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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

LAURENCE KAPLAN, on behalf of himself, individually, and on behalf of all others similarly situated,	:	Civil Action No. 13-2941 (MAS)(TJB)
Plaintiff, v.	:	Honorable Michael A. Shipp United States District Judge
SAINT PETER'S HEALTHCARE SYSTEM, RETIREMENT PLAN COMMITTEE FOR THE SAINT PETER'S HEALTHCARE SYSTEM RETIREMENT PLAN, LESLIE D. HIRSCH, an individual, PAMELA TEUFEL, an individual, GARRICK STOLDT, an individual, LISA DRUMBORE, an individual, RONALD C. RAK, an individual, SUSAN BALLESTERO, an individual, and JOHN and JANE DOES, each an individual, 1-20,	:	**<u>NOTICE OF MOTION TO DISMISS</u>** (Electronically Filed Document)
Defendants.	:	

TO: Attorneys of Record

COUNSEL:

PLEASE TAKE NOTICE that, pursuant to the July 25, 2018 Letter Order Granting Plaintiff's Motion for Leave to File an Amended Complaint and the Court's September 7, 2018 Order extending the page limits and setting a briefing schedule, on December 3, 2018 at 9:00 a.m. in the forenoon, or as soon thereafter as counsel may be heard, the undersigned attorneys for defendants Saint Peter's Healthcare System, Retirement Plan Committee for the Saint Peter's Healthcare System Retirement Plan, Leslie D. Hirsch, Pamela Teufel, Garrick Stoldt, Lisa Drumbore, Ronald C. Rak, and Susan Ballestero (collectively, the "Defendants"), shall apply before the Honorable Michael A. Shipp at the United States District Court for the District of New Jersey, Clarkson S. Fisher Building and U.S. Courthouse, 402 East State Street, Trenton, New Jersey 08608 for an Order, pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6), dismissing the Amended Complaint with prejudice, or alternatively, in the event that any claims remain, to strike the portion of paragraph 54 of the Amended Complaint referring to the vacated Third Circuit opinion pursuant to Fed. R. Civ. P. 12(f).

PLEASE TAKE FURTHER NOTICE that in support of this motion, Defendants shall rely upon the accompanying Memorandum of Law, Certification of Garrick Stoldt, and the documents annexed thereto, and Certification of

Monsignor John Fell, and the documents annexed thereto. A proposed form of Order is also attached.

PLEASE TAKE FURTHER NOTICE that Defendants hereby request oral argument.

Respectfully submitted,

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Dated: September 7, 2018

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

LAURENCE KAPLAN, on behalf of himself, individually, and on behalf of all others similarly situated,	Civil Action No. 13-2941 (MAS)(TJB)
Plaintiff, v.	Honorable Michael A. Shipp United States District Judge
SAINT PETER'S HEALTHCARE SYSTEM, et al.,	Motion Returnable: December 3, 2018
Defendants.	Oral Argument Requested
	(Electronically Filed Document)

DEFENDANTS' MEMORANDUM OF LAW IN SUPPORT OF THEIR MOTION TO DISMISS THE AMENDED COMPLAINT PURSUANT TO FED. R. CIV. P. 12(B)(1) AND 12(B)(6) AND MOTION TO STRIKE PURSUANT TO FED. R. CIV. P. 12(F)

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PRELIMINARY STATEMENT

Having lost in the Supreme Court on their main claim that the Church Plan Exemption from ERISA does not apply to Saint Peter's and other Catholic hospitals because they are not churches, the lawyers behind this crusade have fallen back on secondary lines of attack – that the Retirement Plan Committee ("Plan Committee") that administers the Saint Peter's Retirement Plan ("Plan") is not an organization whose principal purpose is to maintain the Plan, that Saint Peter's and the Plan Committee are not controlled by or associated with the Roman Catholic Church, and that a substantial number of employees covered by the Plan work for entities that are not controlled by or associated with the Church. Because all of these secondary arguments fail as a matter of both law and fact, the Plan is a church plan unregulated by ERISA, and this Court must dismiss their federal claims for lack of subject matter jurisdiction.

First, their chosen plaintiff, Laurence Kaplan, lacks standing both to bring claims under ERISA and to attack the constitutionality of the Church Plan Exemption (the "Exemption"). Article III standing requires injury in fact. The beneficiary of a defined benefit pension plan does not suffer such injury unless he has not received benefits or is in imminent danger of not receiving them. Kaplan has been paid every cent he is due, and the Plan has the assets to pay all benefits due to all beneficiaries for the next ten years and beyond. He therefore lacks standing to assert claims for violation of ERISA if ERISA applied. Because he lacks standing to assert his ERISA claims, he also lacks standing to assert that the Establishment Clause bars application of the Exemption to Saint Peter's.

Second, the Plan is an exempt church plan. The Plan Committee is a principal purpose organization within the meaning of 29 U.S.C. § 1002(33)(C)(i). As the Tenth Circuit has held in *Medina v. Catholic Health Initiatives*, the only Circuit to address these issues after the Supreme Court decision, a principal purpose organization need not be a separate corporate entity or have the power to fund the plan. 877 F.3d 1213 (10th Cir. 2017). Under the language of the statute, a subunit of the establishing church controlled or associated healthcare system satisfies the statute if it administers the plan. The Amended Complaint ("AC") concedes that the Plan Committee administers the Plan, and the Exemption requires no more.

Third, out of the many church plan cases Kaplan's lawyers have brought around the country, this one has the strongest case for church control and association. Saint Peter's is the only system that is wholly owned by a church – the Roman Catholic Diocese of Metuchen – and the Bishop has unrestricted power to appoint and remove the members of its Board and senior officers, and to veto the Board's decisions. He has the same power to appoint and remove the members of the Plan Committee. Under governing IRS regulations, SEC regulations, and New Jersey common law, the Bishop's power constitutes control. Saint Peter's corporate charter and bylaws require him to exercise that control to assure that

Saint Peter's is run according to the Church's rules for Catholic health care institutions. Through the Board and his representative on it, he does. Moreover, the Roman Catholic Church recognizes Saint Peter's as a Catholic institution in its official directory, and that recognition is conclusive on the issue of association. Its employees are thus deemed employees of a church. In sum, the Exemption applies to the Saint Peter's Plan.

Fourth, under *Corp. of Presiding Bishop v. Amos*, 483 U.S. 327 (1987), the Exemption is a neutral accommodation to religious organizations that does not violate the Establishment Clause when applied to a church controlled or church associated hospital.

As the last resort line of attack, the AC asserts New Jersey common law claims of breach of contract, promissory estoppel, unjust enrichment and breach of fiduciary duty. The only possible basis for jurisdiction over these claims is ancillary jurisdiction under 28 U.S.C. § 1367. Because the Court lacks subject matter jurisdiction over the ERISA and Establishment Clause claims, it lacks subject matter jurisdiction over the ancillary state law claims, and they must be dismissed. Moreover, they fail to state claims for relief under New Jersey law, largely because the AC does not allege that Kaplan has been or is about to be injured, but also because the Plan document incorporates by reference the Internal Revenue Code's exemption of church plans from ERISA funding requirements.

STATEMENT OF FACTS

A. Parties

1. Plaintiff

Laurence Kaplan is 75 years old. He retired as Manager of Food and Nutrition Services at Saint Peter's University Hospital. He has received and is receiving his full retirement benefits under the Plan since April 1, 2001. (Stoldt Cert. ¶ 32).[1]

2. Defendants

Saint Peter's Healthcare System, Inc. ("Saint Peter's") is a nonprofit healthcare system, owned, and controlled by the Roman Catholic Diocese of Metuchen (the "Church"). It encompasses Saint Peter's University Hospital, located in New Brunswick, New Jersey and three other subsidiaries that participate in the Plan. (*Id.* ¶¶ 3, 28). The Saint Peter's Retirement Plan Committee is a committee of Saint Peter's Board of Governors charged with administration of the Plan. (*Id.* ¶ 22). The individual defendants are present or former officers of Saint Peter's. (AC ¶¶ 24-29).

B. Control By And Association With The Roman Catholic Church

1. Ownership and Control

Saint Peter's was incorporated in 1908 by the Roman Catholic Diocese of

[1] References to the "Stoldt Cert." and the "Fell Cert." refer to the Certification of Garrick Stoldt, dated September 7, 2018, and to the Certification of Monsignor John Fell, dated September 7, 2018, respectively.

Trenton and has belonged to the Diocese of Metuchen since that diocese was established in 1981. (Fell Cert. ¶¶ 6, 8). The Diocese is a public juridic person under Roman Catholic Canon Law, operating as an entity of the Roman Catholic Church. Saint Peter's is the Diocese's instrumentality to carry out the Church's historic mission to heal and comfort the sick. (*Id*. ¶¶ 7, 9). All of the assets of the Diocese are ecclesiastical property owned by the Church, and alienation of its property in excess of $7 million requires the approval of the Vatican. (*Id*. ¶¶ 7 & 25).

Saint Peter's is a nonprofit corporation organized under the New Jersey Nonprofit Corporation Act, N.J.S.A. 15A:1-1 *et seq*. (*Id*. ¶ 9). It is exempt from federal income taxation under Internal Revenue Code 501(c)(e), 26 U.S.C. § 501(c)(3). (Stoldt Cert. ¶ 3). Its purposes are "to care, cure, nurture and maintain sick and infirm persons" and to "own, maintain, operate, or assist in the operation of one or more Catholic hospitals." (*Id*. ¶ 3, Ex. A). Saint Peter's operates Saint Peter's University Hospital and other wholly owned nonprofit healthcare subsidiaries. (*Id*. ¶ 2).

The Roman Catholic Bishop of Metuchen is the sole Member of Saint Peter's under the Nonprofit Corporation law, responsible to ensure compliance by the corporation and its subsidiaries with the U.S. Conference of Catholic Bishops' Ethical and Religious Directives For Catholic Health Care Facilities ("ERDs"). (*Id*. ¶¶ 4, 6). Management of Saint Peter's is vested in its Board of Governors

("Board"). (*Id.* ¶ 5). All of the members of the Board except two are appointed by the Bishop,[2] and all may be removed by the Bishop with or without cause. (*Id.* ¶¶ 9 and 11). The President and CEO of Saint Peter's is a member of the Board, as is the Episcopal Vicar for the Healthcare Apostolate for the Diocese of Metuchen ("Episcopal Vicar"), who sits as the Bishop's personal representative. (*Id.* ¶ 11; Fell Cert. ¶¶ 4-5). The Bishop has the power to veto any action by the Corporation or its Board. (Stoldt Cert. ¶ 9). The Bishop also appoints the Chair and Vice Chair of the Board, as well as the President and Chief Executive Officer, Treasurer and Chief Financial Officer, Secretary and Assistant Secretary of Saint Peter's in his sole discretion, and they serve at his pleasure. (*Id.* ¶ 10). The Bishop also has the power to appoint and remove at pleasure the Executive Directors of each of Saint Peter's subsidiaries in his sole discretion, and they serve at his pleasure. (*Id.* ¶ 12). The Bishop controls the subsidiaries, including Saint Peter's University Hospital, through his control of Saint Peter's and his authority to exercise its corporate powers over its subsidiaries. (*Id.* ¶ 12). The Bishop is directly involved in Saint Peter's and communicates regularly with its management. (Fell Cert. ¶ 14).

C. <u>Saint Peter's Association With The Church</u>

The Roman Catholic Church regards care and healing of the sick as an essential part of its religious mission. (*See* Ethical and Religious Directives

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2 The President and immediate Past President of Saint Peter's Medical Staff serve *ex officio* as members of the Board, as New Jersey regulations require. (Stoldt Cert. ¶ 11). *See* N.J.A.C. 8:43G-5.1(e) (2013).

("ERDs") (Stoldt Cert., Ex. L) at 6.) Accordingly, Saint Peter's bylaws provide that "the basic mission of the corporation . . . is to continue the healing mission of Jesus Christ as expressed in the Gospel," and to "foster the values of love, compassion, justice and reverence for human life." (*Id*. ¶ 13, Ex. B, Art. I. § 2(a)). Saint Peter's Certificate of Incorporation requires it operate in conformity with the law, teachings and moral practices of the Church and in compliance with the ERDs. (*Id*. ¶ 14, Ex. B, Art. I, § 2(b)). Members of the Board must agree in writing that they will manage Saint Peter's in accord with the ERDs. (*Id*. ¶ 15).

Using his authority under canon law and the Nonprofit Corporation Act, the Bishop is directly and personally responsible to ensure compliance of Saint Peter's and its subsidiaries with the ERDs. (*Id*. ¶ 6; Fell Cert. ¶ 14). To that end, the Bishop appoints his Episcopal Vicar to the Saint Peter's Board. The Episcopal Vicar is a voting member of the Board, and he advises the Board in matters relating to adherence to the ERDs. He is directly and personally responsible, under the Bishop, for Saint Peter's adherence to their principles. The Episcopal Vicar sits on Saint Peter's Ethics Committee and Infant Bioethics Committee, which meet regularly to ensure compliance with the ERDs. The Ethics Committee maintains a hotline that allows anyone to report a perceived violation of the ERDs. (Fell Cert. ¶¶ 4-5, 13-17).

Saint Peter's maintains a Pastoral Care Department that provides Catholic religious services to patients, including daily Mass at the hospital and the availability of the sacraments of Reconciliation and Anointing the Sick. It also coordinates visits by clergy of other faiths to meet the spiritual needs of non-Catholic patients. (Stoldt Cert. ¶ 16; Fell Cert. ¶ 23).

Saint Peter's Catholic affiliation is openly displayed. Catholic devotional pictures and statues are placed throughout the hospital, and crucifixes are hung in many, if not all rooms. Mass is said daily. Daily morning prayers, in which all are invited to participate, are broadcast over the public address system. Board meetings begin with prayer. The Cross is the central element of Saint Peter's logo. (Stoldt Cert. ¶¶ 18-20; Fell Cert. ¶¶ 18-22).

Saint Peter's is listed in *The Official Catholic Directory* (2013). (Stoldt Cert. ¶ 21, Ex. F). The Internal Revenue Service has ruled that "[a]ny organization listed in this directory is considered associated with the Roman Catholic Church in the United States" for the purpose of the Church's blanket exemption under 26 U.S.C. § 501(c)(3). IRS Gen. Counsel Mem. 39007 (July 1, 1983), 1983 GCM LEXIS 54, at *12 (Stoldt Cert. ¶ 21, Ex. G).

D. The Saint Peter's Retirement Plan

1. Administration

The Plan is a non-contributory defined benefit retirement plan that covers substantially all Saint Peter's employees hired before July 1, 2010. (Stoldt Cert. Ex. H ("Plan")). As of that date, Saint Peter's closed the Plan and established a defined contribution plan for subsequent hires. (*Id.* ¶ 25).

The Plan was established by Saint Peter's. It is administered by the Retirement Plan Committee ("Plan Committee"), a standing committee of Saint Peter's Board. (AC ¶ 74; Stoldt Cert. ¶ 22, Ex. H, Plan ¶ 8.01). The Plan Committee has exclusive discretionary authority over all aspects of the Plan, including management of Plan assets, determining eligibility for benefits, construing the provisions of the Plan, and directing disbursements under the Plan. (Stoldt Cert. ¶¶ 23-24; Ex. H, Plan ¶ 8.02). It consists of five members of the Board, including the Chair, the Chief Financial Officer, and the Episcopal Vicar. All of its members were appointed to the Board by the Bishop and are removable from the Board by him. (*Id.* ¶ 26; Plan ¶ 1.10). The Plan requires all members of the Plan Committee to be appointed by the Bishop. (Plan ¶ 1.10). The Plan invests its assets in accord with the U.S. Conference of Catholic Bishop Investment Guidelines. (*Id.* ¶ 23, Ex. I).

The Plan Committee has never made the election for a church plan to be treated as an ERISA plan required by 26 U.S.C. § 410(d) and 26 C.F.R. § 1.410(d)-

1. (*Id.* ¶ 27). In 2006, the Plan applied for an IRS letter ruling that it was exempt from ERISA under the Exemption. On August 14, 2013, the Plan received an IRS Letter Ruling that it was exempt from ERISA under the Exemption. (*Id.* ¶ 29-31, Ex. J).

2. Financial Status

As of year-end 2017 the Plan has assets of $203 million and present value liabilities of $339 million on a GAAP basis. (*Id.* ¶ 34). In 2016 and 2017, Saint Peter's contributed $27.406 million while the Plan paid out $16.590 million in benefits, for a net increase of $10.816 million in assets. Saint Peter's is making a further $4 million in contributions for 2018 on a weekly basis. (*Id.* ¶ 35). The Plan is paying in full all benefits due. (*Id.* ¶ 32). Even if the Plan earned no further income and received no further contributions from Saint Peter's, it can pay in full all accrued benefits for at least the next ten years and still have more than $50 million remaining. (*Id.* ¶¶ 36-37). There is no imminent risk that it will default. (*Id.* ¶ 38).

