CHA
Catholic Health Association of the United States

Understanding and Applying the *Ethical and Religious Directives for Catholic Health Care Services:*

AN EDUCATIONAL RESOURCE FOR THE CATHOLIC HEALTH MINISTRY



Part Six - Forming New Partnerships with Health Care Organizations

Part Six - Forming New Partnerships with Health Care Organizations and Providers

CASE STUDY

CASE #1: EMPLOYED PHYSICIANS AND CONTRACEPTION

Saint Vincent's Hospital is negotiating with an obstetrician and an urologist to join its medical group, with offices in St. Vincent's Physicians' Building. Both will be identified as employees of St. Vincent's. They understand that in accordance with the ERDs they will not be permitted to perform tubal ligations or vasectomies in the medical center or in their offices. Both have raised questions regarding their continued ability to provide the services that they consider to be medically appropriate. Both want to be able to continue performing sterilizations. At present, both think that they can find another venue apart from St. Vincent's in which to do this and ask if this would be permitted. Both doctors have also raised the question regarding how to obtain provider numbers to use in billing for their services, if they must find an outside venue.

In addition, the obstetrician has a question regarding her being able to continue prescribing contraceptives and to insert IUDs in her office. Although she does not agree with the moral position of the Catholic Church, she wants to be part of the medical group and understands that St. Vincent's is a Catholic organization. She also believes that it is important to enter any agreement with the hospital with integrity. However, she also thinks that it is an imposition on her patients to tell them to go elsewhere for either contraceptive prescriptions or for an IUD. To find a compromise, she has suggested that she and the hospital find a formula in which she technically leases back her office from St. Vincent's during those times in which she performs these tasks. (Courtesy of Catholic Health Initiation).

Part Six - Forming New Partnerships with Health Care Organizations and Providers

CASE RESPONSE

CASE #1: EMPLOYED PHYSICIANS AND CONTRACEPTION

1. What ethical issues do you see here?

- ✦ Physicians employed by a Catholic hospital performing sterilizations at a location not associated with Saint Vincent's.
- ✦ A physician employed by a Catholic hospital writing prescriptions for contraceptives and IUDs in his/her office.
- ✦ The obstetrician leasing back her office from the hospital in order to prescribe what is contrary to Church teaching. Illicit cooperation.
- ✦ The possibility of scandal. How will patients know what is "Catholic time" versus "non-Catholic time" and how? The Catholic institution could be perceived as condoning contraception.

2. Which Directive(s) apply to the case?

- ✦ Directives 52, 53, 67, 68, 69, 70, 71, and 72.

3. How might the Directive(s) help address the case?

- ✦ Directive 53 prohibits direct sterilizations. Performing sterilizations, even in another location, as an employed physician of St. Vincent's would be morally problematic. However, if these physicians arranged on their own for a "limited private practice" during which time they were not employees of St. Vincent's and performed the tubal ligations elsewhere under a separate license and with their own billing, this would not involve St. Vincent's in morally illicit cooperation. For further information about limited private practice, see John Haas et al., "Model Clinical Practice Ethics Guidelines for Affiliated Health Care Professionals with Respect to Prescription of Contraceptives," in Edward Furton, ed., Catholic Health Care Ethics: A Manual for Practitioners (Philadelphia: National Catholic Bioethics Center, 2nd edition, 2009): 99-101.
- ✦ Directives 52 and 70 speak to the issue of prescribing contraceptive measures. Provision of contraception for non-medical purposes is forbidden in Catholic organizations.
- ✦ Directive 69 points to the need to apply the principle of cooperation. This would be relevant to the obstetrician's suggestion that she lease back her office space for those times when she

Part Six - Forming New Partnerships with Health Care Organizations and Providers

CASE RESPONSE

does prescribe. Whether or not such an arrangement would be morally permissible would require an application of the principle of cooperation. The key components of the principle can be found in the Glossary. If St. Vincent's were to agree to this proposal, this would almost certainly be an instance of immediate material cooperation (providing something essential to the wrongdoing of another) and, possibly, formal or at least implicit formal cooperation. By working out this arrangement, the hospital would seem to be approving prescribing contraceptives by one of its employed physicians on premises owned by the hospital.

