of which this Corporation is the sole or controlling member or stockholder or the consolidation or merger of this Corporation with another corporation or entity;

¹SISTERS OF PROVIDENCE IN WASHINGTON, *Restated Corporation Bylaws*, 6 November 1991, pp. 3-5.

I. To approve on a consolidated corporate-wide basis the annual operating and capital budgets of this Corporation's various divisions and approval of any deviations from such budget in excess of an amount or percentage specified from time to time by resolution of the Members;

J. To appoint the Corporation's certified public accountants after receiving the recommendation of the Board of Directors and to receive the annual audit report from such accountants;

K. To approve according to guidelines developed by the Board of Directors and approved by the Members, any joint ventures or other corporate affiliations involving this Corporation;

L. To approve the lending of corporate funds, other than the purchase of publicly traded securities, to unaffiliated organizations or entities in accordance with policies and guidelines established by the Members;

M. To approve the closure of any institution or major ministry or work within this Corporation; and

N. To establish and modify (i) any stewardship fee payable by this Corporation to the Sisters of Providence, Sacred Heart Province, (ii) the compensation of the Chairperson of the Board, and (iii) any compensation of the Board of Directors.

**POWERS RESERVED TO THE MEMBERS OF
PROVIDENCE SERVICES OF ST. IGNATIUS PROVINCE²**

2.2 POWERS OF THE MEMBERS. In addition to all matters required by law or by the Articles of Incorporation or other provisions of these Bylaws which are required to be approved by the Members, the Members may initiate and implement any proposal with respect to any of the following matters and, if any proposal with respect to any of the following is otherwise initiated, it shall not become effective unless approved by an affirmative vote of the Members:

A. To adopt or change the mission, philosophy, and values of this Corporation or of any corporation of which the Corporation is the controlling member;

B. To approve the adoption of and amend or repeal the Articles of Incorporation or Bylaws of this Corporation and the Articles and Bylaws of any corporation of which this Corporation is the controlling member;

C. To fix the number of Directors of this Corporation, appoint the Board of Directors of this Corporation and to remove such Directors at any time with or without cause;

D. To appoint and remove, with or without cause, the President/Chief Executive Officer of this Corporation after requesting a recommendation from the Board of Directors;

E. To approve for this Corporation, or for any corporation of which this Corporation is the controlling member, the acquisition of assets, the incurrence of indebtedness or the lease, sale, transfer, assignment, or encumbering of the assets, if the amount involved in any such transaction is in excess of an amount specified from time to time by resolution of the Members of this Corporation, or the sale or transfer of other property which may have either historical or religious significance;