ARGUMENT

I. KAPLAN LACKS STANDING TO ASSERT ANY FEDERAL CLAIM ARISING OUT OF THE SAINT PETER'S PLAN

Because the jurisdiction of the federal courts is restricted to cases and controversies arising within the scope of Article III, a federal court does not have subject matter jurisdiction unless a plaintiff has standing to sue. *Spokeo, Inc. v.*

Robbins, __ U.S. __, 136 S. Ct. 1540, 1547 (2016). The "irreducible minimum" of standing requires three elements: the plaintiff must (i) have suffered an injury in fact, (ii) that is fairly traceable to the defendant's challenged conduct, and (iii) is likely to be redressed by a judicial decision in his favor. *Id.*; *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992). "To establish injury in fact, a plaintiff must show that he or she suffered 'an invasion of a legally protected interest' that is 'concrete and particularized,' and 'actual or imminent, not conjectural or hypothetical." *Spokeo, Inc.*, 136 S. Ct. at 1548 (quoting *Lujan*, 504 U.S. at 560). When the plaintiff seeks preventive relief against an alleged future injury, he must allege that "the threatened injury is 'certainly impending'" or that "there is a 'substantial risk'" that the harm will occur. *Susan B. Anthony List v. Driehaus*, __ U.S. __, 134 S. Ct. 2334, 2341 (2014) (quoting *Clapper v. Amnesty Int'l*, 568 U.S. 398, 414 n.5 (2013)).

Kaplan has the burden to prove standing. *Lujan*, 504 U.S. at 561. He cannot satisfy the first of the three elements of standing because he cannot demonstrate that he has been injured in fact by the alleged violations of ERISA or that there is a "certainly impending" risk that he will be injured. The AC does not allege that the Plan has failed to pay Kaplan (or any putative class member) the benefits due to him.[3] Nor does it allege that the Plan is in imminent danger of default. In fact, all

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[3] "In the class action context, our standing inquiry focuses solely on the class representative(s)." *Mielo v. Steak 'N Shake Operations, Inc.*, 2018 U.S. App.

required benefits have been paid and continue to be paid. (Stoldt Cert. ¶ 32). Instead, the AC alleges only that Saint Peter's has failed to make the minimum funding contributions to the Plan required by ERISA (AC ¶¶ 145-49, 180), and that the Plan is underfunded by $130 million. (AC ¶¶ 15, 199).

That allegation of underfunding, in the air, without more, does not create standing under ERISA. A participant in a defined benefit plan subject to ERISA has only an interest in payment of his accrued benefits, not in the assets of the plan. *Hughes Aircraft Corp. v. Jacobson*, 525 U.S. 432, 439-40 (1999). It follows that "diminution of plan assets, without more, is insufficient to establish actual injury to any particular participant." *Perelman v. Perelman*, 793 F.3d 368, 374 (3d Cir. 2015). Instead, "constitutional standing for defined benefit participants requires imminent risk of default by the plan, such that the participant's benefits are adversely affected." *Lee v. Verizon Commc'ns, Inc.*, 837 F.3d 523, 546 (5th Cir. 2016), *cert. denied sub nom. Pundt v. Verizon Commc'ns, Inc.*, 137 S. Ct. 1374 (2017).

The *Lee* plaintiffs alleged that the plan was underfunded on an actuarial basis. 837 F.3d at 546. However, the Fifth Circuit held that plaintiffs lacked constitutional standing because they failed to "allege a plan termination, an inability by Verizon [to] address a shortfall in the event of termination, or a direct

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LEXIS 20793, at *12 (3d Cir. July 26, 2018). "Whether an action presents a 'case or controversy' under Article III is determined with respect to the named parties." *Krell v. Prudential Ins. Co. of America*, 148 F.3d 283, 306 (3d Cir. 1998).

effect thereof on participants' benefits." *Id.* Instead, it pointed out that "direct injury to a participants' [sic] benefits" would depend on several additional contingencies, including the employer's inability to cover any future shortfall. *Id.*; *accord David v. Alphin*, 704 F.3d 327, 336-38 (4th Cir. 2013). "Plaintiffs will only be harmed *if* the Plan runs out of money and *if* [employer] refuses to make up the shortfall *while* Plaintiffs are still receiving benefits from the Plan." *Duncan v. Muzyn*, 885 F.3d 422, 428 (6th Cir. 2018) (standing denied, following *Lee*).

The AC's allegations fall short of those held insufficient to create standing in *Lee*. While the AC alleges that the Plan is underfunded by $130 million (AC ¶¶ 14, 68, 199), it does not connect this figure to any probability that the Plan will be unable to pay benefits at any point in the future. Nor does it allege that Saint Peter's will be unable to make up any shortfall in order to pay required benefits at any time in the future. *See Harley v. Minnesota Mining & Mfg. Co.*, 284 F.3d 901, 906 (8th Cir. 2002) (no standing unless plaintiff alleges both plan is underfunded and employer lacks capacity to make up shortfall); *Perelman v. Perelman*, 919 F. Supp. 2d 512, 518 (E.D. Pa. 2013) (*Harley* followed), *aff'd* 793 F.3d 368 (3d Cir. 2015). Without tying the $130 million figure to a substantial risk that Kaplan's benefits are in imminent jeopardy, underfunding does not confer standing.

Kaplan cannot plead an imminent risk of default. The complaint in *Feather v. SSM Health*, 2018 U.S. Dist. LEXIS 122346 (E.D. Mo. July 23, 2018), brought by the same plaintiffs' counsel, made the same ERISA underfunding claim. The district court held that plaintiffs lacked standing to assert it because the plan had sufficient assets to pay more than 10 years of benefits in the future and the employer was making regular contributions. *Feather*, 2018 U.S. Dist. LEXIS 122346, at *11-12. Following *Perelman* and *David*, *Feather* held that the prospect of default at some indefinite future date did not allege a concrete injury that would create standing. *Id.* at *12-13. The same is true here. Saint Peter's is making regular contributions, and even under GAAP accounting, the Plan has enough assets to pay more than the next 10 years' accrued benefits, even if it earned no return on its $200 million corpus. (Stoldt Cert. ¶¶ 36-38). Without actual nonpayment or the risk of imminent nonpayment, Kaplan has no standing to assert under ERISA that the Plan is underfunded.

Kaplan's allegations of breach of fiduciary duty lack standing for the same reasons. To have standing, the beneficiary of an ERISA plan must allege not only that fiduciaries have breached their duty to the plan, but that he has suffered direct, individual injury from the breach. "Misconduct by the administrators of a defined benefit plan will not affect an individual's entitlement to a defined benefit unless it creates or enhances the risk of default by the entire plan." *LaRue v. DeWolff, Boberg & Assocs.*, 552 U.S. 248, 255 (2008). It follows that "the statute does impose a general fiduciary duty to comply with ERISA, but it does not confer a right to every plan participant to sue the plan fiduciary for alleged ERISA violations without a showing that they were injured by the alleged breach of the duty." *Kendall v. Employees Ret. Plan of Avon Prods.*, 561 F.3d 112, 120 (2d Cir. 2009). Insofar as Kaplan alleges that the Plan administrators have breached their fiduciary duties by underfunding the Plan (AC ¶ 199), he fails to allege that he has suffered or is about to suffer injury by the alleged underfunding.

Nor does Kaplan's allegation in Count IV of the AC that the Plan failed to make reports required by ERISA confer standing. Without concrete and individual harm to a plaintiff, mere failure to provide required notices is not a sufficient injury to create Article III standing. *Spokeo, Inc.*, 136 S. Ct. at 1549 ("bare procedural injury" under Fair Credit Reporting Act does not confer standing). "[D]eprivation of a procedural right without some concrete interest that is affected by the deprivation – a procedural right *in vacuo* – is insufficient to create Article III standing." *Summers v. Earth Island Inst.*, 555 U.S. 488, 496 (2009), *citing Lujan*, 504 U.S. at 572 n.7. It is necessary to allege not simply that notice required by the statute was not provided, but that some injury to Kaplan other than the lack of notice itself resulted. Count II fails to do so. While it alleges Saint Peter's did not provide Kaplan with various reports required by ERISA, it does not allege that the lack of this information had any harmful consequences or affected any substantive right. It therefore does not confer standing. *Feather*, 2018 U.S. Dist. LEXIS 122346, at *14.[4]

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[4] To the extent that *Horvath v. Keystone Health Plan E., Inc.*, holds that ERISA's reporting and disclosure requirements confer Article III standing on any

Finally, the same is true of Kaplan's claim that the Exemption violates the Establishment Clause. Standing requires not only injury in fact, but causation and the prospect that a favorable judicial decision will give plaintiff relief. *Spokeo, Inc.,* 136 S. Ct. at 1547. Because Kaplan lacks standing to assert substantive claims under ERISA, a decision that the Exemption violates the Establishment Clause would be merely an abstract question of law that will not provide him with the relief he seeks. *Sanzone v. Mercy Health*, 2018 U.S. Dist. LEXIS 145195, at *26-28 (E.D. Mo. Aug., 27, 2018); *Feather v. SSM Health*, 2018 U.S. Dist. LEXIS 122346, at *15-16; *Overall v. Ascension*, 23 F. Supp. 3d 816, 832-33 (E.D. Mich. 2014).

In conclusion, the AC has not alleged that Saint Peter's assertion of its status as a church plan exempt from ERISA, its purported failure to fund the Plan, or its failure to provide Kaplan with the assorted notices and reports required by ERISA has injured Kaplan in any concrete or particular way. It does not and cannot allege that Kaplan has not received the benefits that he is due under the Plan. It does not allege that Kaplan is in any imminent danger of not receiving his vested benefits

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beneficiary to seek injunctive relief "solely by virtue of statutes creating legal rights, the invasion of which creates standing," it is inconsistent with Article III's requirement of concrete, particularized injury. 333 F.3d 450, 456 (3d Cir. 2003) (internal citations omitted). Article III standing is distinct from statutory standing, and Congress cannot confer Article III standing where concrete, particularized injury does not exist. "[T]he requirement of injury in fact is a hard floor of Article III jurisdiction that cannot be removed by statute." *Summers*, 555 U.S. at 497; *accord, Spokeo, Inc.*, 136 S. Ct. at 1549 ("Article III standing requires a concrete injury even in the context of a statutory violation").

under the Plan. It does not allege that Saint Peter's is or will be unable to pay Kaplan his vested benefits if the Plan's assets are insufficient. It does not allege that Kaplan was affected by any failure to receive ERISA notices or that he would have done anything differently if he had received them. Accordingly, Kaplan lacks standing, and the AC should be dismissed for lack of subject matter jurisdiction under Rule 12(b)(1).

II. THE COURT LACKS SUBJECT MATTER JURISDICTION BECAUSE SAINT PETER'S PLAN IS A CHURCH PLAN EXEMPT FROM ERISA

When a retirement plan is not subject to ERISA, the court lacks subject matter jurisdiction to consider a claim arising under that statute and must dismiss for lack of subject matter jurisdiction under Fed. R. Civ. P. 12(b)(1). *Koval v. Wash. Cnty. Redevelopment Auth.*, 574 F.3d 238, 244 (3d Cir. 2009).[5] *Koval*

[5] Decided after *Arbaugh v. Y & H. Corp.,* 546 U.S. 500 (2006), and *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83 (1998), *Koval* is consistent with those decisions' general language about the distinction between lack of subject matter jurisdiction and failure to state a claim for relief. *Koval* meets the requirements of *Steel Co.* and *Arbaugh* that a statute must refer to jurisdiction for a dismissal on jurisdictional grounds, as opposed to failure to state a claim. ERISA provides exclusive jurisdiction of civil actions brought by a participant or beneficiary. 29 U.S.C. § 1132(e)(1). In turn, the Exemption, 29 U.S.C. § 1003(b)(2) provides that "the provisions of this title" do not apply to a church plan as defined in the statute. The "provisions of this title" include the provisions conferring jurisdiction on the district court. While the jurisdictional provisions are a separate section of ERISA, that section is subject to and incorporates by reference the § 1003(b)(2) blanket exclusion from the statute. *Cf. Animal Sci. Prods., Inc. v. China Minmetals Corp.*, 654 F.3d 462, 466-68 (3d Cir 2011) (no jurisdictional issue when statutory language is silent as to jurisdiction).

affirmed the dismissal of an ERISA claim against a retirement plan that was excluded under the statute's Governmental Plan Exemption. ERISA § 4(b)(1), 29 U.S.C. § 1003(b)(1); *see also Crisdon v. Bank of Am.*, 2013 U.S. Dist. LEXIS 81556, at *5 (D.N.J. June 10, 2013) (dismissing ERISA claim for lack of subject matter jurisdiction, *inter alia*, when alleged trust fund not subject to ERISA); *Jones v. South Williamsport Sch. Dist.,* 2012 U.S. Dist. LEXIS 169348 (M.D. Pa. Nov. 29, 2012) (governmental plan); *Isko v. Engelhard Corp*., 2005 U.S. Dist. LEXIS 41669, at *24 (D.N.J. Apr. 29, 2005) ("excess benefit plan").

Like the Governmental and Excess Benefit Exemptions, the Church Plan Exemption deprives a court of subject matter jurisdiction under ERISA. *Sanzone*, 2018 U.S. Dist. LEXIS 144195, at *2; *Hall v. USAble Life*, 774 F. Supp. 2d 953, 954 (E.D. Ark. 2011). This Court has already recognized that if the Plan is exempt from ERISA, "it would likely strip the Court of subject matter jurisdiction." *Kaplan v. Saint Peter's Healthcare System*, 2014 U.S. Dist. LEXIS 131569, at *6 (D.N.J. Sep. 19, 2014) (citing *Koval*).

Lack of subject matter jurisdiction can be challenged factually at any point. *See CNA v. United States*, 535 F.3d 132, 145-46 (3d Cir. 2008); *Berardi v. Swanson Mem'l Lodge No. 48 of Fraternal Order of Police*, 920 F.2d 198, 200 (3d Cir. 1990); *see also D.G. v. Somerset Hills Sch. Dist.*, 559 F. Supp. 2d 484, 490-91 (D.N.J. 2008); Fed. R. Civ. P. 12(h)(3). When challenged, the court's power to hear the case must be resolved before further proceeding on the merits. *Zambelli*

Fireworks Mfg. Co. v. Wood, 592 F.3d 412, 418 (3d Cir. 2010). Because the facts demonstrate that Saint Peter's satisfies all of the criteria for the Exemption, the AC's ERISA claims must be dismissed for lack of subject matter jurisdiction.[6]

A. Saint Peter's Plan Is Maintained By A Principal Purpose Organization

The Exemption, 29 U.S.C. § 1003(b)(2), exempts any "church plan" from ERISA's provisions. ERISA defines a "church plan" as a "plan established and maintained . . . for its employees . . . by a church or a convention or association of churches." 29 U.S.C. § 1002(33)(A). The 1980 amendments to ERISA expanded that definition to include plans maintained by a "principal purpose organization." Under 29 U.S.C. § 1002(33)(C)(i), a plan "maintained . . . for its employees . . . by a church":

> includes a plan maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of

[6] Unlike this case, defendants in *Rollins v. Dignity Health, Inc.*, 2018 U.S. Dist. LEXIS 152321 (N.D. Cal. Sept. 6, 2018), moved to dismiss only for failure to state a claim under Fed. R. Civ. P. 12(b)(6). The *Rollins* court denied the motion on the ground that issues of maintenance, principal purpose, control and association presented issues of fact that could not be resolved on a 12(b)(6) motion where the complaint's factual allegations must be taken as true. Because defendants in this case have moved to dismiss for lack of subject matter jurisdiction, the court can and should resolve factual issues relating to its jurisdiction before proceeding further. "[A] facially sufficient complaint may be dismissed before an answer is served if it can be shown by affidavits that subject matter jurisdiction is lacking." *Berardi*, 920 F.2d at 200. "The Court may consider affidavits, depositions, and testimony to resolve factual issues and is free to weigh the evidence and satisfy itself as to the existence of its power to hear the case." *D.G.*, 559 F. Supp. 2d at 491.

> retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

In *Advocate Health Care Network v. Stapleton*, __ U.S.__, 137 S. Ct. 1652 (2017), the Supreme Court held that an employee benefit plan could be established by a hospital system controlled by or associated with a church as long as it met the other criteria of § 1002(33)(C)(i).[7] It did not address the issues of what constitutes maintenance of a plan or whether a hospital system's internal benefit committee qualifies as a principal purpose organization. *Stapleton*, 137 S. Ct. at 1657 n.2.