- ✦ Implementing the obstetrician's proposal could very likely be a source of true scandal as defined in footnote 45 of the *Ethical and Religious Directives*. Because prescribing contraception would occur in the St. Vincent's Physicians' Building by a n employed physician of the hospital, the hospital could be perceived as condoning contraception which could lead others to believe that there is nothing morally problematic with contraception. From the perspective of patients, it would be virtually impossible to distinguish between when the office space was "St. Vincent's office space" and when it was the "OB/GYN's private office space," contributing to confusion and possible scandal.

Part Six - Forming New Partnerships with Health Care Organizations and Providers

CASE STUDY

CASE #2: CATHOLIC MANAGEMENT OF A CITY HOSPITAL

Grand Junction City Hospital (GJCH) is heavily in debt with limited days of cash. The City Council wants the hospital to remain open and continue to be a community hospital but needs an experienced health care organization that can manage the hospital out of its financial predicament. GJCH provides quality services needed by the local community. The Grand Junction City Council approaches St. Elizabeth Health System and proposes that the health system manage the city hospital. The city council wants the hospital to continue to provide sterilizations and make abortion referrals, but this would be in conflict with the ERDs. In addition to the management responsibilities, St. Elizabeth Health System would also have legal responsibilities for what occurred at the city hospital.

St. Elizabeth Health System considers the management relationship with Grand Junction City Hospital as a "good fit" for its overall strategic direction in this particular market. The health system also believes that with proper management and operational proficiencies, the city hospital could overcome its current financial difficulties. (Courtesy of Catholic Health Initiation).

Part Six - Forming New Partnerships with Health Care Organizations and Providers

CASE RESPONSE

CASE #2: CATHOLIC MANAGEMENT OF A CITY HOSPITAL

1. What ethical issues do you see here?

- A Catholic party managing a community hospital that performs sterilizations and makes abortion referrals. This is an issue of cooperation.

2. Which Directives apply to the case?

- Directives 67, 68, 69, 70, 71.

3. How might the Directive(s) help address the case?

- Directive 69 calls for an analysis of the situation employing the principle of cooperation. Formal and immediate material cooperation are not morally permissible.
- Directive 70 excludes certain procedures from immediate material cooperation for the Catholic party, among them sterilizations and abortion. Would management of a hospital that provides sterilizations and offers abortion referrals constitute immediate material cooperation on the part of the Catholic party?
- Because of the possibility of scandal and the possible impact of such an arrangement on the identity of the Catholic organization, the local bishop should be involved early on.

Part Six - Forming New Partnerships with Health Care Organizations and Providers

CASE STUDY

CASE #3: PARTNERING IN A NEW VENTURE

The corporate vice president of planning and development of Fidelity Health Care was approached by a member of one of the two cardiologist medical groups in the metropolitan area. Apparently, the contract this group has with one of Fidelity's competitors is about to expire and the doctors are not satisfied with how the new contract negotiations are proceeding. The cardiologist group would be willing to partner with Fidelity Health (FH) in a co-owned cardiac care niche hospital. FH would put up 90 percent of the capital, approximately $52 million, which could be borrowed at a low rate, to build the facility and purchase the equipment. The cardiologist group would put up the remaining 10 percent and would staff the hospital and make all referrals for prolonged in-patient care to Fidelity's local hospitals. In this venture, FH would own 51 percent and the cardiologist group 49 percent.

The cardiologist group is insistent that the hospital be built out west in one of the most affluent suburban neighborhoods in the metro area. This would mean that the cardiologist group would leave the inner city where they operate principally now and those patients, mostly underserved, would essentially be without specialty cardiology services, given that the other cardiology group also resides out west in another competitor hospital in a different prosperous suburb. There actually is no community need for the cardiac hospital out west because they already have relatively easy access to the hospital that houses the other cardiology group. Nevertheless, the consulting firm hired to review the deal has assured us that we would reach those not already served and would take patients away from the competition because the cardiac group with which we would partner, though smaller, is more reputable and ranked higher by quality sources than the other one. The consulting firm believes strongly that the demand for services at Fidelity's cardiac hospital would be sufficient enough that the hospital would generate substantial revenues and quite possibly net about $20-30 million in income annually for the first five years. This would mean an additional $10-15 million to Fidelity's bottom line. In the past, Fidelity probably would not even have received a Certificate of Need (CON) since objectively there is no community need. But, with the state CON program recently repealed, that is not an issue in this case.