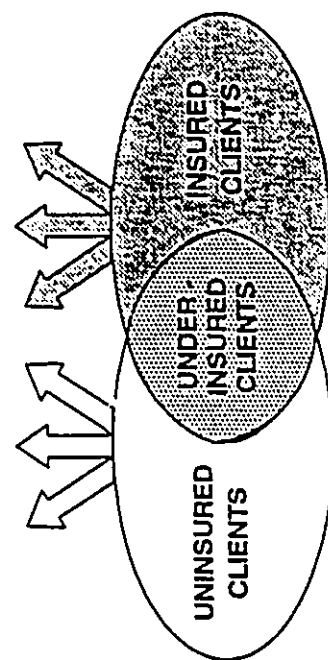
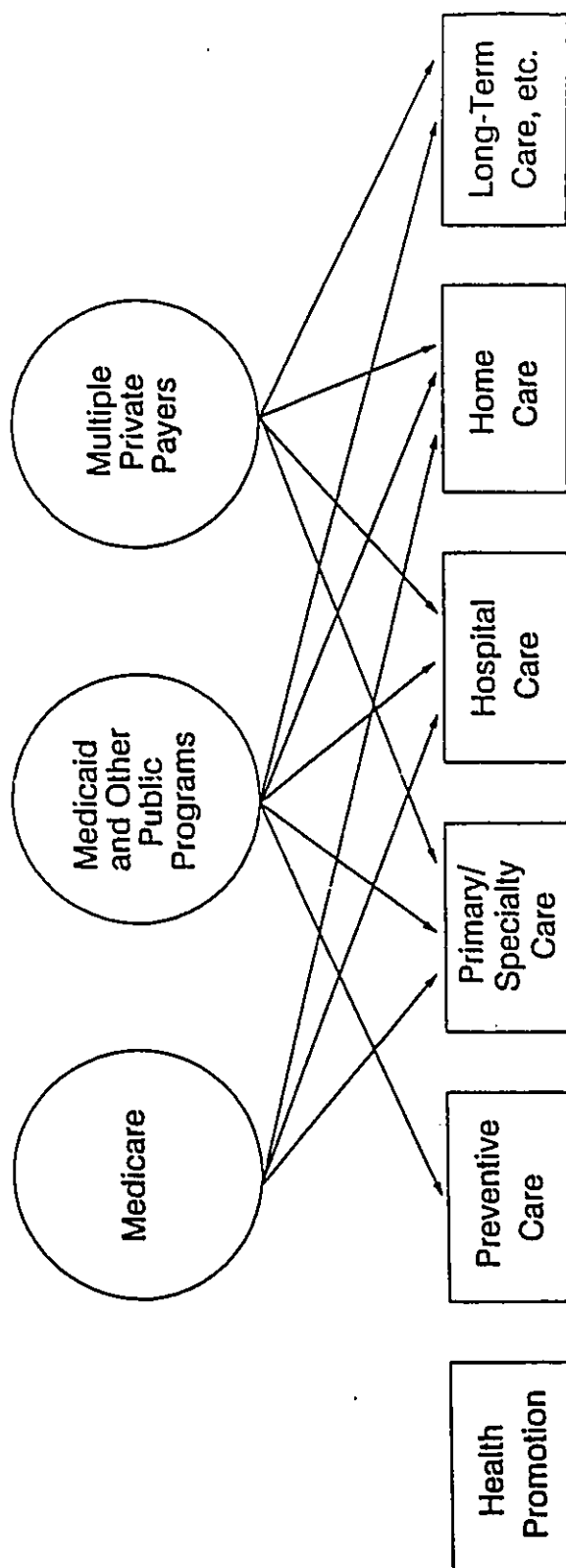
F. To approve the dissolution and/or liquidation of this Corporation or any corporation of which this Corporation is the controlling member or the consolidation or merger of this Corporation with another corporation or entity; and

G. To approve the initiation or closure of any major work by this Corporation or any corporation of which this Corporation is the controlling member.

²PROVIDENCE SERVICES, *Bylaws of the Corporation*, Providence Archives, Spokane, WA, 1992, pp. 2-

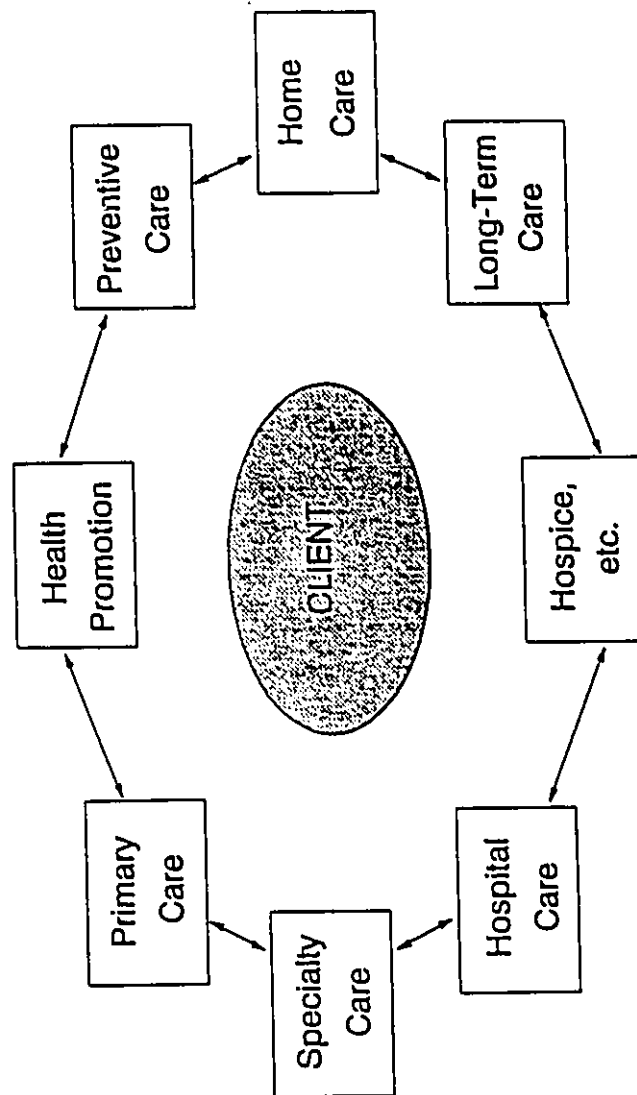
APPENDIX E: HEALTHCARE REFORM DOCUMENTS

CURRENT HEALTHCARE DELIVERY SYSTEM



Source: THE CATHOLIC HEALTH ASSOCIATION OF THE UNITED STATES, *Setting Relationships Right: A Working Proposal for Systemic Healthcare Reform*, St. Louis, MO, The Catholic Health Association of the United States, 1992, p. 10.