The Plan is administered by the Retirement Plan Committee of Saint Peter's Board of Directors ("Plan Committee"). (Stoldt Cert. ¶¶ 23-24). The AC alleges that the Plan does not qualify as a church plan under § 1002(33)(C)(i) because (i) the Plan Committee is not a principal purpose organization but only a component

[7] *Stapleton* reversed the Third Circuit's contrary holding in this case. *Stapleton*, 137 S. Ct. at 1663, reversing *Kaplan v. Saint Peter's Healthcare System*, 810 F.3d 175 (3d Cir. 2015). Thereafter, the Third Circuit vacated its prior opinion in its entirety and remanded the case to this Court for further proceedings. *Kaplan v. Saint Peter's Healthcare System*, 693 Fed. App'x 98 (3d Cir. 2017). A vacated decision has no authority as precedent or law of the case. *County of Los Angeles v. Davis*, 440 U.S. 625, 634 n.6 (1979) ("vacating the judgment of the Court of Appeals deprives that court's opinion of precedential effect") (citations omitted); *1621 Route 22 West Operating Co. v. NLRB*, 825 F.3d 128, 141 n.6 (3d Cir. 2016); *Wirtz v. Glass Bottle Blowers Ass'n*, 372 F.2d 86, 89 (3d Cir. 1966), *reversed on other grounds*, 389 U.S. 464 (1968); *Leader v. Apex Hosiery Co.*, 108 F.2d 71, 81 (3d Cir. 1939); *United States v. Amos*, 192 Fed. App. 128, 131 n.1 (3d Cir. 2006). Accordingly, this Court should disregard and strike the reference to dictum in the Third Circuit's prior opinion in AC ¶ 54.

of Saint Peter's rather than an independent legal entity (AC ¶ 85) and/or (ii) the Plan Committee does not maintain the Plan because the it lacks the power to fund, continue or terminate the plan. (AC ¶ 86). Kaplan's argument fails because the statute does not require that the organization maintaining the plan be a separate legal entity from the employer and because the administration of the plan constitutes maintenance.

The first Court of Appeals to consider the issues of principal purpose organization and maintenance after *Stapleton* has held that ERISA:

> [I]mposes a three-step inquiry for entities seeking to use the church-plan exemption for plans maintained by principal-purpose organizations:
>
> 1. Is the entity a tax-exempt nonprofit organization associated with a church?
>
> 2. If so, is the entity's retirement plan maintained by a principal-purpose organization? That is, is the plan maintained by an organization whose principal purpose is administering **or** funding a retirement plan for entity employees?
>
> 3. If so, is that principal purpose organization itself associated with a church? [emphasis added]

Medina v. Catholic Health Initiatives, 877 F.3d 1213, 1222 (10th Cir. 2017). "[B]oth the principal-purpose organization and the entity whose employees the plan benefits must be associated with a church." *Id.*[8] For the reasons stated in

[8] The Exemption applies if the entity and the principal-purpose organization are either controlled by or associated with a church. 29 U.S.C. § 1002(33)(A) and (C)(i). In *Medina*, the defendant and its plan committee were held to be associated

Point II.B., *infra*, Saint Peter's and its Plan Committee are both controlled by the Roman Catholic Diocese of Metuchen and associated with the Roman Catholic Church. The Plan Committee maintains the Plan by administering it, and it need not be a separate legal person from Saint Peter's.

1. The Plan Committee Maintains The Plan

The Plan and Saint Peter's Bylaws designate the Committee as the Plan's administrator. (AC ¶ 74; Stoldt Cert. ¶ 23; Ex. H, Plan ¶ 8.01). Its powers are comprehensive:

> The Committee shall have the exclusive discretionary authority and power to determine eligibility for benefits and to construe the terms and provisions of the Plan, determine questions of fact or law arising under the Plan, direct disbursements pursuant to the Plan, and exercise all other powers specificed herein or which may be implied from the provisions hereof. The Committee may adopt such rules for the conduct of the administration of the Plan as it may deem appropriate.

(Stoldt Cert., Ex. H, Plan ¶ 8.02). The Plan does not provide for appeal from the Plan Committee's decisions to Saint Peter's Board of Directors or any higher authority. Its decisions within the scope of that comprehensive authority are final.

Kaplan concedes that the Committee administers the Plan. (AC ¶ 74) Instead, he asserts that these powers do not amount to maintenance of the Plan because the Committee lacks "the power to fund, continue, amend and/or terminate the plan." (AC ¶ 86).

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with the Roman Catholic Church, and the issue of control by the Church was not decided. 877 F.3d at 1222-24.

Medina disposes of this argument. As the Tenth Circuit pointed out, ERISA does not define what it means to "maintain" a plan. 877 F.3d at 1225. Without a statutory definition, a term should be given its ordinary meaning, based on the dictionary definitions that apply in statutory context. *Taniguchi v. Kan Pacific Saipan, Ltd.*, 566 U.S. 560, 566 (2012); *accord Bonkowki v. Oberg Indus., Inc.*, 787 F.3d 190, 200 (3d Cir. 2015); *United States v. Husman*, 765 F.3d 169, 173 (3d Cir. 2014). Webster defines maintain as "to keep in an existing state (as of repair, efficiency or validity); preserve from failure or decline."[9] Black's Law Dictionary defines "maintain" as "to care for (property) for purposes of operational productivity or appearance; to engage in general repair or upkeep." *Black's Law Dictionary* 1039 (9th ed. 2009). These definitions connote preserving a retirement plan or keeping it in operation; they do not involve modifying the plan by amending or terminating it. *Medina*, 877 F.3d at 1225.[10]

Nor does "maintain" imply an obligation to fund. Subsection (c)(i) states that the principal purpose of the maintaining organization must be either the "funding" **or** the "administration" of the plan. Having openly made administration an alternative to funding in one portion of the sentence, there is no reason to

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[9] https://www.merriam-webster.com/dictionary/maintain (last visited Aug. 28, 2018).

[10] *Medina* gives several examples of federal statutes that use "maintain" in the sense of continue or preserve, including ERISA's requirement that an employer "maintain" records with respect to employees' eligibility for benefits. *Medina*, 877 F.3d at 1225; *see* 29 U.S.C. § 1059(a)(1).

conclude that Congress surreptitiously incorporated funding into "maintain" in another portion of the same sentence. In statutory context, therefore, a principal-purpose organization maintains a plan if it either administers or funds it.

Kaplan's argument that maintenance requires the power to fund, amend, or terminate the plan would merge the entity that maintains the plan with the settlor that created it. The settlor is not a fiduciary, and the exercise of its power to fund, amend or terminate does not involve fiduciary duties. *See Lockheed Corp. v. Spink*, 517 U.S. 882, 890 (1996); *Hughes Aircraft Co.*, 525 U.S. at 444-45; *Anderson v. CONRAIL*, 297 F.3d 242, 252 (3d Cir. 2002). The administrator, on the other hand, is a fiduciary, as the AC asserts. (AC ¶ 74). Requiring the administrator to have the settlor's powers would conflate the two. It would also make impossible the situation that the 1980 Amendments were clearly intended to address – the maintenance of a plan by a pension board independent of the congregations that fund the plan. *Stapleton*, 137 S. Ct. at 1657.

The conclusion that the administrator of a plan maintains it is supported by decisions involving the ERISA exemption for a plan "established or maintained" for its employees by a government entity, 29 U.S.C. §§ 1002(32), 1003(b)(1). *Crosby v. California Physicians Service*, 279 F. Supp. 3d 1074, 1081 (C.D. Cal. 2018) held that a county did not maintain a plan when it did not process claims, determine benefits or communicate with members. In contrast, *Hariri v. Standard Life Ins. Co.*, 2017 U.S. Dist. LEXIS 126491, at *13 (N.D. Cal. Aug. 19, 2017), held that a county maintained a plan established by another entity because it "continued to perform . . . all of the day-to-day administrative and claims processing activities" involved in the plan.

"In our view, then, when ERISA says that a church plan includes a plan 'maintained' by a principal-purpose organization . . . it simply means the principal-purpose organization," as *Black's* says 'cares for the plan for purposes of operational productivity.'" *Medina*, 877 F.3d at 1226; *accord Sanzone,* 2018 U.S. Dist. LEXIS 145195, at *16-17 (committee that administers all aspects of plan maintains it even though parent organization has the power to modify or terminate it); *Overall*, 23 F. Supp. 3d at 829 (plan administered by church-controlled committee is church plan). It is undisputed that the Plan Committee is responsible for administering all of the Plan's ongoing activities, including the determination of benefits and the investment of funds. Accordingly, it maintains the Plan.

2. <u>The Plan Committee Is A Principal-Purpose Organization</u>

ERISA requires that the organization maintaining a church plan be "a civil law corporation, **or otherwise**," whose principal purpose is the administration or funding of the plan. 29 U.S.C. § 1002(33)(C)(i) (emphasis added). The AC asserts that the Plan Committee cannot be a principal purpose organization because it is not an independent legal person but only a component part of Saint Peter's, and the principal purpose of Saint Peter's is to operate a healthcare system, not to administer a pension plan. (AC ¶ 85). The argument finds no support in the language of ERISA or applicable law.

The statutory language is comprehensive. The principal-purpose organization can be a civil law corporation "or otherwise," language broad enough to include any sort of organizational structure, including a committee of a larger entity. A single-purpose committee of the corporate board is a common form of plan management under ERISA and was in 1980. *See, e.g., Lockheed Corp. v. Spink*, 517 U.S. 882, 892 (1996); *Winer v. Edison Bros. Stores Pension Plan*, 593 F.2d 307, 309 (8th Cir. 1979). The Third Circuit has described it as a "typical" structure. *Pinto v. Reliance Std. Life Ins. Co.*, 214 F.3d 377, 383 (3d Cir. 2000); *Sturgis v. Mattel, Inc.*, 525 F. Supp. 2d 695, 700 (D.N.J. 2007). There is no reason to believe that Congress required a different structure for church plans.

As plaintiff has repeatedly acknowledged in this litigation, Congress clearly sought to exempt church plans maintained by pension boards from ERISA; the core power and responsibility that Congress envisioned for pension boards was plan administration, not the ability to fund, terminate and/or amend a plan. *Cf. Thorkelson v. Publishing House of Evangelical Lutheran Church in Amer.*, 764 F. Supp. 2d 1119 (D. Minn. 2011) ("[T]here is no basis to differentiate a Pension Committee from a Pension Board"). In extending the Exemption to accommodate congregational religions that use pension boards, Congress certainly did not intend to exclude from church plans the most common form of administration through pension committees.

Nothing in the language of the statute requires that the principal-purpose organization be independent of the entity whose employees are served by the plan. On the contrary, the requirement that the organization be either controlled by or associated with a church, just as the employer must, points in the direction of affiliation of the two rather than independence. Control can include common control of both the employer and the principal-purpose organization by the same church, and the "common religious bonds and convictions" required for association, 29 U.S.C. § 1002(33)(c)(iv), also indicates closeness rather than separation. Third, no discernable purpose would be served by requiring that the principal-purpose organization be a separate legal person. Fiduciaries in any form are subject to the same fiduciary duties. The "civil law corporation or otherwise" language adds flexibility; it allows small, independent religious corporations to use a joint umbrella organization like a pension board as their plan administrator, while permitting larger ones to perform the functions in house.

Moreover, ERISA does not define "organization" and the common dictionary definitions do not require separate legal personality. Webster defines "organization" as "an administrative and functional structure."[11] *Black's Law*

[11] https://www.merriam-webster.com/dictionary/organization (last visited August 28, 2018).

Dictionary defines it as "a body of persons (such as a union or a corporation) formed for a common purpose." *Black's Law Dictionary* 1210 (9th ed. 2009). The AC tacitly recognizes that the Plan Committee is a distinct organization by naming it as a separate party alongside of Saint Peter's.

As the Tenth Circuit summarized, there is no discernable reason to require that the principal-purpose organization be a separate legal person, rather than simply an organization focused on plan administration:

> If the principal-purpose organization administering the plan cannot be part of the organization whose employees the plan is intended to benefit, a religiously-affiliated entity would have to create a separate entity just to administer the plan. So, hypothetically, an entity called Religious Healthcare Corp. would have a plan to benefit its employees, but Religious Healthcare Corp. would have to create a separate, self-funded, wholly independent Pension Corp. to administer its plan. What is more, under Medina's theory, Religious Healthcare Corp. could not choose the board of Pension Corp., and Pension Corp. would need the power to terminate Healthcare Corp.'s retirement plan at any time, without needing to consult with Healthcare Corp. There may be some organization out there that is structured like that, but it certainly is not the most intuitive way to do it. And it is not clear what the advantage of such a structure would be, or why Congress would have required it.

Medina, 877 F.3d at 1226-27.

In this case, the Plan Committee has a defined membership – the persons appointed by the Bishop. (Stoldt Cert., Ex. H, Plan ¶¶ 1.10 and 8.01). It has a defined purpose – the administration of all aspects of the Plan. (*Id*., Plan ¶ 8.02). Its principal purpose is to administer the Plan – it has no other assigned functions. It satisfies both the statutory context and the dictionary definition. As in *Medina*, 877 F.3d at 1227, a committee of the employer's board is a principal-purpose organization. *Accord Sanzone*, 2018 U.S. Dist. LEXIS 145195, at *17-18.

B. Saint Peter's Is Controlled By And Associated With The Roman Catholic Church

This case is one of a series of would-be class actions brought against Catholic hospitals by the same group of plaintiffs' counsel. In no other case are control by the Church and association with the Church as clear as they are in this one. In no other case is the Roman Catholic Bishop the sole member of the employer corporation. In 2013, the IRS issued a private letter ruling concluding that Saint Peter's was both controlled by the Diocese of Metuchen and associated with the Roman Catholic Church through common religious bonds and convictions. (Stoldt Cert. ¶¶ 29-31, Ex. J). The IRS ruling accords with the consistent interpretation of the Exemption by the IRS and the Department of Labor under the 1980 Amendments. *See Stapleton*, 137 S. Ct. at 1657 (noting "hundreds" of IRS and Department of Labor rulings since 1982). Agency interpretations of the Exemption in these rulings are entitled to such deference as their "power to persuade" commands. *See generally Christensen v. Harris Cnty.*, 529 U.S. 576, 587 (2000); *Skidmore v. Swift & Co.*, 323 U.S. 134, 140 (1944).

1. Saint Peter's Is Controlled By The Diocese Of Metuchen

Saint Peter's is a New Jersey nonprofit corporation whose sole member is the Roman Catholic Bishop of Metuchen. (Stoldt Cert. ¶ 4; Fell Cert. ¶ 9). Saint

Peter's certificate and bylaws give the Bishop, as sole member, the power to appoint the majority of the members of Saint Peter's Board of Governors,[12] its CEO, and its other corporate officers at his pleasure and to remove them at his pleasure. (Stoldt Cert. ¶¶ 9-11). The Bishop also has the power to veto any action of the Board. (*Id.* ¶ 9). The Bishop's powers are subject to control by the Roman Catholic hierarchy; Saint Peter's cannot alienate property worth more than $7 million without approval by the Vatican. (Fell Cert. ¶ 25). Those powers constitute control as a matter of law under IRS regulations governing the parallel provisions of the Exemption in the Internal Revenue Code, under federal securities law, and under New Jersey corporate law.

The IRS defines control under the parallel provision of the Internal Revenue Code, 26 U.S.C. § 414(e)(3), to include the power to appoint a majority of officers or directors. 26 C.F.R. § 1.414(e)-1(d)(2). Since the IRS has authority to promulgate regulations implementing all provisions of the Code, *see* 26 U.S.C. § 7805 (general rulemaking authority), its definition of control governs. *See Lown v. Continental Cas. Co.*, 238 F.3d 543, 547 (4th Cir. 2000).[13] It follows that "[a]n

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[12] Pursuant to New Jersey regulation, two members of the Board of Governors are representatives of the medical staff. N.J.A.C. 8:43G-5.1(e).

[13] SEC regulations similarly define "control" as "the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise." 17 C.F.R. § 240.12b-2, followed in *Gould v. Am.-Hawaiian S.S. Co.*, 535 F.2d 761, 779 (3d Cir. 1976). New Jersey defines control

organization is controlled by a church when, for example, a religious institution appoints a majority of the organization's officers or directors." *Lown*, 238 F.3d at 547*, citing* 26 C.F.R. § 1.414(e)-1(d)(2); *accord Overall*, 23 F. Supp. 3d at 829; *Catholic Charities of Maine, Inc. v. City of Portland*, 304 F. Supp. 2d 77, 85 (D. Me. 2004). Because the Bishop's authority as sole member of Saint Peter's more than satisfies that standard, Saint Peter's is controlled by the Roman Catholic Diocese of Metuchen.

2. Saint Peter's Is Associated With The Roman Catholic Church

Association with a church provides an alternative basis for a plan established and maintained by a non-church organization to be a church plan. ERISA § 3(33)(C)(ii)(II). *See Lown*, 238 F.3d at 548; *Catholic Charities*, 304 F. Supp. 2d at 85. An organization is associated with a church "if it shares common religious bonds and convictions with that church." ERISA § 3(33)(C)(iv). Because an institution may be associated with a church even if it is not controlled by it, *Catholic Charities,* 304 F. Supp. 2d at 85, it follows that an institution controlled by a church necessarily shares the religious bonds and convictions of the church that controls it.

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as "the power to dictate" the corporation's affairs. *Muellenberg v. Bikon Corp.*, 669 A.2d 1382, 1386-87 (N.J. 1996); *accord Hill Dredging Corp. v. Risley*, 114 A.2d 697, 713 (N.J. 1955); *Casey v. Brennan*, 780 A.2d 553, 571 (N.J. Super. Ct. App. Div. 2001), *aff'd,* 801 A.2d 245 (N.J. 2002). The Bishop's powers of appointment, renewal and veto are control under either standard.