From a business perspective, the advantages of this new venture are clear: Fidelity makes money, bolsters its cardiac services, increases market share and thereby widens the gap between itself and one of its competitors (i.e., the one from whom they would be "taking" the cardiologist medical group) and narrow the gap between itself and another competitor (i.e., the hospital out west with which they would now be competing for cardiac services). (Courtesy of Dr. Michael Panicola, SSM Health Care, St. Louis, Mo.).

Part Six - Forming New Partnerships with Health Care Organizations and Providers

CASE RESPONSE

CASE #3: PARTNERING IN A NEW VENTURE

1. What ethical issues do you see here?

- ✦ Abandoning patients in need — justice.
- ✦ Sacrificing community need to profit — harming the common good?
- ✦ Fidelity to mission.
- ✦ Culture compatibility; alignment of values.

2. Which Directives apply to the case?

- ✦ This is not a case of cooperation and so does not strictly fall under Part Six. However, this case provides an opportunity to appeal to other parts of the *Ethical and Religious Directives* for guidance. What Directives or other parts of the ERDs would be helpful for addressing this situation?

Part Six - Forming New Partnerships with Health Care Organizations and Providers

CASE STUDY

CASE #4: PHYSICIANS WORKING FOR PLANNED PARENTHOOD

St. Joseph Mercy Medical Center is a 450-bed hospital in southwestern city of about 150,000. The hospital is 50 percent owner of Red Rock Health Network, a physician hospital organization (PHO). A large, local physician group owns the other 50 percent. The PHO offers financial (managed care contracting), marketing and business management services.

A small medical group in the community, which includes two physicians, seeks to join the network. Among other things, they practice at the local Planned Parenthood (PP). This local PP office, however, does not provide abortions, but rather provides reproductive and other health services. The director of operations wonders whether admitting the group into the network creates a problem for the Catholic owners of the network vis-a-vis Part Six of the *Ethical and Religious Directives for Catholic Health Care Services*.

Part Six - Forming New Partnerships with Health Care Organizations and Providers

CASE STUDY

CASE #4: PHYSICIANS WORKING FOR PLANNED PARENTHOOD

1. What ethical issues do you see here?

- ✦ Is this an instance of cooperation and, if so, is it an instance of morally permissible cooperation?

2. Which Directives apply to the case?

- ✦ Directives 67, 68, 69, 70, 71.

3. How might the Directive(s) help address the case?

- ✦ Directive 69 points to the need to apply the principles governing cooperation. Applying the principle to this case will help determine whether there is any cooperation involved and, if there is, whether it is morally permissible.
- ✦ Directive 71 underscores the importance of being sensitive to the possibility of scandal.
- ✦ Directives 67 and 68 strongly encourage communication with the local bishop should a decision be made to proceed.

Part Six - Forming New Partnerships with Health Care Organizations and Providers

CASE STUDY

CASE #5: PARTNERING WITH THE ALZHEIMER'S ASSOCIATION

Salus Health Care is located in a medium-size metropolitan area. While it sponsors one small acute care facility, its primary focus is on long term care, with an emphasis on the care of Alzheimer's patients. The system has three such facilities in the same city as the corporate office, and four others in the region. For several years, the system, as well as the individual local long term care facilities, have collaborated in various ways with the Alzheimer's Association and have benefited considerably from their relationship with the Association. Most recently, the local chapter of the Alzheimer's Association has invited the system and its individual long term care facilities to be sponsors of the annual "Memory Walk," the system CEO to be on the national board of the Association and the administrator of the largest facility to be a member of the Association's regional board.

The Alzheimer's Association, however, supports human embryonic stem cell research. In June 2004, the National Board of Directors adopted the following policy statement: "In keeping with its mission to eliminate Alzheimer's disease, the Alzheimer's Association opposes any restriction or limitation on human stem cell research, provided that appropriate scientific review, and ethical and oversight guidelines are in place." In a more detailed statement on the Association's position with regard to human embryonic stem cell research, the Association further states that "human stem cell research is not a current research priority for the Alzheimer's Association." (Source: Unknown)

Part Six - Forming New Partnerships with Health Care Organizations and Providers

CASE STUDY

CASE #5: PARTNERING WITH THE ALZHEIMER'S ASSOCIATION

1. What ethical issues do you see here?

- ✦ Would the various instances of cooperation be morally permissible cooperation?
- ✦ Would cutting ties with the Association be ultimately harmful to Alzheimer's patients and their families and the local community?
- ✦ The possibility of scandal.