INTEGRATED DELIVERY NETWORK



- UNIVERSAL COVERAGE AND ACCESS
- ORGANIZED CONTINUUM OF SERVICES/PROVIDERS
- SERVICE INTEGRATION AND LINKAGES
- CARE COORDINATION FUNCTION
- UNIFORM DATA AND ACCOUNTABILITY

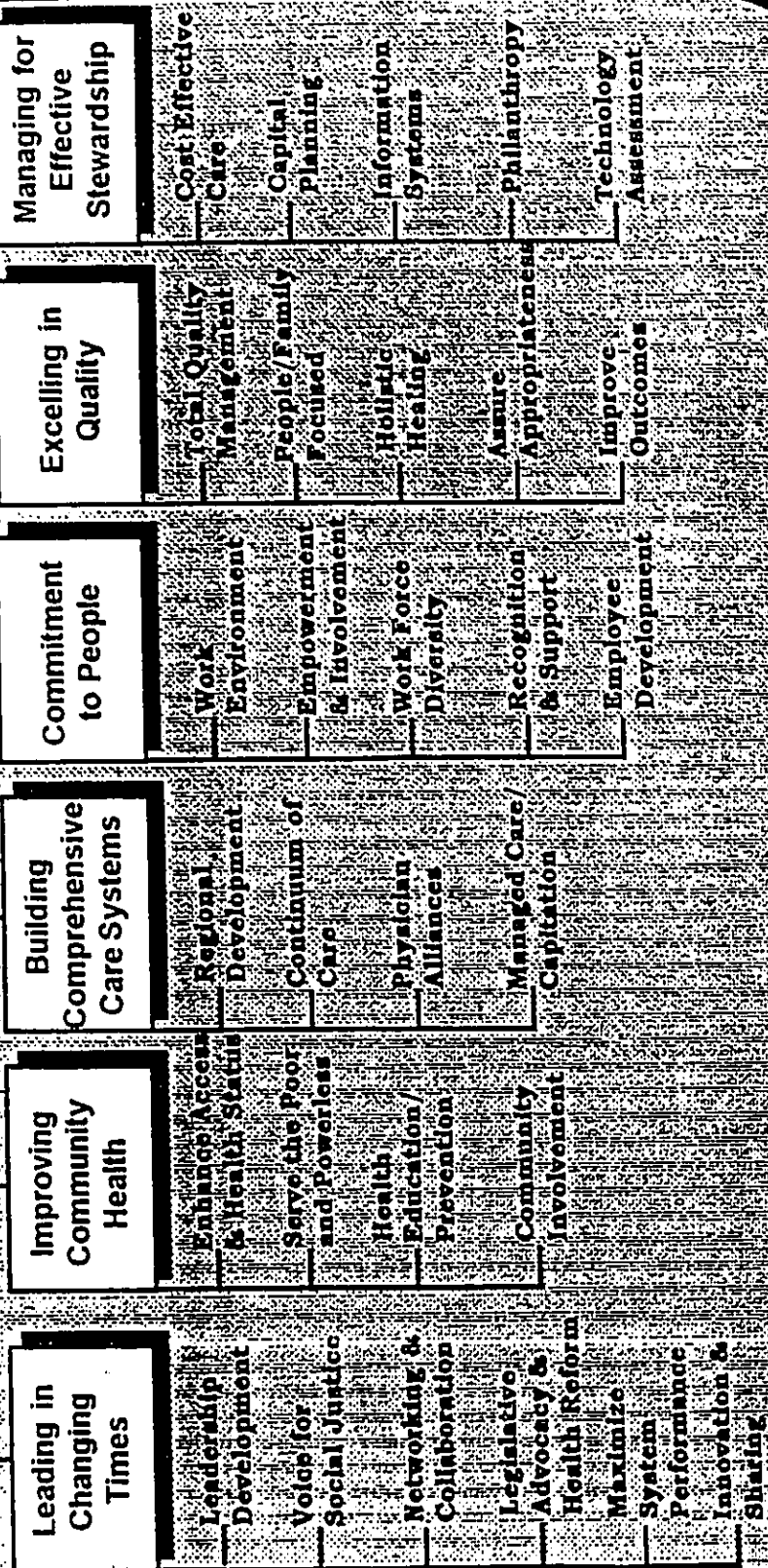
SUPPORTIVE INCENTIVES, FINANCING AND STRUCTURE

Source: THE CATHOLIC HEALTH ASSOCIATION OF THE UNITED STATES, *Setting Relationships Right*, p. 14.