For that reason, the courts and the IRS recognize any organization listed in the *Official Catholic Directory* as a Roman Catholic institution as being associated with the Roman Catholic Church. *See Medina*, 877 F.3d at 1223-24; *Sanzone*, 2018 U.S. Dist. LEXIS 145195, at *21; *Overall*, 23 F. Supp. 3d at 831; *Catholic Charities*, 304 F. Supp. 2d at 85; IRS General Counsel Mem. 39007, 1983 GCM LEXIS 54 at *11-12 ("any organization listed in this directory is considered associated with the Roman Catholic Church in the United States"). Saint Peter's is so listed. (Stoldt Cert., ¶ 21, Ex. F.)

In addition to recognition by this official publication of the Church, Saint Peter's common religious bonds and convictions with the Church that controls it are manifest. Its certificate of incorporation and bylaws declare that its mission is to carry out the healing mission of the Church by providing health care in accord with the ERDs. (Stoldt Cert. ¶¶ 3, 13-14; Fell Cert. ¶¶ 10-11). Members of the Board of Governors must agree to conduct Saint Peter's affairs in accord with the ERDs. (Stoldt Cert. ¶ 15). All employees, whether Catholic or not, must uphold Saint Peter's mission in accordance with the ERDs. (Fell Cert. ¶ 11). Its owner, the Diocese, is directly responsible for that mission, which the Bishop carries out through his control of the Board and through appointment of his Episcopal Vicar to oversee Saint Peter's compliance with the ERDs. (Stoldt Cert. ¶¶ 9-11; Fell Cert. ¶¶ 15-17).

Saint Peter's provides Catholic religious facilities and services to its patients and employees and displays Catholic devotional objects throughout the hospital. (Stoldt Cert. ¶¶ 16-20; Fell Cert. ¶¶ 20-23). The Cross is the central element of its logo. (Stoldt Cert. ¶ 19; Fell Cert. ¶ 19). It receives material support from the Church through the blanket federal income tax exemption available to all institutions listed in the *Catholic Directory*. *See Hall*, 774 F. Supp. 2d at 960 (federal tax exemption held material support by the Church); 1983 GCM LEXIS 54 at *12. Disposition of its substantial assets is subject to Vatican control. (Fell Cert. ¶ 25). These affiliations are more than enough to show common religious bonds and convictions. *See Sanzone*, 2018 U.S. Dist. LEXIS 145195, at *21-23.

The AC asserts that Saint Peter's is not Catholic enough to be associated with the Roman Catholic Church because it does not limit its patients or employees to Catholics, provides religious facilities for non-Catholic patients, and affiliates with non-Catholic hospitals. (AC ¶¶ 96-100). Saint Peter's responds that each of these purported objections is consistent the ERDs and with its mission as a Catholic healthcare institution. The ERDs require a Catholic healthcare facility to serve all in need, and to minister to the spiritual needs of all it serves. (Stoldt Cert. ¶ 41; Fell Cert. ¶¶ 27-28). The Church teaches that discrimination in job opportunities should not be tolerated. (Fell Cert. ¶ 29). The ERDs also authorize partnerships with non-Catholic healthcare institutions to further professional growth and the provision of care. (Stoldt Cert. ¶ 42; Fell Cert. ¶ 30).

In the face of that response, the Free Exercise Clause does not permit this Court to determine whether or not Saint Peter's conforms enough to Catholic principles. *See NLRB v. Catholic Bishop of Chicago*, 440 U.S. 490, 502 (1979) (inquiry whether high school was "completely religious" would infringe Free Exercise Clause); *Serbian Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 714 (1976) (Free Exercise clause prohibits courts to determine "the conformity of the members of the church to the standard of morals required of them . . . ."); *Presbyterian Church in the United States v. Mary Elizabeth Blue Hull Mem'l Presbyterian Church*, 393 U.S. 440, 449-50 (1969) ("departure-from-doctrine" allowed "no role" in resolving property dispute between church factions); *see also Askew v. Trs. of the Gen. Assembly of the Church of the Lord Jesus Christ*, 684 F.3d 413, 418-21 (3d Cir. 2012) (no judicial review of excommunication); *Overall*, 23 F. Supp. 3d at 832. The statement of Monsignor Fell, the Diocese's official responsible for compliance, is conclusive.

C. The Plan Committee Is Controlled By And Associated With The Roman Catholic Church

The Plan Committee is a standing committee of Saint Peter's Board of Governors. It consists of 5 members, all appointed by the Bishop, including the Chair of the Board, the Chief Financial Officer, and the Episcopal Vicar. (Stoldt Cert. ¶ 26). The Plan requires that all members be appointed by the Bishop. (Stoldt Cert. ¶ 26; Ex. H, Plan ¶ 1.10). Because the voting members of the Plan

Committee are all members of the Board of Governors, they are removable by the Bishop at his pleasure. (Stoldt Cert. ¶ 9). The Bishop's power to appoint and remove members of the Plan Committee constitutes control of the Committee for the same reasons that it constitutes control of Saint Peter's itself.

The same is true of association. "As a matter of logic, a subdivision wholly encompassed by a larger organization shares its associations." *Medina* 877 F.3d at 1227; *Sanzone,* 2018 U.S. Dist. LEXIS 145195, at *23. The Plan's investments are guided by the principles of the U.S. Conference of Catholic Bishops Socially Responsible Investment Guidelines. (Stoldt Cert. ¶ 23; Fell Cert. ¶ 24). To assure compliance, the Episcopal Vicar is a voting member of the Plan Committee. (Fell Cert. ¶ 24). Retirement Plan Committees begin with a prayer. (*Id.*) Because Saint Peter's is associated with the Roman Catholic Church, its constituent entity the Plan Committee is also.

D. <u>The Plan Serves Only Church Employees</u>

The Exemption does not extend to a plan where "less than substantially all of the individuals included in the plan are individuals described in subparagraph (A) or clause (ii) of subparagraph (C)." 29 U.S.C. § 1002(33)(B)(ii). In turn, § 1002(33)(C)(ii)(II) defines "employee of a church" to include:

> an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 of the Internal Revenue Code of 1986 and which is controlled by or associated with a church or a convention or association of churches . . . .

The controlling church is deemed to be their employer. 29 U.S.C. § 1002(33)(C)(iii). Thus, a church employee includes the employee of a tax-exempt corporation controlled by or associated with a church. A plan falls within the Exemption when "substantially all" of the covered individuals are church employees.

For the reasons stated above, Saint Peter's is a tax-exempt corporation controlled by and associated with the Roman Catholic Church. Kaplan nonetheless alleges based on "information and belief," without supporting facts, that the Plan is not a church plan because a "not insubstantial" number of employees covered by the Plan work for subsidiaries that are neither controlled by nor associated with a church. (AC ¶ 102). This conclusory allegation alone without supporting facts is insufficient to make a plausible claim.

But in fact the contrary is true. Saint Peter's subsidiaries that participate in the Plan are each tax-exempt and wholly owned by Saint Peter's. (Stoldt Cert. ¶ 28). Because each is only a part of the larger system, each is controlled by and associated with the Church because the System is. *Medina*, 877 F.3d at 1228-29. As a Catholic health care institution within the Diocese of Metuchen, each subsidiary is required to comply with the ERDs. (Fell Cert. ¶¶ 10-11). Moreover, the Bishop has the authority to appoint and remove the Executive Director of each subsidiary at his pleasure, and to exercise the System's power with respect to any of the subsidiaries. (Stoldt Cert. ¶ 12). Regardless of whether they work for the parent system or for any of its subsidiaries, all of the employees covered by the

Plan work for entities controlled by or associated with the Church, and all are therefore church employees within the meaning of § 1002(33)(C)(ii)(II).

III. THE CHURCH PLAN EXEMPTION COMPLIES WITH THE ESTABLISHMENT CLAUSE OF THE FIRST AMENDMENT

The AC asserts that if the Exemption applies to the Plan, it is an unconstitutional establishment of religion in violation of the First Amendment. (AC ¶¶ 205-15). For the reasons stated in Point I, *supra*, Kaplan has no standing to raise it. *Sanzone*, 2018 U.S. Dist. LEXIS 145195, at *26-28; *Overall*, 23 F. Supp. 3d at 832-33. Moreover, as the Tenth Circuit recently held in *Medina*, 877 F.3d at 1230-34, the Establishment Clause challenge fails because the application of the Exemption to a church-controlled nonprofit hospital is plainly constitutional under *Corp. of Presiding Bishop v. Amos*, 483 U.S. 327, 335-39 (1987) (exemption from Title VII for lay church employees performing non-religious functions at church-owned gymnasium).

This Circuit follows the three factor Establishment Clause analysis first announced in *Lemon v. Kurtzman*, 403 U.S. 602, 612-13 (1971). *See Stratechuk v. Bd. of Educ.*, 587 F.3d 597, 604 (3d Cir. 2009); *LeBoon v. Lancaster Jewish Cmty Ctr.*, 503 F.3d 217, 230 (3d Cir. 2007); *accord Medina*, 877 F.3d at 1230. To satisfy *Lemon*, (i) the statute accommodating religion must have a secular legislative purpose, (ii) its principal or primary effect must be one that neither advances or inhibits religion, and (iii) it must not foster excessive entanglement of religion. *Lemon*, 403 U.S. at 612-13. As applied to church-controlled or church-associated hospitals, the Exemption complies with *Lemon*.

A. **The Exemption Has A Secular Purpose**

The Exemption has a secular legislative purpose. This factor only prohibits Congress from "acting with the intent of promoting a particular point of view in religious matters." *Amos*, 483 U.S. at 335. The avoidance of entanglement with the internal affairs of religious organizations is itself a sufficient secular purpose. *Id*.; *Medina*, 877 F.3d at 1231; *LeBoon*, 503 F.3d at 230. The initial purpose of the Exemption was "to avoid excessive Government entanglement with religion in violation of the first amendment . . . ." 124 Cong. Rec. 12106 (May 2, 1978) (Rep. Conable) (ECF No. 42-3). That is equally true of the 1980 Amendments.

Applying ERISA to a church-controlled health care institution would entangle the government with religion in two respects. It would compel the institution to devote resources to the compensation of its employees – for retirement benefits are a form of deferred compensation – that religious priorities might require be devoted directly to its charitable mission. The Exemption means that a church-controlled healthcare institution will be free to balance the needs of its workers and those it serves in accord with its own religious principles.

The Exemption also allows church-controlled healthcare institutions to limit their investments on religious and moral grounds, regardless of financial consequences. Saint Peter's invests its funds in accord with the U.S. Conference of Catholic Bishops Socially Responsible Investment Guidelines. (Stoldt Cert. ¶ 23; Fell Cert. ¶ 24.) The Guidelines prohibit investment in businesses that support abortion, that manufacture contraception, or that deal in pornography. They also prohibit investment in businesses producing certain weapons, and the deposit of funds in banks that do not comply with the Community Reinvestment Act. (Stoldt Cert., Ex. I). Department of Labor guidance, on the other hand, states an ERISA fiduciary may consider ethical alternative investments but only if return is not sacrificed. *See* 29 C.F.R. § 2509.08-1.[14] This would prohibit a church plan from foregoing economically superior investments on moral grounds. Yet the First Amendment prohibits the state from questioning moral restrictions on investment by churches. *See Basich v. Bd. of Pensions, Evangelical Lutheran Church in Am.*, 540 N.W.2d 82, 84-86 (Minn. Ct. App. 1995), *cert. denied* 519 U.S. 810 (1996) (dismissing breach of fiduciary duty claim based on church's divestment in companies doing business in South Africa).

[14] "Other facts and circumstances relevant to an investment or investment course of action would, in the view of the Department, include consideration of the expected return on alternative investments with similar risks available to the plan. It follows that, because every investment necessarily causes a plan to forgo other investment opportunities, an investment will not be prudent if it would be expected to provide a plan with a lower rate of return than available alternative investments with commensurate degrees of risk or is riskier than alternative available investments with commensurate rates of return." 29 C.F.R. § 2509.2015-01. DOL explains this guidance as allowing "socially responsible" investments "consistent with fiduciaries' obligations to choose economically superior investments." 80 Fed. Reg. 65135, 65137 (Oct. 26. 2015).

B. <u>The Exemption's Primary Effect Does Not Advance Religion</u>

Lemon's primary effect test is not violated where the government simply leaves religious bodies alone to pursue their own religious values. "A law is not unconstitutional simply because it *allows* churches to advance religion, which is their very purpose." *Amos*, 483 U.S. at 337. Even if religious entities are singled out, the law does not advance religion where its effect is simply to avoid entanglement. *Id.* at 338. The Exemption avoids excessive entanglement with religion because it allows a church-controlled hospital to determine its financial and investment priorities in accord with its religious teachings. *See Amos*, 438 U.S. at 339 ("religious employer" exemption from Title VII "effectuates a more complete separation" of church and state).

The AC asserts that the effect of the Exemption is to advance religion because it gives an advantage to church-controlled "entities that have chosen to compete with commercial businesses . . . ." (AC ¶ 207). By that logic, as the Tenth Circuit points out, any religious accommodation would be unconstitutional. *Medina,* 877 F.3d at 1232. But, as *Medina* points out, the Supreme Court has rejected that line of argument. *Id*.

In *Amos*, the Supreme Court rejected an Establishment Clause challenge to the exemption of religious employers from Title VII, 42 U.S.C. § 2000e-1(a). As upheld in that case, the exemption permitted the Mormon Church to discriminate on religious grounds and hire only Mormons for the clearly secular job of building maintenance engineer at a church-owned gymnasium. *Amos*, 483 U.S. at 330. The entanglement with the church's religious mission was minimal. *A fortiori*, *Amos* upholds an exemption from ERISA that leaves church-controlled charitable institutions free to decide how much of their resources they will devote to charitable functions, as opposed to personnel costs, and free to place religious restrictions on how they will invest the funds they do devote to retirement benefits. As Saint Peter's experience demonstrates, these are very real burdens indeed.

The Exemption does not create the core harm prevented by the Establishment Clause, which is compelling an individual to adhere to a religious doctrine or to support it financially through taxation. *See Tex. Monthly Inc. v. Bullock,* 489 U.S. 1, 8-9 (1989) (Establishment Clause prohibits "compelling nonadherents to support the practices or proselytizing of favored religious organizations . . . ."). Unlike the Sabbath-observance statute in *Thornton v. Caldor, Inc.,* 472 U.S. 703, 709-10 (1985), the Exemption imposes no obligation on third persons to follow religious rules. Unlike the tax exemption for religious publications in *Texas Monthly*, 489 U.S. at 14-15, it does not support the preaching of religious doctrine. Nor, as in *Bd. of Educ. v. Grumet*, 512 U.S. 687, 703-05 (1994) (invalidating establishment of public school district controlled by Satmar Hasidim), does it delegate governmental authority to a particular religious sect. The Exemption simply allows a church-controlled hospital or other charitable institution to go about its own affairs undisturbed. *See Medina*, 877 F.3d at 1234, following *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171, 186 (2012).

C. The Exemption Does Not Excessively Entangle The Government With Religion.

For the reasons stated in point III.A., *supra*, the Exemption avoids entanglement with the financial affairs of church-controlled or church-associated hospitals. As interpreted by the Supreme Court in *Stapleton*, applying the Exemption to such charitable entities avoids the risk of having the government decide whether or not they constitute a church. *Stapleton*, 137 S. Ct. at 1662. Church control can be determined by applying neutral principles of corporate law, as the IRS does in 26 C.F.R. § 1.414(e)-1(d)(2). *See* pp. 30-31, *supra*. Church association can be determined, as here, by accepting the representation of a hierarchical church. Were the Exemption invalid as applied to church-controlled or church-associated hospitals, on the other hand, the government would find itself back in the position it was in before the 1980 Amendments, determining how closely involved with religious teaching an entity had to be before it was a "church." *Medina*, 877 F.3d at 1233-34. Far from entangling the government with religion, the Exemption, as applied to church-controlled hospitals, enables the government to keep its distance. *Id.* at 1234.

Because the Exemption satisfies all three components of *Lemon* for the foregoing reasons, and because Kaplan lacks standing for the reasons stated in

Point I, his Establishment Clause Claim should be dismissed under both Fed. R. Civ. P. 12(b)(1) and 12(b)(6).

IV. KAPLAN'S STATE LAW CLAIMS MUST BE DISMISSED FOR LACK OF SUPPLEMENTAL JURISDICTION

Kaplan is a citizen of New Jersey. So are all of the defendants. The only federal question that confers jurisdiction under the general federal question statute, 28 U.S.C. § 1331, and ERISA's jurisdictional provision, 29 U.S.C § 1132(e)(1) is the alleged violations of ERISA. For the reasons stated in Point II, *supra*, the Exemption excludes Saint Peter's Plan from all provisions of ERISA, including the grant of jurisdiction. For reasons stated in Point III, *supra,* the Exemption does not violate the Establishment Clause. Accordingly, as this Court has previously recognized, the Exemption deprives it of subject matter jurisdiction over Kaplan's federal claims. *See Kaplan*, 2014 U.S. Dist. LEXIS 131569 at *6.

Jurisdiction over Kaplan's non-diverse claims under New Jersey law could exist only under the supplemental jurisdiction statute, 28 U.S.C. § 1367. Because this Court never had jurisdiction over Kaplan's ERISA claims, subsection § 1367(a) deprives it of any subject matter jurisdiction over the state law claims. In the alternative, the dismissal of the ERISA claims at this early, pre-discovery stage of the litigation requires the Court to exercise its discretion under 28 U.S.C. § 1367(c) and dismiss the state law claims, leaving the issues of New Jersey law to the New Jersey courts.