2. Which Directives apply to the case?

- ✦ Directives 67, 68, 69, 70, 71.

3. How might the Directive(s) help address the case?

- ✦ Directive 69 points to the need to apply the principles governing cooperation. Applying the principle to this case will help determine whether there is any cooperation involved and, if there is, whether it is morally permissible.
- ✦ Directive 71 underscores the importance of being sensitive to the possibility of scandal.
- ✦ Directives 67 and 68 strongly encourage communication with the local bishop should a decision be made to proceed.

Part Six - Forming New Partnerships with Health Care Organizations and Providers

CASE STUDY

CASE #6: PARTNERING WITH OTHER LONG TERM CARE ORGANIZATIONS

For the last thirty-five years, St. Mary's Care Center has been one of the largest and most respected long term care facilities in its community. Fifteen years ago, a special Alzheimer's unit was established in the care center. Recently, St. Mary's expanded its services by starting a much needed adult day care center. In working on a long-range plan, the senior management team has been discussing the possibility of adding independent living apartments and assisted living unites. In this way, St. Mary's would provide the entire continuum of services for seniors. In fact, the president/CEO has had a number of inquiries about the availability of independent and assisted living apartments at St. Mary's.

When this idea is presented to the Board of trustees, trustee Dave Thompson is the only one to raise a question about the prudence of St. Mary's expanding in this way. He points out that such services are already being offered by two other facilities in the community. The Methodist Home built independent living apartments twelve years ago, and in order to care for residents aging in place, added a limited number of assisted living units five years ago. Then there is Sunset Village, a new for-profit assisted living apartment complex.

Rather than St. Mary's building independent and assisted living apartments which would essentially be in competition with these other facilities, Dave suggests that senior management explore "partnering" with either the Methodist home or Sunset Village (or both) to provide the continuum of services needed by seniors. He envisions a collaboration among facilities within the community that would assure seniors of a seamless movement from independent living to assisted living or adult day care and finally into long-term care. In his mind, this would be a more efficient use of resources and would free up money to remodel and update the long-term care center for which St. Mary's is recognized in the community.

The board chair suggests returning to discussion of Dave's recommendation at the next meeting, and asks St. Mary's President/CEO to compile some background information for board members. However, several board members immediately raise possible concerns—

compatibility of mission and values, the insurance plans for employees of both potential partners (they cover contraception, sterilization and abortion), consistency with the ERDs, and Sunset Village's reputation for its business practices, especially around admissions, pricing, and its treatment of employees.

(This case has been adapted with permission from Janine Idziak, Organizational Ethics in Senior Health Care Services, Dubuque: Simon & Kolz Publishing, 2003, p. 198).

Part Six - Forming New Partnerships with Health Care Organizations and Providers

CASE RESPONSE

CASE #6: PARTNERING WITH OTHER LONG TERM CARE ORGANIZATIONS

1. What ethical issues do you see here?

- ✦ AThe possibility of illicit cooperation.
- ✦ Compatibility of mission and values.
- ✦ Just treatment of employees.
- ✦ General adherence to the ERDs.
- ✦ Fairness in business practices.

2. Which Directives apply to the case?

- ✦ 67, 68, 69, 70, 71, 72 from Part Six.
- ✦ The values that are underscored in the Introduction to Part One, in addition to Directives 6, 7, 9.

3. How might the Directive(s) help address the case?

- ✦ Directive 69 points to the need to apply the principles governing cooperation. Applying the principle to this case will help determine whether there is any cooperation involved and, if there is, whether it is morally permissible.
- ✦ Directive 71 underscores the importance of being sensitive to the possibility of scandal.
- ✦ Directives 67 and 68 strongly encourage communication with the local bishop should a decision be made to proceed.
- ✦ Part One reminds us of the importance of respecting human dignity, treating employees justly, using resources wisely, and promoting the common good.
- ✦ While there are no directives that speak directly to good business practices, such can be inferred from the values noted just above. The Introduction to Part Six underscores the important of maintaining mission and Catholic identity.