SISTERS OF PROVIDENCE HEALTH SYSTEM STRATEGIC PLAN

VISION

" a society where people achieve the highest level of physical, social, emotional, spiritual, and intellectual well-being"



SISTERS OF PROVIDENCE HEALTH SYSTEM STRATEGIC DIRECTIONS (1993-1995)¹

Our system Plan calls us to adopt new directions as a means of furthering the delivery of quality health services that meet the needs of people and communities served. The Strategic Directions listed below represent exciting opportunities and challenges for our System. These are directions that will make a difference in terms of how we apply our System's resources and talents in an environment of change.

The directions in our System Plan are organized around six unifying themes:

- Leading in Changing Times
- Improving Community Health
- Building Comprehensive Care Systems
- Commitment to People
- Excelling in Quality
- Managing for Effective Stewardship

The content of the strategies in our System Plan is summarized in Figure 2. While all parts of our plan are important, certain aspects of the Plan are vital to our future. These actions are the driving force of the System Plan. The essential features of the new System Plan are presented below.

Leading in Changing Times

Enrich System Leadership. Design a Leadership Development Program to enhance value-based decision making by System leaders and nurture skills that promote excellence in governance, management, and clinical care. Assure our organizational culture enables us to master change through innovation and experimentation and to develop future leaders within our System.

Promote Social Justice and Health System Reform. Demonstrate strong and effective leadership in health policy at state and national levels to achieve meaningful health system reform and a better society.

¹SISTERS OF PROVIDENCE HEALTH SYSTEM, *System Strategic Plan for Health Care 1993-1995*, System Office, Seattle, 1993, pp. 7-10.

Improving Community Health

Serve and Heal Communities. Plan with the communities we serve to meet local needs and enhance community health status. Seek out and serve the most vulnerable in our society; children, frail elderly, chronically and terminally ill, disabled, mentally ill, victims of violence, people with chronic addictions, persons with HIV/AIDS and those living in poverty.

Building Comprehensive Care Systems

Design Better Models of Care. Develop integrated regional delivery systems that recognize and incorporate differences in the local medical community and managed care environment. Focus on providing a continuum of care across settings and providers, coordinating care to improve outcomes and reduce cost, and changing payment systems to eliminate duplications, waste, and inappropriate care.

Support Networking and Collaboration. Pursue networking and collaboration as a means of addressing community health needs and establishing comprehensive regional delivery systems. Be open to new forms of interactions, sharing and collective responsibility for health care reform.

Develop Alliances with Physicians. Take deliberate steps to strengthen relationships with physicians, pursuing new models of collaboration, partnership, and employment, where appropriate.

Commitment to People

Empower Employees and Colleagues. Reinforce the value of employees by involving them in work design and decision making, rewarding outstanding performance, fostering teamwork, celebrating diversity, providing opportunities for personal growth, and supporting families.

Excelling in Quality

Personalize Our Quality Management Philosophy. Building upon the philosophy of total quality management develop a philosophy on quality that is specific to our System. Design our quality model around patients, residents and others we serve, while furthering appropriateness, outcomes, and responsiveness to needs and expectations.

Managing for Effective Stewardship

Improve Systems and Processes of Care. Use the talent and resources of our System to implement new models of care that offer greater efficiency and value to the public. Use data effectively to support decision making, improve resource use, and enhance service delivery. Engage in strategic technology assessment to improve clinical care and work design.

Evaluate Capital Priorities. Allocate System capital to maximize the use of scarce resources and support implementation of System strategies. Assure capital investments enable us to improve the delivery of care and respond to community health needs.