On the other hand, if the Court were to conclude that the Exemption does not apply and allow the case to go forward under ERISA, Kaplan's state law claims must be dismissed because they would be preempted by ERISA.

A. The Court Has No Supplemental Jurisdiction Over Kaplan's State Law Claims

With exceptions not relevant here, 28 U.S.C. § 1367(a) provides:

> in any civil action **of which the district courts have original jurisdiction**, the district courts shall have supplement al jurisdiction over all other claims that are so related to claims **in the action within such original jurisdiction** that they form part of the same case or controversy under Article III of the United States Constitution.

(emphasis added). For there to be supplemental jurisdiction over non-diverse state law claims, in other words, it is essential that they are connected to a case or controversy that is otherwise within the Article III jurisdiction of the district court. "The statute's plain language makes it clear that supplemental jurisdiction may only be invoked when the district court has a hook of original jurisdiction on which to hang it." *Herman Family Revocable Trust v. Teddy Bear*, 254 F.3d 802, 805 (9th Cir. 2001). If there is no federal jurisdiction over the alleged federal claim, state law claims must be dismissed. *Id.* at 805-07 (dismissing nondiverse state common law claims where no admiralty jurisdiction); *accord Cohen v. Postal Holdings, LLC*, 873 F.3d 394, 399-400 (2d Cir. 2017) ("district court cannot exercise supplemental jurisdiction unless there is first a proper basis for original federal jurisdiction") (citations omitted); *Textile Prods., Inc. v. Mead Corp.*, 134 F.3d 1481, 1485-86 (Fed. Cir. 1998); *Musson Theatrical, Inc. v. Federal Express Corp.,* 89 F.3d 1244, 1255 (6th Cir. 1996) ("If the court dismisses plaintiff's federal claims pursuant to Rule 12(b)(1), then supplemental jurisdiction can *never* exist." (emphasis in original)); *Lyon v. Whisman*, 45 F.3d 758, 760 (3d Cir. 1995 ("federal claim must have substance sufficient to confer subject matter jurisdiction on the court") (quoting *United Mine Wkrs. v. Gibbs*, 383 U.S. 715, 725 (1966)); *see generally Arbaugh*, 546 U.S. at 514 (2006) ("when a federal court concludes that it lacks subject matter jurisdiction, the court must dismiss the complaint in its entirety").

To summarize:

> [I]f the federal claim was dismissed for lack of subject matter jurisdiction, the district court has no discretion to retain the supplemental claims for adjudication. The dismissal means that there never was a valid claim within the court's original jurisdiction to which the state law claims may be supplemental. Therefore, the district court has no discretion to exceed the scope of its Article III power and must dismiss the state law claims without prejudice.

16 Moore's Federal Practice § 106.66[1] at 106-93 (2018).[15] As this Court recently held, "where a court never possessed a proper basis for jurisdiction in the

[15] Dismissal for lack of supplemental jurisdiction is without prejudice. *Brzak v. United Nations,* 597 F.3d 107, 113-14 (2d Cir. 2010) (dismissal of state law claims for lack of supplemental jurisdiction without prejudice); *Textile Prods., Inc.*, 134 F.3d at 1486. In addition, dismissal for lack of supplemental jurisdiction tolls any state statute of limitations for the longer of 30 days after dismissal or any tolling period under state law. 28 U.S.C. § 1367(d).

first place, the option to exercise supplemental jurisdiction is not available." *Sea Bright First Aid Squad, Inc. v. Arch Ins. Co.*, 2015 U.S. Dist. LEXIS 97410, at *1-2 (D.N.J. Jul 27, 2015) (Shipp, J.). Because there is no subject matter jurisdiction over Kaplan's ERISA claims, supplemental jurisdiction cannot attach to his state law claims, and they must be dismissed. *Sanzone*, 2018 U.S. Dist. LEXIS 145195, at *29-30 (dismissing state law claims for lack of supplemental jurisdiction).

B. The Court Should Exercise Discretion To Dismiss Kaplan's State Law Claims

Dismissal of a federal claim has different consequences for supplemental jurisdiction over state law claims depending on whether it is a dismissal for lack of federal subject matter jurisdiction under Rule 12(b)(1) or for failure to state a claim under Rule 12(b)(6). If the former, for the reasons stated above, federal jurisdiction never attached, and the state law claims must be dismissed without prejudice. If the dismissal is for failure to state a claim, on the other hand, it is a dismissal on the merits of a federal claim over which the district court had jurisdiction. In that case, the district court had supplemental jurisdiction over related state law claims under § 1367(a), and § 1367(c) provides that the district court has discretion to decide whether to retain the state law claims under its supplemental jurisdiction. 28 U.S.C. § 1367(c); *Carlsbad Tech., Inc. v. HIF Bio., Inc.*, 556 U.S. 635, 639 (2009) (exercise of supplemental jurisdiction "after dismissing every claim over which it had original jurisdiction is purely discretionary"); *Arbaugh*, 546 U.S. at 514 (12(b)(6) dismissal retains discretion to exercise supplemental jurisdiction); *Growth Horizons, Inc. v. Delaware County*, 983 F.2d 1277, 1284 (3d Cir. 1993); *Sea Bright First Aid Squad, Inc.,* 2015 U.S. Dist. LEXIS 97410, at *1-2. In exercising that discretion, the district court should take into account principles of judicial economy, convenience, comity and fairness to litigants. *City of Chicago v. Intl. College of Surgeons*, 522 U.S. 156, 172-73 (1997) (citations omitted); *Gibbs*, 383 U.S. at 726; *Growth Horizons, Inc.*, 983 F.2d at 1285 n.14; *Stehney v. Perry*, 907 F. Supp. 806, 825 (D.N.J. 1995).

In the Third Circuit, dismissal of the plaintiff's federal claims before trial requires dismissal of supplemental state law claims unless judicial economy, convenience and fairness provide an affirmative reason to retain jurisdiction. *Hedges v. Musco*, 204 F.3d 109, 123 (3d Cir. 2000) (quoting *Borough of West Mifflin v. Lancaster*, 45 F.3d 780, 788 (3d Cir. 1995)); *Green v. Fund Asset Mgmt., L.P.*, 147 F. Supp. 2d 318, 332-33 (D.N.J. 2001). This case provides no such reason. Despite the appellate proceedings on the issue of jurisdiction, it is still at an early procedural stage. There has been no discovery or other proceedings on the merits of Kaplan's claims, either under ERISA or New Jersey law. *See Al Shehab v. New Jersey Transit Corp.*, 2015 U.S. Dist. LEXIS 77404, at *3-4 (D.N.J. June 15, 2015); *D.D. v. Univ. of Med. & Dentistry of New Jersey*, 2012 U.S. Dist. LEXIS 125215, at *5-6 (D.N.J. Sept. 4, 2012) (supplemental claims dismissed; no discovery; no compelling reason to retain jurisdiction); *Coe v. Society Hill at*

Piscataway Condo Ass'n, 2010 U. S. Dist. LEXIS 34585, at *11 (D.N.J. Apr. 7, 2010) (supplemental jurisdiction declined where only limited discovery); *cf. Jobes v. Moorestown Twp.*, 2006 U.S. Dist. LEXIS 78918, at *40-41 (D.N.J. Oct. 19, 2006) (supplemental jurisdiction retained after discovery and summary judgment dismissing federal claim on merits).

Moreover, the AC poses a novel question of New Jersey law, which is grounds to decline supplemental jurisdiction. *See* 28 U.S.C. § 1367(c)(1). As noted in Point V.A., *infra*, no New Jersey decision has found a contractual obligation to fund a retirement plan, as opposed to a contractual obligation to pay the benefits due under it, and the AC silently concedes that Kaplan has to date received all benefits he is due. (*See* Stoldt Cert. ¶ 32). Supplemental jurisdiction should be declined when it may mean resolving novel questions of state law. *Trump Hotels & Casino Resorts v. Mirage Resorts*, 140 F.3d 478, 487 (3d Cir. 1998); *Grimes v. AT&T Corp.*, 2018 U.S. Dist. LEXIS 139408, at *62-64 (D.N.J. Aug. 17, 2018); *Borenstein McConnell & Calpin, P.C. v. Bank of America Corp.*, 2014 U.S. Dist. LEXIS 2520, at *25 (D.N.J. Jan. 8, 2014); *Rothman v. City of Northfield*, 716 F. Supp. 2d 369, 373 (D.N.J. 2010).

Finally, there is no danger that the statute of limitations has expired during the pendency of this case because § 1367(d) tolls it for at least 30 days after a dismissal of the state law claims. *See Hedges*, 204 F.3d at 123.

In sum, because the merits of Kaplan's claims have never been litigated, there will be no waste of judicial resources or loss of rights under state law if the Court declines supplemental jurisdiction. All proceedings to this point have involved the Exemption. Even if Kaplan's ERISA claims are dismissed pursuant to Rule 12(b)(6) rather than Rule 12(b)(1), *Hedges* and *West Miflin* require that the Court decline supplemental jurisdiction, dismiss his state law claims without prejudice, and leave them to the New Jersey courts.

C. Kaplan's State Law Claims Are Preempted If ERISA Applies

If the Court should determine that Saint Peter's is not eligible for the Exemption and ERISA applies, then all of Kaplan's state law claims are preempted by ERISA. The statute, 29 U.S.C. § 1144(a), provides that it supersedes "any and all State laws insofar as they may now or hereafter relate to any employee benefit plan" described in 29 U.S.C. § 1003(a) and not exempt under 29 U.S.C. § 1003(b). This preempts any state common law claim relating to an employee benefit plan subject to ERISA. "Any state-law cause of action that duplicates, supplements or supplants the ERISA civil enforcement remedy conflicts with the clear congressional intent to make the ERISA remedy exclusive and is therefore preempted." *Aetna Health, Inc. v. Davila*, 542 U.S. 200, 209 (2004); *see also Pilot Life Ins. Co. v. Dedeaux*, 481 U.S. 41, 46-48 (1987). Kaplan's breach of contract, promissory estoppel, unjust enrichment and breach of fiduciary duty claims seek the same relief as his claims under ERISA – full compliance with ERISA standards for funding and administration of the Plan. He therefore cannot pursue them unless the Plan is exempt from ERISA under the Exemption.

It follows that, if the Court does not grant Saint Peter's motion to dismiss on the papers, the only discovery that should be allowed is discovery relating to the Court's subject matter jurisdiction under ERISA. If the Court ultimate holds that it has such jurisdiction because the Exemption does not apply, then Kaplan's state law claims must be dismissed under Rule 12(b)(6) as preempted. If, on the other hand, it holds that the Exemption applies and subject matter jurisdiction under ERISA is lacking, they must be dismissed under Rule 12(b)(1) for lack of supplemental jurisdiction.

V. KAPLAN'S STATE LAW CLAIMS FAIL TO STATE A CLAIM

A. The AC Fails To State A Claim For Breach Of Contract

Count X of the AC asserts that Saint Peter's agreed that it would operate the Plan in accordance with ERISA standards, that it has failed to do so by underfunding the Plan, and that Kaplan is entitled to specific performance by an injunction ordering Saint Peter's to henceforth fund and operate the plan in accord with ERISA. (AC ¶¶ 216-33). Assuming the truth of these allegations for purposes of this motion to dismiss, they fail to state a claim for breach of contract under New Jersey law because the AC does not allege that Kaplan has not suffered any injury from Saint Peter's alleged departure from ERISA standards. In particular, it does not allege that Saint Peter's has not paid Kaplan all his retirement benefits in full. Because Kaplan has not suffered any present injury from Saint Peter's alleged non-compliance with the contract, he has no claim for breach. Moreover, the Plan provision that deals expressly with funding does not require that an exempt church plan be funded at any particular level.

1. The AC Does Not Plead That Kaplan Had Been Damaged By Saint Peter's Allegedly Insufficient Funding Of The Plan

Under New Jersey law, there are four essential elements to a claim for breach of contract: (i) the existence of a valid contract, (ii) performance by the plaintiff, (iii) non-performance by the defendant, and (iv) loss to the plaintiff caused by the defendant's non-performance. *DeHart v. U.S. Bank, N.A.*, 811 F. Supp. 2d 1038, 1047-48 (D.N.J. 2011); *Video Pipeline, Inc. v. Buena Vista Home Entertainment, Inc.*, 275 F. Supp. 2d 543, 566 (D.N.J. 2003); *Globe Motor Co. v. Igdalev*, 225 N.J. 469, 482 (2016). Plaintiff must plead facts that, if proven, would show all four elements. If he does not plead facts that demonstrate he has suffered damage, the claim must be dismissed. *DeHart*, 811 F. Supp.2d at 1047-48.

The Plan is a defined benefit plan. (AC ¶ 58). Under New Jersey law, a defined benefit plan is a contract for a form of deferred compensation. In return for the employee's services, the employer sponsor of the Plan promises to pay not only current compensation but also the retirement benefits defined in the plan. *See Stopford v. Boonton Molding Co.*, 56 N.J. 169, 183-86 (1970) (failure to pay vested benefits breach of contract); *Hindle v. Morrison Steel Co.*, 92 N.J. Super. 75, 83

(App. Div. 1966) (employee service is consideration for vested benefits); *Specht v. Eastwood-Nealley Corp.*, 34 N.J. Super. 156, 166 (App. Div. 1955). Failure to pay the promised vested benefits breaches the contract and exposes the employer to pay the value of the benefits as damages. *Stopford*, 56 N.J. at 185-87. If an employer has failed to fund the plan sufficiently, it is nevertheless liable for what it had promised to pay. *Id.* at 186-87; *cf. Cipala v. Lincoln Tech. Inst.,* 179 N.J. 45, 50-54 (2002) (employer directed to fund disability benefits that it had refused to pay).

New Jersey law is consistent with the treatment of defined benefit plans under ERISA. As the United States Supreme Court has explained in a defined benefit plan, employees have a contractual right to be paid accrued benefits but no claim to the plan's asset pool. *Hughes Aircraft Co.,* 525 U.S. at 439-40 (1999). Thus, Kaplan's contractual right is to receive his accrued retirement benefits as deferred compensation for his prior employment.

In this case, unlike *Stopford*, Kaplan does not allege that Saint Peter's has failed or refused to pay him his promised retirement benefits. In fact, it has. (Stoldt Cert. ¶ 32). Nor does he allege that there is any imminent danger that Saint Peter's will not pay him his benefits. At the most, his breach of contract claim alleges that, at some future time, if Saint Peter's does not make sufficient contributions, the Plan may not be able to pay promised benefits. (AC ¶ 252). Unless and until that happens, however, Kaplan has received everything he is entitled to under the Plan. He has suffered and alleged no actual damage, no more than a feeling of insecurity based on speculation about what might happen in the future. Without allegations of present injury, he has not stated a claim for breach of contract.

2. <u>The Plan Does Not Require Any Given Level Of Funding</u>

Saint Peter's contractual obligation to fund the Plan is governed by Plan ¶¶ 3.01 and 3.02, which provide in pertinent part:

> The System shall contribute to the Plan, for each Plan Year, at least the amount, if any, necessary to satisfy the minimum funding requirements of the Code for such Plan Year.
>
> System contributions for any Plan Year shall be paid in cash to the Trustee no later than the date prescribed by Section 412 of the Code (and the regulations thereunder) for meeting the minimum funding requirements for such Plan Year.

(Stoldt Cert., Ex. H, Plan ¶¶ 3.01 and 3.02).[16] However, the Code excludes a church plan from the funding requirements of § 412. 26 U.S.C. § 412(e)(2)(D). Instead, § 412(e)(2)(F) states that "no plan described in subparagraph . . . (D) . . . shall be treated as a qualified plan for purposes of section 401(a) unless such plan meets the requirements of section 401(a)(7) in effect on September 1, 1974."

That section, the former 26 U.S.C. § 401(a)(7) (1974), contains no funding requirement. It provides:

> A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides that, upon its

16 The Code is the Internal Revenue Code. (Stoldt Cert., Ex. H, Plan ¶ 1.09).

> termination or upon complete discontinuance of contributions under the plan, the rights of all employees to benefits accrued to the date of such termination or discontinuance, **to the extent then funded**, or the amounts credited to the employees' accounts are non-forfeitable. [Emphasis added].

In other words, the former § 401(a)(7) required only that employee benefits be vested on termination to the extent that they had actually been funded. The Plan complies with former § 401(a)(7). Paragraph 9.03(a) states that if the Plan is discontinued, "each Participant affected by such termination or discontinuance shall be fully vested in his Accrued Benefit as of the date of such termination or discontinuance of System Contributions."

The Plan, in sum, requires Saint Peter's to fund it only to the extent required by the Internal Revenue Code, and the Code does not require any particular level of funding from a church plan. If Saint Peter's is exempt from ERISA as a church plan, as demonstrated in Point II, *supra*, then the Plan's provision incorporate by reference those provisions of the Internal Revenue Code that excuse the Plan from any funding requirement. To the extent that there is conflict with more general language in the Plan regarding compliance with ERISA, the specific provisions relating to funding control. *See Bauman v. Royal Indem. Co.*, 36 N.J. 12, 22 (1961); *Gil v. Clara Maas Medical Ctr.*, 450 N.J. Super. 368, 378 (App. Div. 2017); *Burley v. Prudential Ins. Co.*, 251 N.J. Super. 493, 500 (App. Div. 1991).