We hope you found this educational resource helpful. To view additional resources and programs offered by CHA, Please visit **www.chausa.org**

Part Six - Forming New Partnerships with Health Care Organizations and Providers

DISCUSSION/REFELECTION QUESTIONS

- ✦ In what ways can new partnerships be seen as opportunities for Catholic health care?
- ✦ In what ways do these new partnerships present challenges to Catholic health care?
- ✦ How is it possible that such partnerships could erode Catholic identity?
- ✦ What safeguards must be in place to ensure Catholic identity?
- ✦ Why is it necessary to consult reliable theological experts when interpreting and applying the principles governing cooperation?
- ✦ Why do the bishops state that entering into partnerships that involve cooperation with evil should be the exception, rather than the rule?
- ✦ Why is it so important to discuss partnerships with the local bishop?

Part Six - Forming New Partnerships with Health Care Organizations and Providers

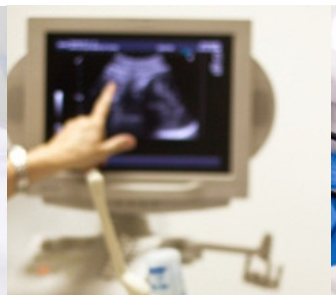
PRAYER RESOURCE

OPENING PRAYER

O God, guide us as we seek to further your healing ministry in challenging times. Grant us faithfulness to your purposes for your people. Grant us openness and creativity as we partner with others and seek new ways to minister. Keep ever before us the vision of your compassionate concern for every person who suffers. We ask all this in your Holy Name. Amen.

READING

John summoned two of his disciples and sent them to the Lord to ask, "Are you the one who is to come, or should we look for another?" When the men came to him, they said, "John the Baptist has sent us to you to ask, 'Are you the one who is to come, or should we look for another?'" At that time he cured many of their diseases, sufferings, and evil spirits; he also granted sight to many who were blind. And he said to them in reply, "Go and tell John what you have seen and heard: the blind regain their sight, the lame walk, lepers are cleansed, the deaf hear, the dead are raised, the poor have the good news proclaimed to them." (Luke 7:18-22)


Part Six - Forming New Partnerships with Health Care Organizations and Providers

ADDITIONAL RESOURCES

Cataldo, Peter and John Haas, "Institutional Cooperation: The ERDs," *Health Progress* 83, no. 6 (November-December 2002): 49-57, 60.

Hamel, Ron, "Cooperation: A Principle That Reflects Reality," *Health Progress* 93, no. 5 (September-October 2012): 80-82.

Hamel, Ron. "Breaking Bonds at What Expense?" *Health Progress* 92, no. 3 (May-June 2011): 74-76.

Hamel, Ron, "Preserving Integrity in Partnerships," *Health Progress* 83, no. 6 (November-December 2002): 37-39, 59.

Kopfensteiner, Rev. Thomas, "Responsibility and Cooperation: Evaluating Partnerships among Health Care Providers," *Health Progress* 83, no. 6 (November-December 2002):40-42, 59.

Nairn, Rev. Thomas, "Just Because It Shocks Doesn't Make It Scandal," *Health Progress* 93, no. 6 (November-December 2012): 72-75.

O'Rourke, Rev. Kevin, "Catholic Health Care and Sterilization," *Health Progress* 83, no. 6 (November-December 2002): 43-48.

The Catholic Health Association of the United States, *Resources about the Principle of Cooperation* for the Catholic Health Ministry, St. Louis: The Catholic Health Association, 2013.

The Catholic Health Association of the United States, Report on a *Theological Dialogue on the Principle of Cooperation*, St. Louis: The Catholic Health Association of the United States, 2007.

- Please note: This is not intended to be an exhaustive resource. There is much more in the literature that could be helpful to facilitators and others. Most of the articles in this select bibliography are taken from CHA's publication *Health Progress*. Users of this resource are also encouraged to consult the CHA website (**www.chausa.org**), particularly the "Ethics" section, as well as the subject index to CHA's online ethics publication, *Health Care Ethics* USA.

  Papal documents and documents from the Congregation for the Doctrine of the Faith can be found on the Vatican website, **www.vatican.va**. Documents from the United States Conference of Catholic Bishops can be found on their website, **www.usccb.org.**