Implications of the Plan

The new directions in our System Plan have many implications for the way we govern, manage, and organize our System. They call for significant change in our organizations, including the development of new skills and competencies. Some of the more noteworthy implications of the Plan are that we must be willing to:

- Develop evaluation tools to assist the Board of Directors in monitoring implementation of the Plan.
- Adopt an organizational structure that supports regional development goals.
- Assure administrative leadership has the capacity to manage over a continuum of inpatient, outpatient, and long term care services.
- Assure that our institutions and health plans are strategically positioned in terms of regional growth and development opportunities.
- Manage effectively within fixed capitated payment amounts.
- Engage in partnerships, alliances, and collaborative arrangements with physicians and other providers.
- Invest time and energy in system leadership development activities.
- Spend time working with community board members, local health agencies, providers, and church groups to address health needs at the grass-roots level and strengthen volunteerism.
- Invest in data systems that integrate clinical and financial information to identify care models that result in superior quality and lower cost.

- Take risks, experiment and consider the big picture.
- Trust others and allow them to apply their talents and skills. Develop explicit means to share this expertise across our System.
- Prioritize expenditures and make sacrifices that will enable us to develop internal resources so as to do the greatest good for the people and communities served by the Sisters of Providence Health System.

SISTERS OF PROVIDENCE HEALTH SYSTEM GUIDELINES FOR EVALUATING COLLABORATION OPPORTUNITIES²

Introduction: Collaboration may be defined as "a reciprocal process in which people with diverse knowledge and resources join in a partnership to plan, generate, and execute solutions to mutually identified problems related to community well-being." (University of Washington Graduate School of Public Affairs)

The purpose of these guidelines is to provide a framework to assist the Sisters of Providence Health System in evaluating collaboration opportunities. Large scale affiliations and mergers have significant consequences for an organization and, therefore, require careful upfront evaluation. As collaboration opportunities become more frequent among health care providers and encompass a wider range of geographic areas and potential partners, it is necessary to have the ability to evaluate opportunities quickly and make decisions that fit with our mission, values and future vision. These guidelines should be used to organize discussions and presentations so that pertinent issues are addressed, while still allowing for flexibility in individual situations. The guidelines include a recommended process for moving the collaboration opportunity from concept to approval, as well as criteria for evaluating the opportunity.

Overview of the Process:

Considerations in Using the Guidelines:

Because every collaboration is unique, there is no cookbook approach that can be followed in all cases. Nevertheless, there are certain considerations common to all collaboration opportunities. These common issues involve both the people involved and the criteria for evaluating the opportunity. Because all collaboration discussions vary, however, it may be difficult to adhere to a structured linear process. For this reason, the process guidelines and criteria set forth below are intended as guides rather than a rigid process. In any particular affiliation discussion, it may be appropriate to address issues in a somewhat different manner.

Recommended Process:

Preliminary Analysis of Opportunity

When an opportunity for collaboration is identified (locally or at the regional or system level), appropriate system leadership, including the President, are involved in an assessment of mission compatibility and strategic fit with our system. At this point, an initial meeting that includes representatives from both parties should be organized to assess following types of questions:

²SISTERS OF PROVIDENCE HEALTH SYSTEM, *Guidelines for Evaluating Collaboration Opportunities*, 21 June 1994, System Office, Seattle, 3p.

- Are the building blocks for a shared vision apparent?
- Are the missions and cultures compatible?
- Is there a good strategic fit with our system?
- Are the key objectives of the proposed collaboration clear?
- Is this the most important collaborative relationship to develop?

If there is reason to proceed, a team should be assembled to lead the initial discussions, conduct a detailed analysis and develop a formal vision. The appropriate operating vice president is generally responsible for organizing the team and selecting the approach that will be used. The President and a representative from the System Legal Department will always be included on the negotiating team. Public relations, mission leadership, human resources, finance, and planning support, as well as other system, regional, institutional staff and consultants are involved as required. If, at any time, the relationship feels wrong, our team should have the courage to break off discussions.

The President notifies the Board of collaboration discussions as soon as possible. The Board is kept informed of the status of discussions and any major issues that emerge. The Board should identify any concerns or "deal-breakers" as soon as possible. The Board should also have an understanding of what the "deal-breakers" are for the other party. A complete written record of the collaboration discussions should be maintained.

Decision to Proceed

Based on the initial assessment, a decision is made to formulate a Letter of Intent and proceed with more detailed negotiations. The endorsement of the Board of Directors is required to proceed with negotiations based on the Letter of Intent.

Negotiation and Development of Vision and Agreements

If there is a common vision, mission compatibility and a good strategic fit, the collaboration discussion will proceed to the stage of detailed negotiation and development of a formal agreement. This process should include consideration of the criteria listed on the following page.