B. <u>The AC Fails To State A Claim For Promissory Estoppel</u>

As an alternative to his breach of contract claim, Kaplan alleges that promissory estoppel requires that the Plan's provisions relating to ERISA standards be enforced. (AC ¶¶ 234-43). The AC fails to state a claim for relief for a reason akin to its failure to state a claim for breach of contract. Promissory estoppel requires detrimental reliance, but Kaplan alleges no detriment to himself.

The leading New Jersey decision on promissory estoppel is *Pop's Cones, Inc. v. Resorts International Hotel, Inc.*, 307 N.J. Super. 461 (App. Div. 1998). In that case, the plaintiff ice cream vendor was negotiating to relocate its business from Margate to the defendant's Atlantic City casino. Relying on Resorts' offer, Pop's did not renew its Margate lease at the end of the summer season, vacated the premises, and put its equipment into storage. Then Resorts backed out of the deal and Pop's was unable to find a new location for the next summer. The Appellate Division held that Pop's had reasonably relied on Resorts' promise and suffered harm by reason of the reliance. As damages, it allowed Pop's to recover the costs it had incurred as reliance damages. *Pop's Cones, Inc.*, 307 N.J. Super. at 472-73.

Pop's Cones follows Restatement, Contracts § 90 in defining the elements of promissory estoppel as (i) a clear and definite promise, (ii) made with the expectation that the promisee will rely, (iii) followed by the promisee's actual reliance, and (iv) "detriment of a definite and substantial nature incurred in reliance on the promise." *Id*. at 469; *see Fletcher-Harlee Corp. v. Pote Concrete*

Contractors, Inc., 421 F. Supp. 2d 831, 834 (D.N.J. 2006). Recovery is limited to the loss plaintiff actually suffered by relying on the promise. *See Lobiondo v. O'Callaghan*, 357 N.J. Super. 488, 499-500 (App. Div. 2003); *Pop's Cones*, *Inc*., 307 N.J. Super. at 473; *Peck v. Imedia, Inc.*, 293 N.J. Super. 151, 168 (App. Div. 1996); *Cleveland Plaza Assocs. v. Conte Entm't of Cranford LLC*, 2007 N.J. Super. Unpub. LEXIS 2219, at *23 (App. Div. Nov. 26, 2007). Promissory estoppel cannot be used to obtain specific performance of the alleged promise. *Bsales v. Texaco, Inc.*, 516 F. Supp. 655, 664 (D.N.J. 1981); *Lobiondo*, 357 N.J. Super. at 500. To state a claim for specific performance, plaintiff must also have alleged a valid and enforceable contract. *Marioni v. 94 Broadway, Inc.*, 374 N.J. Super. 588, 598-99 (App. Div. 2005).

The AC fails to state a claim because it fails to allege that Kaplan relied on the promises of the Plan to his substantial detriment. To be sure, Kaplan worked for Saint Peter's. Assuming that he did so at least in part in reliance on the Plan, he has received everything to which he is entitled under it – his retirement benefits. In contrast to the plaintiffs in *Pop's Cones* and *Peck*, he has incurred no out of pocket loss as a result of his reliance. Moreover, he cannot obtain the relief he wants – specific performance of the alleged promise that the Plan will comply with ERISA – under a theory of promissory estoppel.

C. The AC Fails To State A Claim For Unjust Enrichment

Count XII of the AC alleges that Saint Peter's has been unjustly enriched by obtaining the services of Kaplan and other employees without adequately funding the Plan, with the result that the employees have been deprived of the secure retirement that they had the right to expect. (AC ¶¶ 244-57). This count fails to state a claim for unjust enrichment for two reasons. First, unjust enrichment is not available where there is a valid contract in place. Second, because Saint Peter's has paid Kaplan's retirement benefits in full, he has been and is being fully compensated for the services he provided as an employee.

Unjust enrichment, sometimes described as a contract implied in law, is an equitable remedy that provides compensation for benefits conferred in the absence of an express contract. "The unjust enrichment doctrine requires that plaintiff show that it expected remuneration from the defendant at the time it performed or conferred a benefit on defendant and that the failure of remuneration enriched defendant beyond its contractual rights." *VRG Corp. v. GKN Realty Corp.*, 135 N.J. 539, 553 (1994). From this, it follows that unjust enrichment is not available as a remedy where an express contract governs the relations between the parties:

> Quasi-contractual obligations are imposed by the law for the purpose of bringing about justice . . . . Quasi-contract liability will not be imposed, however, if an express contract exists concerning the identical subject matter. The parties are bound by their agreement, and there is no ground for implying a promise as long as a valid unrescinded agreement governs the rights of the parties.

Suburban Transfer Serv., Inc. v. Beech Holdings, Inc., 716 F.2d 220, 226-27 (3d Cir. 1983) (dismissing unjust enrichment claim where express contract not breached); *accord C.B. Snyder Realty Co. v. Nat'l Newark & Essex Banking Co.*, 14 N.J. 146, 162-63 (1953); *Moser v. Milner Hotels, Inc.*, 6 N.J. 278, 280-81 (1951); *New York-Connecticut Dev. Corp. v. Blinds-To-Go (U.S.), Inc.*, 449 N.J. Super. 542, 556 (App. Div. 2017).

Here, the Plan is the express contract between the parties. For the reasons stated in Point V.A., *supra*, there has been no breach of that contract because Kaplan has received all of the benefits that he is due under the Plan and hence no "failure of remuneration." *VRG Corp.*, 135 N.J at 554. Kaplan therefore cannot use a theory of unjust enrichment as an alternative to give him more than the Plan requires.

D. <u>Kaplan Fails To State A Claim For Breach Of Fiduciary Duty</u>

Under New Jersey law, the elements of breach of fiduciary duty are the existence of a relationship of trust and confidence, a breach of either the duty of loyalty or the duty of reasonable care, and resulting injury. *F.G. v. McDonnell*, 150 N.J. 550, 563 (1997). Where there is an express trust instrument, such as the Plan, the fiduciaries' duties are defined primarily by the instrument's terms. General principles of equity only supplement the instrument's express or implied provisions. *Branch v. White*, 99 N.J. Super. 295, 306 (App. Div. 1968) (trustee of pension plan). For the same reason that Kaplan has not been injured by the alleged breach of the contract created by the Plan, there has been no breach of fiduciary duty. Kaplan has received and is continuing to receive all of the benefits to which he is entitled, and the Plan does not require that it be funded in accord with ERISA.

The AC alleges a breach of fiduciary duty when defendants "decided to convert the ERISA-covered plan to a church plan" and stop funding it according to ERISA requirements. (AC ¶ 266). Defendants did not "convert" the plan to a church plan. It always was a church plan because it always satisfied the terms of the Exemption. Moreover, the only way to subject a church plan to ERISA is to make the irrevocable election provided in 26 U.S.C. § 410(d) and 26 C.F.R. § 1.410(d)-1. Saint Peter's never made that election. (Stoldt Cert. ¶ 27). Saint Peter's always had the legal right to operate the Plan under the Exemption and breached no duty to Kaplan in doing so.

The AC also alleges breaches of fiduciary duty because Saint Peter's did not fund the Plan to ERISA standards (AC ¶ 267) and individual defendants did not use their authority to compel it to do so. (AC ¶ 270). These allegations fail to state a claim for the same reasons that the AC states no claim for breach of the Plan's funding provisions. As discussed in Point V.A., Kaplan has alleged and can allege no damage resulting from the Plan's funding level. He has received all benefits due him and will receive them for the foreseeable future. More importantly, the Plan does not require funding to ERISA standards. It adopts the funding provisions of the Internal Revenue Code, and these in turn do not require any given level of funding for an exempt church plan. The fiduciaries have done what the Plan allows them to do.

CONCLUSION

For the foregoing reasons, Defendants Saint Peter's Healthcare System, *et al*., respectfully request that the Amended Complaint be dismissed pursuant to Fed. R. Civ. P. 12(b)(1) for lack of subject matter jurisdiction or, in the alternative, pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim for relief under either ERISA, the Constitution or New Jersey common law, and that paragraph 54 of the Amended Complaint be stricken pursuant to Fed. R. Civ. P. 12(f).

Respectfully submitted,

SILLS CUMMIS & GROSS P.C.

By: s/ *Jeffrey J. Greenbaum*
JEFFREY J. GREENBAUM
JAMES M. HIRSCHHORN
KATHERINE M. LIEB

Attorneys for Defendants

Dated: September 7, 2018

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One Riverfront Plaza
Newark, New Jersey 07102-5400
(973) 643-7000
Attorneys for Defendants

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

LAURENCE KAPLAN, on behalf of himself, individually, and on behalf of all others similarly situated,	Civil Action No. 13-2941 (MAS)(TJB)
Plaintiff, v.	Honorable Michael A. Shipp United States District Judge
SAINT PETER'S HEALTHCARE SYSTEM, RETIREMENT PLAN COMMITTEE FOR THE SAINT PETER'S HEALTHCARE SYSTEM RETIREMENT PLAN, LESLIE D. HIRSCH, an individual, PAMELA TEUFEL, an individual, GARRICK STOLDT, an individual, LISA DRUMBORE, an individual, RONALD C. RAK, an individual, SUSAN BALLESTERO, an individual, and JOHN and JANE DOES, each an individual, 1-20,	**CERTIFICATION OF GARRICK STOLDT** (Electronically Filed Document)
Defendants.	

GARRICK STOLDT hereby certifies as follows:

1. I am the Vice President and Chief Financial Officer of Saint Peter's Healthcare System, Inc. ("Saint Peter's" or "the Corporation"), a member of its

Retirement Plan Committee and a defendant herein. I submit this Certification in support of defendants' motion to dismiss the Amended Complaint.

2. As I understand, the lawsuit challenges the church plan status of Saint Peter's Retirement Plan, a defined benefit pension plan ("the Plan"). This Certification will show that the Plan meets the requirements of a church plan because, among other things, Saint Peter's and its subsidiaries that participate in the Plan are controlled by or associated with a church, and the Plan is maintained by the Retirement Plan Committee of Saint Peter's, which also is controlled by or associated with a church and whose principal purpose or function is the administration or funding of the Plan and other retirement plans for the employees of Saint Peter's and, as applicable, its subsidiaries. As a church plan, the Plan is not subject to ERISA, because the Retirement Plan Committee has never made an affirmative election, in accordance with Section 410(d) of the Internal Revenue Code of 1986, as amended (the "Code") and Treasury Regulation Section 1.410(d)-1 issued thereunder, to have ERISA apply to the Plan.

Control

3. Saint Peter's Healthcare System, Inc. (formerly known as Catholic Health New Jersey, Inc.) is a corporation operated exclusively for charitable, scientific and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code. More specifically, as stated in its Certificate of

Incorporation, among its purposes are "to care, cure, nurture and maintain sick and infirm persons," and "to own, maintain, operate or assist in the operation of one or more Catholic hospitals . . . ." In addition, its corporate charter requires:

> The Corporation shall perform its general and specific corporate purposes in conformity with the law, teachings and moral practices of the Roman Catholic Church and in accord with the tenets set forth in the latest edition of the directives entitled "Ethical and Religious Directives for Catholic Health Facilities" approved by the National Conference of Catholic Bishops, and as promulgated by the Bishop of Metuchen for use in his Diocese. [Certif. of Incorp. ¶ 4]

Attached hereto as Exhibit A is a true copy of the March 1, 2010 Certificate of Amendment to the Certificate of Incorporation of Saint Peter's, which also has attached the November 14, 2007 Restated Certification of Incorporation for Saint Peter's Healthcare System, Inc. ("Certif. of Incorp.").

4. The sole member of the Corporation is the Bishop of the Diocese of Metuchen. (*Id*., Certif. of Incorp. ¶ 9.)

5. The conduct and management of the affairs of the Corporation are vested in its Board of Governors, formerly known as its Board of Trustees (hereinafter, the "Board"). (*Id*., Certif. of Incorp. ¶ 10; 2007 Certif. of Incorp. ¶ 10.) The Corporation's bylaws provide for, among other things, how the Board is appointed, its voting rights, the number of Board members, and their qualifications. (*Id*., 2010 Certif. of Incorp. ¶ 10; 2007 Certif. of Incorp. ¶ 10.)

6. A true copy of the Corporation's current bylaws with Third Amendment, dated July 27, 2016, is attached hereto as Exhibit B ("bylaws"). The bylaws repeat that the sole member of the Corporation is the Bishop of the Diocese of Metuchen (the "Bishop" or "Member"), and states that he is responsible for ensuring compliance of the Corporation and its subsidiaries with "The Ethical and Religious Directives for Catholic Health Care Facilities." If there is a vacancy in the position of Bishop, that power is vested in an individual appointed by the Roman Catholic Church. (*Id*., Bylaws, Article III, Section 1.) The powers of the Bishop are also set forth in the bylaws. (*Id*., Bylaws, Article III, Section 2.)

7. I understand that the Plaintiff alleges that the Form 990s for Saint Peter's state that it has no members. (Amended Complaint, ¶ 46.) Although the Amended Complaint does not provide a specific year, Plaintiff previously made this same allegation with respect to Saint Peter's Form 990 for the tax year 2011.

8. As set forth in my prior certification, dated October 14, 2013, a true copy of which is attached as Exhibit C, an error was made in connection with the Form 990 for 2011, in that three boxes (6, 7a, and 7b in Part VI) were inadvertently checked related to the corporate structure of Saint Peter's. Once that error was discovered, Saint Peter's promptly filed an amended return in which these three questions were corrected to reflect the corporate structure as detailed above. A copy of the relevant pages of the Amended Form 990 for the year 2011 is attached

as Exhibit D. Saint Peter's most recent tax statement for the year 2016 also reflects the proper corporate structure of Saint Peter's as having a member. A true copy of the relevant pages of the Form 990 for the year 2016 is attached as Exhibit E.

9. The Bishop has the power to remove any or all of the Governors of the Board and Trustees of all subsidiaries in his sole discretion, with or without cause, at any time, and has the power to veto any action by the Corporation or its Board. (*Id*., Bylaws, Article III, Sections 2(a) and (e).)

10. The Bishop also has the power to appoint and remove the Chair of the Board, the Vice Chair, the President and Chief Executive Officer, the Treasurer, the Secretary and Assistant Secretary, in his sole discretion, with or without cause, at any time. (*Id*., Bylaws, Article III, Section 2(b).)

11. With respect to the Board of Governors, the Bishop appoints all Board members except two, the current and immediate past president of the medical staff. The Board consists of 4 categories of people: (1) up to 20 Governors, appointed by the Bishop, including the Chair and Vice Chair; (2) the President and CEO (appointed by the Bishop); (3) the Episcopal Vicar for the Healthcare Apostolate of the Diocese of Metuchen (the Bishop's representative); and (4) the current and immediate past president of the medical staff. The exact number of Board members is decided by the Bishop. (*Id*., Bylaws, Art. IV, Section 2.) For the

Board to act, the Chair or his/her designee must be in the majority of voting members. (*Id*., Bylaws, Article IV, Section 10.)

12. The Bishop has the power to appoint and remove the Executive Director of each of the Corporation's subsidiaries, in his sole discretion, with or without cause, at any time, and has the power to exercise the power of the Corporation with respect to any of the Corporation's subsidiaries. (*Id*., Bylaws, Article III, Sections (2) (c) and (d).)

Associated With

13. The convictions of the Catholic Church are central to the organization, structure and operations of Saint Peter's. This mission and philosophy is set forth in its bylaws as follows:

> The basic mission of the Corporation and of all its subsidiaries is to continue the healing ministry of Jesus Christ as expressed in the Gospel. This mission shall be in support of and further the mission of the Catholic Church, specifically in the Diocese of Metuchen as expressed in the Mission Statement of the Diocese of Metuchen. The Corporation and all its subsidiaries shall foster the values of love, compassion, justice, and reverence for human life.

(*Id*., Bylaws, Article I, Section 2(a).)

14. The bylaws further provide:

> The Corporation shall perform its general and specific corporate purposes in conformity with the law, teachings and moral practices of the Roman Catholic Church and in accord with the tenets set forth in the latest edition of the

> directives entitled "Ethical and Religious Directives for Catholic Health Care Facilities" approved by the National Conference of Catholic Bishops, and as promulgated by the Bishop of Metuchen for use in his Diocese.

(*Id*., Bylaws, Article I, Section 2(b).)

15. The bylaws also contain qualifications for membership on the Board of Governors. One qualification is the agreement to conduct the Corporation's activities in accord with the Roman Catholic philosophy of the Ethical and Religious Directives for Catholic Health Care Facilities:

> In order to be eligible for Governorship, the person so nominated shall agree to conduct the activities and business of the Corporation under the purview of and in accord with Roman Catholic philosophy and the Ethical and Religious Directives for Catholic Health Facilities as adopted by the National Conference of Catholic Bishops and the United States Catholic Conference and implemented by the Bishop. This shall include, but not be limited to, the belief in the right to life and the inviolability of the human person and the unqualified opposition to abortion.