Final Approvals

- ◆ Formal President's Council review of assessment and collaboration plan; with recommendations to Board Committee(s).
- ◆ Board Committee(s) review and recommend as required.
- ◆ Board action.
- ◆ Member and Canonical approvals, if required.

Criteria for Evaluating Affiliation/Collaboration Opportunities:

During the process of negotiation and development of a formal affiliation agreement, the following criteria should be taken into consideration and addressed.

Criteria

1. The collaboration furthers positive expression of our mission and values.
2. The collaboration advances the vision being pursued by our system.
3. The dynamics of the local market or region make the collaboration a high priority for promoting access and improving the health and welfare of the community.
4. The collaboration represents an appropriate response to changes stemming from health reform.
5. The governance and/or management model being proposed is acceptable to both parties and will provide a model for good stewardship.
6. The social and ethical implications for Catholic sponsorship and identity have been discussed and their application agreed upon.
7. The cultures of the organization are compatible with respect to justice, respect for all individuals, and quality.
8. Legal considerations, such as anti-trust issues, have been identified and addressed.
9. The collaboration makes sense from a business and financial perspective.
10. The collaboration builds upon and strengthens existing relationships with other partners.
11. The long-range implications of the proposed collaboration opportunity for our system and the other party have been identified and addressed.

Catholic Sponsorship and Identity in Healthcare Partnerships

Value: Justice

- ✓ Community benefit and outreach: human and material resources devoted to benefit of community and to respond to needs of the underserved.
- ✓ Special attention and resources directed to care of the poor.
- ✓ Advocacy on local, state and national levels.
- ✓ Participation by staff in decisions that affect their work and lives.
- ✓ Business practices: business conducted with integrity, honesty and confidentiality.

Value: Respect for Dignity of Persons

- ✓ Respect for and advocacy for human life at all stages of life cycle.
- ✓ Comprehensive, compassionate and quality care of dying persons.
- ✓ Resources devoted to leadership development.

Value: Excellence

- ✓ Emphasis on wellness and care that addresses the needs of the whole person: physical, psychological, social, spiritual and cultural.
- ✓ Excellent resources and programs dedicated to spiritual care.
- ✓ Involvement of patients and families in decisions affecting their care.

Canon Law and Teachings of the Catholic Church

- ✓ Consistency with the moral, ethical and social teachings of the Church.
- ✓ Canon considerations and involvement of the local Bishop.
- ✓ Does collaboration call for alternative sponsorship models?
- ✓ Degree of influence.

Public image

- ✓ Name of entity.
- ✓ Openness to appropriate use of religious symbols and ritual.
- ✓ Expression of Catholic identity through celebration of prayers and sacraments.
- ✓ Ecumenical spirit.

MISSION CRITERIA FOR HEALTHCARE PARTNERSHIPS³

Introduction

The mission of the Sisters of Providence in healthcare is at a decisive moment in its history. We are called to expand and extend our presence and services through ever new forms of partnership with organizations, Catholic and other, that have not shared our history and values. Because the commitment of partners to one another has profound significance for their continuing identity and activities, we recognize the urgency of studying carefully the opportunities, risks and implications of each new partnering relationship.

It is the intent of the Mission Committee of the Board to support the processes by which we position ourselves to "grow the mission" for today and the future. We do this by proposing mission-focused criteria for assessing each new initiative for collaboration with external partners in the mission of the system.

Considerations and Criteria

We propose that the following considerations be incorporated into the research, dialogue, negotiations and decisions to enter into collaborative partnerships with organizations external to the Sisters of Providence Health System (SPHS).

A. VISION

- The proposed relationship is compatible with and conducive to achieving the vision share within the SPHS.
- This relationship will enable us to continually create a new vision to respond to the ever-changing society and its needs.
- The shared vision of the new collaborative entity reflects and respects the core values that shape the mission of the SPHS.

B. COMMUNITY GOOD AND HEALTH COMMUNITY

- The proposed partnership arises from a need and desire to further the well-being of the community it serves.
- The elements of the partnership are structured in such a way as to promote the health of the community: i.e., it includes appropriate players—health professionals, consumers, community leaders, etc.

³SISTERS OF PROVIDENCE HEALTH SYSTEM, *Mission Criteria for Healthcare Partnerships*, System Office, Seattle, 15 September 1994, 3p.

- There is a reasonable basis for expecting the achievement of positive health outcomes to communities in need: e.g., sufficient resources—financial, professional, technical, etc.
- The goal of community health and a healthy community is explicit in including the physical, emotional, social and spiritual dimensions of health and in providing resources appropriate to those needs.

C. JUSTICE

- There is a shared commitment to universal access to basic healthcare for all persons, without discrimination.
- There are or will be structures and resources in place to assure advocacy on behalf of vulnerable populations.
- Difficult resource allocation choices have been anticipated. There is agreement on the values, criteria and processes to guide allocation decisions.

D. ORGANIZATIONAL CULTURE AND INTEGRATION

- The partnership preserves and nurtures a culture that reflects and supports the values that have characterized the Sisters of Providence service in this area.
- Major areas of potential conflict in the post-decision integration process have been identified—e.g., leadership styles, organizational structures, cultural, economic, religious diversity, etc.
- There is commitment to the education, training, communication and other post-decision processes necessary for the long term success of the partnership.

E. SPONSORSHIP, CONTROL, INFLUENCE

- Parameters of control and influence have been identified. Where control is limited, there will be appropriate scope for influence in matters of mission, values, ethical decision-making, etc.

The Sisters of Providence are running a successful business while tending to the health-care needs of the region

ON A MISSION

By PAUL J. LAM
Seattle Times business reporter

If there's one thing the Sisters of Providence know, it's their market.

They have been successful at identifying and assessing the health-care needs of this region as far back as 1856, the year Mother Joseph of the Sacred Heart and four pioneer Sisters of Providence opened the state's first hospital, a four-bed cabin for frontier settlers in Fort Vancouver.

About a century and a half later, the Sisters of Providence have portrayed Mother Joseph's cabin into a sophisticated, fully integrated health-care system. The system includes 24 hospital and health-care facilities spread over four states, several managed-care plans and a primary-care network and generates more than \$1.4 billion in annual revenues.

And over the past decade, the Sisters of Providence Health System Inc. has become one of the state's largest health-care providers, at a time when the industry is facing mounting pressure to keep access high and costs low, observers say.

"The Sisters certainly know their business," said Cheryl Scott, chief operating officer for Group Health Cooperative of Puget Sound, one of Providence's major competitors.

"And they're more willing now to play harder ball," she said.

For years, the Sisters of Providence carried out Mother Joseph's legacy the same way she did — by



Sister Cecilia Denis comforts a patient waiting for care at Providence Medical Center's emergency room.

building and running hospitals.

"We used to think of care in terms of bricks and mortar," said Peter Bigelow, Providence's vice president of operations for Washington and Alaska.

It was Mother Joseph, after all, who saw a need for health care in Seattle and addressed it by building the city's first hospital, Providence Medical Center, in 1878.

But the need for hospitals has been waning. Between 1980 and 1990, in-

patient care — measured in terms of patient days — dropped about 1.5 percent a year, according to the Washington State Hospital Association. Since 1990, the rate of annual decline has grown to about 9 percent.

The Sisters were among the first acute-care providers to respond by diversifying, said Leo Greenawald, the association's president.

At just a decade ago, the Sisters launched a managed-care plan in Oregon. It soon was expanded to

Washington, Alaska and California.

Today, Providence's two health maintenance organizations, the Good Health Plan of Oregon and the Good Health Plan of Washington, and two preferred-provider organizations, Vantage and Sound Health, have a combined enrollment of about 600,000 people.

For an organization that historically measured success by how many hospital beds were filled, health insurance and networks represented a significant departure for the Sisters, officials say.

In recent years, the Sisters have entered into several alliances with other health-care providers to cut costs and expand services.

Last year, they merged Providence Hospital in Everett with General Hospital Medical Center. More recently, the Sisters formalized an alliance with the Tacoma-based Franciscan Health System by spinning off 25 primary-care clinics in King, Pierce and Snohomish counties into a separate corporation overseeing more than 225 primary-care physicians.

But talk of business and numbers doesn't appeal much to Sister Karin Dufault, Providence's chairwoman. She said she would rather focus on the organization's mission.

"We are first and foremost here to carry out our mission, to care for the ill and poor," Dufault said.

To the Sisters, that also means

PLEASE SEE Sisters ON F 2

Sisters are taking care of business

Sisters

CONTINUED FROM F 1

respecting the dignity of individuals and honoring the sacredness of life.

But, Dufault said, "If we ignored our fiscal responsibilities, we wouldn't be serving our mission very well, would we?"

Indeed, the business and the numbers are impressive. The Sisters of Providence Health System now employs more than 16,000 full-time workers. The nonprofit organization operates nearly 3,400 acute-care beds and more than 1,000 long-term-care beds.