(*Id*., Bylaws, Article IV, Section 3(a).) In addition, each newly appointed Governor is required to acknowledge in writing that he agrees to conduct the business and affairs of the Corporation pursuant to the Certificate of Incorporation and the Bylaws. (*Id*., Bylaws, Article IV, Section 3(c).)

16. Saint Peter's has a Pastoral Care Department. The Pastoral Care Department fosters and addresses the varied spiritual needs of patients, employees

and health care professionals, and "[e]nsure[s] that the Corporation operates in accordance with its Catholic mission . . . ." (*Id.*, Bylaws, Article V, Section 15(a)(b)(1) and (2).)

17. In keeping with its healthcare ministry, Saint Peter's each year devotes substantial resources to services to the indigent and the broader community. In the last calendar year, it reported $38 million expended for charity care and community benefits, or 8.3% of its total expenses, which includes charity care, education, health promotion, health clinics and screenings and other services to the community.

18. Saint Peter's provides many services associated with the Catholic Church, including daily Mass, meditation facilities, and prayer leadership.

19. Catholic devotional objects such as crucifixes, pictures and statues are displayed throughout Saint Peter's. A cross is a central part of the Saint Peter's logo, which is displayed on its website and letterhead and prominently placed on signage throughout the hospital. The logo appears as follows:

SAINT PETER'S
HEALTHCARE SYSTEM

20. Every Board meeting begins with a prayer. Every morning there is a prayer broadcast over the public address system at the hospital.

21. Saint Peter's is an organization listed in *The Official Catholic Directory*. It appears on page 776 of the 2017 edition, a true copy of which is attached hereto as Exhibit F. Its tax exempt status derives from its inclusion in the group exemption issued by the IRS to all agencies, instrumentalities and religious institutions operated, supervised, or controlled by or in connection with the Roman Catholic Church. The Internal Revenue Service has ruled that "[a]ny organization listed in this directory is considered associated with the Roman Catholic Church in the United States." *See, e.g.*, General Counsel Memorandum 39007 (1983), a true copy of which is attached hereto as Exhibit G.

The Retirement Plan Committee Maintains the
Saint Peter's Defined Benefit Retirement Plan

22. The Plan at issue in this lawsuit is maintained by the Board's Retirement Plan Committee. The terms of the Plan itself specify that the Plan is to be administered by the Retirement Plan Committee. Plan, Article 8, Section 8.01. Attached hereto as Exhibit H is a true copy of the Saint Peter's Healthcare System Retirement Plan, as amended and restated effective January 1, 2010. As previously mentioned, I am a member of that Committee.

23. The Retirement Plan Committee is a standing committee of the Board. The Retirement Plan Committee possesses overall responsibility for the oversight of the retirement plans sponsored by Saint Peter's, and its responsibilities also include overseeing management of plan assets for defined benefits pension plans,

and reviewing the Corporation's policy for funding its retirement plans. (Exhibit B, Bylaws, Article V, Section 13(b)(1)-(3).) In making investment decisions, the Retirement Plan Committee is guided by the investment principles adopted by the Church, the U.S. Conference of Catholic Bishops' Socially Responsible Investment Guidelines, which is available at http://www.usccb.org/about/financial-reporting/socially-responsible-investment-guidelines.cfm (last visited September 7, 2018) (a true copy of which is also attached hereto as Exhibit I).

24. As applied to the Plan, the Retirement Plan Committee has:

> the exclusive discretionary authority and power to determine eligibility for benefits and to construe the terms and provisions of the Plan, determine questions of fact and law arising under the Plan, direct disbursements pursuant to the Plan, and exercise all other powers specified herein [in the Plan] or which may be implied from the provisions hereof [the Plan]. The Committee may adopt such rules for the conduct of the administration of the Plan as it may deem appropriate.

(Exhibit H, Plan, Article 8, Section 8.02.)

25. Participation in the Plan is limited to eligible employees of Saint Peter's and certain of its subsidiaries. Effective as of June 30, 2010, the Plan was frozen as to participation, such that no employee hired after such date is eligible to become a Plan Participant. (Exhibit H, Plan, Article 2, Section 2.01(d).) The Plan was frozen to active employees for additional accrual benefits as of December 31, 2012.

26. Section 1.10 of the Plan explicitly requires the Bishop to appoint all members of the Retirement Plan Committee. (*See* Exhibit H, Plan, at 5.) The Retirement Plan Committee consists of the Chair of the Board of Governors (appointed by the Bishop), the Chief Financial Officer (who is the Assistant Treasurer, appointed by the Bishop (*see* Exhibit B, Bylaws, Articles VIII, Section 6)), the Vice President for Human Resources, and up to seven more additional Governors. It may also include others elected by the Board. (Exhibit B, Bylaws, Article V, Section 13(a).) It is currently composed of 5 members only, all appointed by the Bishop, including the Episcopal Vicar for the Healthcare Apostolate.

27. The Retirement Plan Committee has never made an affirmative election, in accordance with Section 410(d) of the Code and Treasury Regulation Section 1.410(d)-1 issued thereunder, to have ERISA apply to the Plan. Therefore, the Plan is a "non-electing" church plan exempt from the provisions of ERISA.

28. I understand that the Plaintiff alleges that the Plan should not qualify as a church plan because it "covers more than an insubstantial number of employees that work for subsidiaries or affiliates that are not controlled by or associated with any church or convention or association of churches that are not tax-exempt." (Amended Complaint, ¶ 102.) The allegation contains no specifics and the allegation is not correct. The Plan only includes employees who

participated in it by virtue of their employment by Saint Peter's or one of its wholly-owned tax-exempt subsidiaries: Saint Peter's, Saint Peter's University Hospital, the Saint Peter's Foundation, and up until January 31, 2016 when it was sold, the Margaret McLaughlin McCarrick Care Center, Inc. All of these Saint Peter's tax-exempt subsidiaries are or were wholly owned and are therefore controlled by Saint Peter's.

<u>The IRS Has Recognized that the Plan is a Church Plan</u>

29. On August 14, 2013, the IRS issued a private letter ruling to Saint Peter's holding that the Plan is a church plan within section 414(e) of the Internal Revenue Code (the "IRS Ruling"). A true copy of the IRS Ruling is attached hereto as Exhibit J.

30. In finding the requisite control and association necessary for church plan status, the IRS Ruling states:

> [Saint Peter's] is indirectly controlled by [the Roman Catholic Church] through its relationship with [the Diocese of Metuchen.]
>
> In view of the common religious bonds between [the Roman Catholic Church] and [Saint Peter's], and the indirect control of [Saint Peter's] by [the Roman Catholic Church] through [the Diocese of Metuchen], we conclude that [Saint Peter's] . . . is associated with a church or a convention or association of churches within the meaning of section 414(e)(3)(D) of the Code . . . .

(*Id*. at 5.) The IRS Ruling further notes that "the [Retirement Plan] Committee is associated with and under the control of [the Diocese of Metuchen], and is indirectly associated with and under the control of [the Roman Catholic Church]." (*Id.*)

31. The IRS Ruling concludes that the Plan "is a church plan within the meaning of section 414(e) of the Code, and has been a church plan within the meaning of section 414(e) of the Code retroactive to January 1, 1974." (*Id.*)

The Plan is Well Funded and Kaplan Has Received Full Benefits

32. Mr. Kaplan, the plaintiff, is 75 years old, was the Manager of Food and Nutrition Services when he retired, and has been receiving his full retirement benefits without interruption or diminution since April 1, 2001. Like Mr. Kaplan, all other Plan participants have received and are continuing to receive their required benefits.

33. The current financial statement of Saint Peter's show that the Plan is well-funded, at approximately 60% under a Generally Acceptable Accounting Principles (GAAP) basis. A true copy of the Consolidated Financial Statements and Supplementary Information of Saint Peter's, with years ended December 31, 2016 and December 31, 2017 ("Financial Statements"), is attached hereto as Exhibit K.

34. As of December 31, 2017, the Plan had assets of $203,652,000, with year-end liabilities of $339,101,000, resulting in an underfunding of $135,449,000. (*Id.* at 30.) However, these calculations are under a strict GAAP basis (which is

not used to measure compliance under ERISA), and use interest rates at a specific point in time (the balance sheet date) without regard to assumptions on what a plan may reasonably expect to earn over the long term, and assume that Saint Peter's would have to pay all future obligations today.

35. Saint Peter's has continued to fund the Plan and makes contributions on a weekly basis. In 2017 and 2016, Saint Peter's contributed $13,946,000 and $13,460,000, respectively, far more than the respective $8,578,000 and $8,012,000 in benefits paid for those years. Saint Peter's is making weekly payments that will accumulate to a contribution of $4,000,000 for the calendar year 2018. (*Id*. at 30, 34.)

36. As detailed in Financial Statements, the total expected benefits for the next ten years are as follows:

Year	**Estimated Total Benefit Payment**
2018	$10,785,000
2019	$11,591,000
2020	$12,488,000
2021	$13,277,000
2022	$14,124,000
2023-2027	$82,325,000

TOTAL	$144,590,000

37. At over $200 million, the current assets of the Plan could pay for the next ten years of expected benefits, while more than $50 million would remain. This calculation does not even include the future contributions that Saint Peter's continues to make on a weekly basis, or any earnings the Plan expects to earn on its $200 million plus corpus.

38. Given Saint Peter's prior and current commitment to funding the Plan, and current plan assets, no imminent risk exists with respect to the Plaintiff's receipt of continued benefits.

Saint Peter's Does Not Deviate From
The Religious Convictions of the Catholic Church

39. The Complaint alleges that Saint Peter's distances itself from the religious convictions of the Catholic Church when it is in its economic interest to do so, such as when it hires non-Catholic employees, allows non-Catholic patients and encourages such patients to seek spiritual support in accordance with other faiths, and associates with certain secular institutions. (*See, e.g.*, Amended Complaint ¶ 11.) The Complaint is not correct. These allegations show a lack of understanding of Catholic religious convictions and how Saint Peter's operates. Saint Peter's strictly complies with the religious convictions of the Catholic Church, as it is required to do by its bylaws.

Employment

40. Saint Peter's does in fact hire non-Catholics. There is no Church requirement to hire only Catholics and, in fact, I am advised that the Diocese of Metuchen, an arm of the Church, itself hires non-Catholics. As mentioned, our certificate of incorporation and bylaws require Saint Peter's to comply with the "Ethical and Religious Directives for Catholic Health Facilities" approved by the United States Conference of Catholic Bishops ("ERDs"). A copy of the latest edition of the ERDs is attached hereto as Exhibit L. Pages 6-7 of the ERDs notes that lay Catholics are joined by many religious communities in their commitment to health care ministry, and are joined by many who are not Catholic. More specifically, Directive 7 requires that Catholic health care institutions provide equal employment opportunities. Employees, however, must respect and uphold the religious mission of the institution and adhere to the ERDs, which Saint Peter's requires. (*Id*., Directive 9.)

Failure to Impose Religious Beliefs on Patients

41. The ERDs recognize that a Catholic health care institution must provide its services to those in need, without regard to religion. (*See* Exhibit L, Directive 1.) The ERDs further recognize that spiritual needs during illness are an important part of healing and provide that pastoral care is an integral part of Catholic Health Care. (*Id.* at 10.) In accordance with Directive 11, pastoral

services and/or referrals are available to all in keeping with their religious beliefs or affiliation. Saint Peter's respects and honors every religion in its efforts to serve the poor and its entire community. This is consistent with the ERDs, which even permit non-Catholic members to be appointed to the pastoral care staff for the sake of appropriate ecumenical and interfaith relations. (*Id*., Directive 22.)

<u>Collaborating with Medical Institutions Without Religious Affiliation</u>

42. The Amended Complaint criticizes Saint Peter's affiliations with Drexel University[1] and Rutgers Biomedical and Health Sciences as a teaching hospital for these institutions, the clinical collaboration with Children's Hospital of Philadelphia, and the affiliation with Kean University, as these institutions do not have religious affiliations. To fulfill its ministry of medical education, Saint Peter's must affiliate with secular institutions but does so in a way completely consistent with the ERDs, which must be strictly followed by other affiliated institutions when performing any services on the premises of any of Saint Peter's institutions. Recognizing the need for forming partnerships with secular organizations, the ERDs contain an entire section, "Part Six, Forming New Partnerships with Health Care Organizations and Providers." (*See id.* at 23-26.) The ERDs specify how these partnerships are to be governed and Saint Peter's

[1] The affiliation with Drexel University terminated as of June 30, 2014.

requires compliance with the ERDs as a condition of their relationships with any secular institution.

43. In summary, Saint Peter's is very serious and committed to fulfilling its Catholic mission and complying with the ERDs.

I certify under penalty of perjury that the foregoing is true and correct. Executed on September 7, 2018.

GARRICK STOLDT

EXHIBIT A

SAINT PETER'S HEALTHCARE SYSTEM, INC.
WRITTEN CONSENT OF SOLE MEMBER

The undersigned, being the sole Member of Saint Peter's Healthcare System, Inc. (the "Corporation"), a New Jersey non-profit corporation, without the necessity of a formal meeting, hereby authorizes the adoption of the following resolutions and hereby consents to the taking of the actions herein set forth:

NOW, THEREFORE, BE IT

RESOLVED that the Amendment to the Certificate of Incorporation of the Corporation attached hereto as Exhibit A, be and hereby is, approved and adopted; and it is further

RESOLVED that the Amended and Restated Bylaws of the Corporation attached hereto as Exhibit B, be and hereby are, approved and adopted as the Amended and Restated Bylaws of the Corporation, replacing any and all previously adopted Bylaws of the Corporation, effective as of March 1, 2010.

IN WITNESS WHEREOF, this Written Consent of the sole Member of the Corporation, is effective as of the first day of March, 2010.

+Paul G. Bootkoski

Most Rev. Paul G. Bootkoski

EXHIBIT A

CERTIFICATE OF AMENDMENT
TO THE
CERTIFICATE OF INCORPORATION
OF
SAINT PETER'S HEALTHCARE SYSTEM, INC.

Pursuant to the provisions of Section 15A:9-2(d) and Section 15A:9-4(b) of the New Jersey Nonprofit Corporation Act, the undersigned corporation executes the following Certificate of Amendment to its Certificate of Incorporation:

1. The name of the corporation is: Saint Peter's Healthcare System, Inc. (the "Corporation").

2. The Corporation wishes to amend its Certificate of Incorporation as follows:

(a) Article 9 of the Certificate of Incorporation is hereby amended to read in its entirety as follows:

> "9. MEMBER. The Bishop of the Diocese of Metuchen shall be ex officio, the sole Member of the Corporation (the "Sole Member"). The Sole Member shall have such powers and rights as the Bylaws of the Corporation shall provide."

(b) Any and all references to the word "Trustee" shall be deleted and replaced with the word "Governor", and any and all references to the word "Trustees" shall be deleted and replaced with the word "Governors".

(c) Article 10 of the Certificate of Incorporation is hereby amended to read in its entirety as follows:

> "10. BOARD OF GOVERNORS. The conduct and management of the affairs of the Corporation are vested in its Board of Governors. The number and qualifications of the Governors, the manner of their election or appointment, the terms of their incumbency and their voting rights shall be as the Bylaws of the Corporation provide."

3. The Corporation has one member. This Certificate of Amendment was adopted by the sole member of the Corporation on March 1, 2010.

Saint Peter's Healthcare System, Inc.

By: [signature]
Name: Ronald C. Rak, J.D.
Title: President + CEO
Dated: March 1, 2010

EXHIBIT B

AMC

FILED
JUN 11 2010
STATE TREASURER

0100750421

CERTIFICATE OF AMENDMENT
TO THE
THIRD AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
SAINT PETER'S HEALTHCARE SYSTEM, INC.

Pursuant to the provisions of Section 15A:9-2(d) and Section 15A:9-4(b) of the New Jersey Nonprofit Corporation Act, the undersigned corporation executes the following Certificate of Amendment to the Third Amended and Restated Certificate of Incorporation for the Nonprofit Corporation Saint Peter's Healthcare System, Inc. (the "**Certificate of Incorporation**"):

1. The name of the corporation is: Saint Peter's Healthcare System, Inc. (the "**Corporation**").

2. The Corporation wishes to amend the Certificate of Incorporation as follows:

(a) Article 9 of the Certificate of Incorporation is hereby amended to read in its entirety as follows:

> "9. MEMBER. The Bishop of the Diocese of Metuchen shall be ex officio, the sole Member of the Corporation (the "Sole Member"). The Sole Member shall have such powers and rights as the Bylaws of the Corporation shall provide."

(b) Any and all references to the word "Trustee" shall be deleted and replaced with the word "Governor", and any and all references to the word "Trustees" shall be deleted and replaced with the word "Governors".

(c) Article 10 of the Certificate of Incorporation is hereby amended to read in its entirety as follows:

> "10. BOARD OF GOVERNORS. The conduct and management of the affairs of the Corporation are vested in its Board of Governors. The number and qualifications of the Governors, the manner of their election or appointment, the terms of their incumbency and their voting rights shall be as the Bylaws of the Corporation provide."

3. The Corporation has one member. This Certificate of Amendment was adopted by the sole member of the Corporation on March 1, 2010.