Total revenue in 1993 was \$1.4 billion, up about \$40 million from the previous year, with net income of \$64 million. In 1993, total assets were roughly \$1.5 billion, compared with long-term debt of \$433 million.

Some industry observers say the business is so large and successful precisely because of the Sisters' mission and the culture built around it.

Stephen Shortell, a professor of health services management at Northwestern University's Kellogg Graduate School of Management, has spent the past four years studying several health-care companies throughout the country.

"In our study, the Sisters of Providence as an organization proved to have the strongest sense of culture, purpose, of any of the fully integrated systems we studied," Shortell said. "And I'm sure a lot of that has to do with their religious foundations and the legacy of Mother Joseph."

Shortell said fostering a distinct culture and mission is critical for organizations seeking to maximize efficiency and productivity. A distinct culture, he said, gives administrators, managers, employees and customers a better sense of their common goals.

Shortell credits the Sisters for being flexible enough in defining that mission to take some risks, citing Providence's new primary-care network as an example.

But for several Providence physicians, the network represents what they fear most from an ever-changing Providence: a sense that the mission will be lost.

In December, Providence officials angered several physicians by putting a three-year non-compete clause

into their contracts and giving them only a week to sign it.

One Providence physician, who wished not to be identified, called it "the most draconian" clause he has seen in a doctor's contract.

Others were a bit more restrained.

"Providence has always had its heart in the right place," another doctor said. "It's got a good mission. But this (contract) didn't square with it, and that's what was so jarring about it."

Sandra Rorem, chief executive officer of the new network, acknowledged that the incident was "out of character" for Providence. She said officials misjudged how long it would take to draft a contract and apologized for giving the doctors such short notice.

However, she said the non-compete clause was needed to protect the network from being raided by competitors.

The problems that the physicians are having with the network don't come as any surprise to Janie Storrs.

Storrs, a registered nurse at Providence Medical Center, said she and 800 nurses at Providence have been forced to work without a contract for six months.

At issue is flexibility. The company wants the ability to have some nurses work less than 40-hour weeks and to increase employee contributions to the company health plan. The Hospital and Health Care Employees Union District 1199 NW refuses.

"The mission is a joke," Storrs said. "They talk about mission, but management decisions are based on how to maximize revenues and minimize costs."

Although the union is at odds with several hospitals in the area, Executive Vice President Glenn Goldstein said it expects more from the Sisters given their commitment to their mission and their legacy.

Ray Crerand, Providence's chief executive for Puget Sound operations, said the company is attempting to be as fair as possible.

But, "when it comes down to it, our first customer has to be the patient," Crerand said. "We owe them cost-effectiveness."

Providence's employees aren't the only ones who fear the company's growth.

Abortion-rights activists said they are concerned that the growing presence of Providence throughout the state could mean de facto restrictions on abortion.

"Insofar as they represent the only provider in some communities, it decreases the level of care in terms of a woman's reproductive health," said Chris Charbonneau, president of Planned Parenthood's Seattle-King County office.

Even the Sisters agonize over issues of growth.

Balance growth and mission is a constant struggle, company officials said, particularly as the Sisters of Providence forge new relationships with competing health-care providers.

"How growth impacts mission is a real question for the organization," said Gerald Coe, chief executive officer for Providence Health Plans of Washington.

Still, company officials said some growing, some merging, some aligning has yet to be done.

"This is what's needed today in health care," said Sister Susanne Hartung. "This is exactly what Mother Joseph would be doing if she were alive today."

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BIOGRAPHICAL NOTE

Beverly K. Dunn was born on September 2, 1944, in Lawrenceville, Illinois. She entered the Sisters of Providence on September 8, 1962, in Seattle, WA, making final profession of vows in 1973. She obtained a B.A. in social sciences from Seattle University in 1967, a B.S. in natural sciences (chemistry) in 1968, also from Seattle University, a Master's degree in theological studies from the Franciscan School of Theology, Berkeley, CA, in 1987, and a licentiate in canon law from Saint Paul University, Ottawa, Canada, in 1992.

Before embarking on canon law studies, Beverly taught secondary school sciences, served in university campus ministry, in young adult ministry, in diocesan pastoral planning, and as a parish pastoral associate. She has also served as a judge in the Interprovincial Tribunal of Second Instance, Seattle, WA, and as a defender of the bond for the Canadian Appeal Tribunal.