By: [signature]
Name: Ronald C. Rak, J.D.
Title: President + CEO
Dated: March 1, 2010

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FILED
NOV 14 2007
STATE TREASURER

C-100B Rev 4/03
Part 2

Certificate Required to be filed with the
RESTATED CERTIFICATE of INCORPORATION
(For Use by Domestic Nonprofit Corporations)

Pursuant to Section 15:9-5 (d), the undersigned corporation hereby executes the following Certificate

1. Name of Corporation: Saint Peter's Healthcare System, Inc
2. Corporation Number: 0100750421
3. The Corporation: X has members* __ does not have members.

* On October 22, 2007, the Board of Trustees of the Corporation unanimously appointed the Member

A For corporations with members:

Number entitled to vote _______; Voting FOR:______ Voting Against:______
If any class or classes of members are entitled to vote thereon as a class, set forth the number of members in each class, the votes of each class voting for and against, and the number of members present at meeting, OR,

_X_ Adoption was by unanimous written consent without meeting.

Date of Adoption: November 12, 2007

B For corporations WITHOUT members

Number of Trustees ____ Voting FOR:_____ Voting Against:_____
Trustees present at meeting _________, OR,

__ Adoption was by unanimous written consent without meeting

Date of Adoption:___________________

4. If the Restated Certificate *not only* restates and integrates, but FURTHER AMENDS the Certificate of Incorporation, then state the amendment: Sections 3, 4, 5, 7, 8, 9, 10 and 13 of the Certificate of Incorporation have been amended in the manner set forth in the attached Amended and Restated Certificate of Incorporation for Nonprofit Corporation
5. Board of Trustees: See Attachment A.
6. Effective date the Amended and Restated Certificate of Incorporation shall be the date approved by the Secretary of the State of New Jersey.

Signature: [signature] (Not to exceed 30 days from date of filing)
Date: November 14, 2007
Name: Ronald C Rak, J D
Title: President and Chief Executive Officer

NJ Division of Revenue, PO Box 308 Trenton NJ 08646

DST99 1551455-3 06393-4 0010

Attachment A

Board of Trustees

NEW JERSEY DEPARTMENT OF THE TREASURY
DIVISION OF REVENUE

AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION FOR NONPROFIT CORPORATION
SAINT PETER'S HEALTHCARE SYSTEM, INC.
(Formerly known as, Catholic Health New Jersey, Inc)

Corporation Number: 0100750421

This Amended and Restated Certificate of Incorporation shall supersede and take the place of the heretofore existing Certificate of Incorporation and any amendments or restatements thereof of Saint Peter's Healthcare System, Inc , formerly known as Catholic Health New Jersey, Inc , all pursuant to the provisions of N J S A Title 15A:9-1 et seq

1. NAME. The name of the corporation is SAINT PETER'S HEALTHCARE SYSTEM, INC (the "Corporation") The Corporation was formerly known as Catholic Health New Jersey, Inc

2. PRINCIPAL OFFICE The location of the principal office of the Corporation in the State of New Jersey is 254 Easton Avenue, New Brunswick, New Jersey 08903

3 REGISTERED OFFICE; REGISTERED AGENT. The registered office of the Corporation is 254 Easton Avenue, New Brunswick, New Jersey 08903. The name of the current registered agent at that address upon whom service of process against the Corporation may be made is Kathy Killion

4 PURPOSES The Corporation is organized and shall be operated exclusively for charitable, scientific and educational purposes, within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, and applicable Treasury Regulations thereunder, as the same may be from time to time be amended, supplemented, or succeeded which Code and Treasury Regulations are hereinafter collectively referred to as the "Code." More specifically, the purposes of the Corporation are to care, cure, nurture and maintain sick and infirm persons; to own, maintain, operate or assist in the operation of one or more Catholic hospitals and ambulatory, long-term or other healthcare facilities; to furnish or assist in furnishing the public with healthcare services In addition, the Corporation shall oversee the operation of Saint Peter's University Hospital and the development of strategic initiatives and plans for Saint Peter's University Hospital's subsidiaries and affiliates For purposes of this Amended and Restated Certificate of Incorporation, "subsidiary" shall mean any corporation, association, partnership, trust, joint venture, or other entity directly or indirectly controlled by the Corporation; and "control" shall mean the right to elect or appoint at least a majority of the members of the Board of Trustees or Directors or other governing body of such entity. The Corporation shall perform its general and specific corporate purposes in conformity with the law, teachings and moral practices of the Roman Catholic Church and in accord with the tenets set forth in the latest edition of the directives entitled "Ethical and Religious Directives for Catholic Health Facilities" approved by the National Conference of Catholic Bishops, and as promulgated by the Bishop of Metuchen for use in his Diocese

5 POWERS In furtherance of the aforesaid purposes, the Corporation shall have and may exercise the following rights, powers and privileges, in addition to those conferred by law upon corporations organized under Title 15A of the Revised Statutes of the State of New Jersey, as amended, supplemented and succeeded The Corporation may alone or in connection with any or all of its subsidiaries or with any other persons or organizations, do any and all lawful acts and things which may be necessary, useful, suitable or proper for the furtherance, accomplishment or attainment of any or all of the purposes, rights, powers or privileges of the Corporation; provided, however, that the Corporation may not exercise any rights, power or privilege, express or implied, to the extent such exercise shall disqualify the Corporation from any exemption from tax or other benefit afforded by qualification as an organization described by Code Section 501(c)(3)

6 DURATION The Corporation's existence shall be perpetual.

7 EXEMPT STATUS It is the intention of the Corporation at all times to qualify and remain qualified as a corporation described by Code Section 501(c)(3), exempt from Federal income taxation under Code Section 501(a), to which contributions are deductible under Code Sections 170(c)(2), 2055(a)(2) and 2522(a)(2). No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to any private individual, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of its purposes. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, except as permitted by Section 501(h) of the Internal Revenue Code or any subsequent federal tax laws. The Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office Notwithstanding any other provision of this Certificate, the Corporation shall not carry on any other activities not permitted to be carried on by an organization exempt from federal income tax under Section 501(a), described in Section 501(c)(3), contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code, as amended from time to time, or the corresponding provisions of any subsequent federal tax laws All references herein: (a) to the Internal Revenue Code shall be deemed to refer to the Internal Revenue Code of 1986, as now in force or hereafter amended; (b) to the N.J S A, or any title or chapter thereof, shall be deemed to refer to the New Jersey Statutes title or chapter as now in force or hereafter amended; and (c) any particular sections of the Internal Revenue Code or the New Jersey Statutes shall be deemed to refer to similar or successor provisions hereafter adopted During any period in which the Corporation may be classified as a private foundation within the meaning of Code Section 509, the Corporation shall distribute its income at such time and in such manner as to avoid taxation under Code Section 4942, and the Corporation shall not engage in any act of self-dealing (as defined in Code Section 4941 (d)), shall not retain any excess business holdings (as defined in Code Section 4943(c)), shall not make any investments in such manner as to subject the Corporation to tax under Code Section 4944, and shall not make any taxable expenditures as defined in Code Section 4945(d).

8 DISTRIBUTION OF ASSETS. In the event of any liquidation, dissolution, termination or winding up of the Corporation (whether voluntary, involuntary or by operation of law), the property or assets of the Corporation remaining after providing for the payment of its debts and obligations shall be conveyed, transferred, distributed, and set over outright to one or more

educational, charitable or scientific institutions or organizations: (a) that are created and organized for nonprofit purposes similar to those of the Corporation; (b) that qualify as exempt from income tax under Section 501(c)(3) of the Internal Revenue Code; and (c) contributions to which are deductible under Section 170(c) of the Internal Revenue Code, as designated by the sole Member of the Corporation; provided, however, that the Corporation's property may be applied to charitable, scientific or educational purposes in accordance with the doctrine of cy pres in all respects as a court having jurisdiction over the property may direct.

9. MEMBER. The Bishop of the Diocese of Metuchen shall be, ex officio, the sole Member of the Corporation

10. BOARD OF TRUSTEES. The conduct and management of the affairs of the Corporation are vested in its Board of Trustees The Board of Trustees shall consist of the Chair of the Board (the "Chair"), who shall be the Bishop of the Diocese of Metuchen, and who shall serve ex officio, with vote; the President and Chief Executive Officer of the Corporation, who shall serve ex officio, with vote; and not less than five (5) nor more than twelve (12) additional Trustees. The qualifications of the Trustees, the manner of their election or appointment, the terms of their incumbency and their voting rights shall be as the Bylaws of the Corporation shall provide. Any limitations on the powers of the Trustees shall be as the Bylaws of the Corporation shall provide The Board of Trustees as of the date the filing of this Certificate is as set forth on Attachment A.

11. NONDISCRIMINATION Persons of any race or sex shall be entitled to all the rights, privileges, programs and activities generally accorded or made available to participants in the Corporation, its programs and activities, and the Corporation shall not discriminate on the basis of race or sex in administering its policies and programs

12. NO PERSONAL LIABILITY. Except as otherwise provided in the New Jersey Nonprofit Corporation Act, as amended, a Trustee or officer of the Corporation shall not be personally liable to the Corporation for damages for the breach of any duty owed to the Corporation; provided, however, that nothing in this provision shall be construed to relieve a Trustee or officer from liability for any breach of duty based upon an act or omission: (a) in breach of such person's duty of loyalty to the Corporation; (b) not in good faith or involving a knowing violation of law; or (c) resulting in receipt by such person of an improper personal benefit. The Corporation shall indemnify the Trustees and officers of the Corporation in accordance with the Corporation's Bylaws

13 EFFECTIVE DATE The Effective Date of this Amended and Restated Certificate of Incorporation shall be the filing date hereof

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IN WITNESS WHEREOF, SAINT PETER'S HEALTHCARE SYSTEM, INC. has caused its duly authorized officer to execute this Amended and Restated Certificate of Incorporation this 13th day of November, 2007

SAINT PETER'S HEALTHCARE SYSTEM, INC.

By: Ronald C. Rak, J.D.
President and Chief Executive Officer

EXHIBIT B

AMENDED AND RESTATED

BYLAWS

OF

SAINT PETER'S HEALTHCARE SYSTEM, INC.

(Formerly Catholic Health New Jersey, Inc.)

Amended and Restated: September 12, 2007
Amended: July 28, 2009
March 1, 2010

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AMENDED AND RESTATED

BYLAWS

OF

SAINT PETER'S HEALTHCARE SYSTEM, INC.

(Formerly Catholic Health New Jersey, Inc.)

ARTICLE I

Name, Mission and Philosophy, and Purposes

Section 1. Name. The name of this corporation shall be Saint Peter's Healthcare System, Inc. (the "Corporation"). Unless otherwise specifically indicated, for purposes of these Bylaws, the "Corporation" shall only refer to this Corporation and shall not include any subsidiaries of the Corporation, regardless of the consolidation of such subsidiaries in the financial statements of the Corporation.

Section 2. Mission and Philosophy.

(a) The basic Mission of the Corporation and of all its subsidiaries is to continue the healing ministry of Jesus Christ as expressed in the Gospel. This mission shall be in support of and further the mission of the Catholic Church, specifically in the Diocese of Metuchen as expressed in the Mission Statement of the Diocese of Metuchen. The Corporation and all its subsidiaries shall foster the values of love, compassion, justice, and reverence for human life.

(b) The Corporation shall perform its general and specific corporate purposes in conformity with the law, teachings and moral practices of the Roman Catholic Church and in accord with the tenets set forth in the latest edition of the directives entitled "Ethical and Religious Directives for Catholic Health Care Facilities" approved by the National Conference of Catholic Bishops, and as promulgated by the Bishop of Metuchen for use in his Diocese.

(c) In recognition of the principle of human equality, all admissions to facilities owned or controlled by the Corporation and the employment practices of the Corporation shall reflect complete impartiality with reference to sex, race, color, creed, or national origin.

Section 3. Purposes.

(a) The Corporation is organized for charitable, scientific and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, or any corresponding provisions of any subsequent federal tax laws, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under said section. No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to any private individual, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of its purposes. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, except as permitted by Section 501(h) of the Internal Revenue Code of 1986 or any subsequent federal tax laws. The Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of these bylaws, the Corporation shall not carry on any other activities not permitted to be carried on by an organization exempt from federal income tax under Section 501(a), described in Section 501(c)(3), contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1986, or the corresponding provisions of any subsequent federal tax laws.

(b) In addition to the above-stated purposes, the Corporation's purposes shall also be: to care, cure, nurture and maintain sick and infirm persons; to own, maintain, operate or assist in the operation of one or more Catholic hospitals and ambulatory, long-term or other healthcare facilities; to furnish or assist in furnishing the public with healthcare services; to determine the strategic direction for all of its subsidiaries (collectively with the Corporation, the "System"); and to foster and achieve the System's financial stability necessary to preserve and enhance the Diocese of Metuchen's Health Ministry.

(c) For purposes of these Bylaws, "subsidiary" or "subsidiaries" shall mean Saint Peter's University Hospital, Inc. (the "Hospital"), Saint Peter's Health & Management Services Corporation, and The Saint Peter's Foundation and any subsidiaries thereof.

ARTICLE II

Offices

Section 1. Principal Office. The principal office of the Corporation shall be located at 254 Easton Avenue, New Brunswick, New Jersey 08903. The Corporation may have such other offices, either within or without the State of New

Jersey, as the Board of Governors of the Corporation (the "Board of Governors") may designate.

Section 2. Registered Office; Registered Agent. The registered office of the Corporation shall be 254 Easton Avenue, New Brunswick, New Jersey 08903. The registered agent at that address shall be appointed from time to time by the Member.

ARTICLE III

Member

Section 1. Designation of Member. The Bishop of the Diocese of Metuchen (the "Member") shall be, ex officio, the sole member of the Corporation and shall be responsible for ensuring the compliance of the Corporation and its subsidiaries with the "Ethical and Religious Directives for Catholic Health Care Facilities." The Member shall have the powers set forth in these Bylaws. In the event of a vacancy in the office of the Bishop of the Diocese of Metuchen, by retirement, death, disability or otherwise, the powers of the Member shall vest in the individual appointed by the Roman Catholic Church to assume the powers of that office until such time as a successor Bishop is appointed, and such individual shall act as the Member until such time as a successor Bishop is appointed.

Section 2. Powers of Member.

(a) The Member shall have the power to remove any or all of the Governors of the Corporation and the Trustees of the Corporation's subsidiaries, in its sole discretion, with or without cause, at any time.

(b) The Member shall have the power to appoint and remove the Chair of the Board (the "Chair"), the Vice-Chair of the Board (the "Vice-Chair"), the President and Chief Executive Officer of the Corporation, the Treasurer of the Corporation, the Secretary of the Corporation and the Assistant Secretary of the Corporation, in its sole discretion, with or without cause, at any time.

(c) The Member shall have the power to appoint and remove the Executive Director of each of the Corporation's subsidiaries, in its sole discretion, with or without cause, at any time.

(d) The Member shall have the power to exercise the power of the Corporation with respect to any of the Corporation's subsidiaries.

(e) The Member shall have the power to veto any action by the Corporation or the Corporation's Board of Governors.

ARTICLE IV

Board of Governors

Section 1. Management.

(a) Except as otherwise set forth herein, all powers of the Corporation shall be exercised by and under the authority of the Board of Governors (the "Board"), and the property, business and affairs of the Corporation shall be managed under the direction of the Board. The Board is the governing body of the Corporation with duties and responsibilities that include oversight of the clinical, financial and patient satisfaction performance of the Corporation and its subsidiaries, compared to appropriate industry benchmarks, providing resources to ensure the delivery and maintaining of quality patient care, the charge, control and management of the property, business, affairs and financial management of the Corporation and its subsidiaries, the establishment of policy, promotion of performance improvement, quality review and utilization management processes, risk management/safety, medical staff credentialing, and the provision of organizational management and planning of the subsidiaries, as appropriate. The Board shall also provide coordination and integration among the Corporation's leaders and the subsidiaries' leaders to establish policy, maintain quality care and patient safety, provide for necessary resources, and provide for organizational management and plans. The Board shall be responsible for oversight of services performed in the Hospital and in outpatient and/or ambulatory facilities operated by any subsidiaries. Subject to the powers of the Corporate Member and the Bishop as set forth herein, the Board may make such rules for its own regulation, determine the policies of the Corporation and its subsidiaries and perform all duties necessary for the transaction of the affairs of the Corporation. Subject to the powers of the Corporate Member and the Bishop as set forth herein, the Board shall ensure that the subsidiaries provide all care, treatment, and services in accordance with applicable licensure requirements, law, rules, and regulations and, in furtherance thereof may, at any time or from time to time, promulgate administrative rules and regulations (including provision for the enforcement thereof) which it deems necessary or appropriate to ensure compliance with law, financial integrity, or the proper functioning of the Corporation.

(b) The Board shall also institute procedures to provide for:

(1) orientation of newly elected Board members to Board functions and procedures;

(2) periodic re-examination of the Board's performance;

(3) a program of continuing education to be made available to all members of the Board;

(4) the authority and responsibility of each level of the organization with respect to quality of care; risk management functions; credentials review and privilege delineation; professional graduate education; planning for services; and the development and approval of the budget;

(5) annual evaluation of the Corporation and its subsidiaries performance in relation to its vision, mission, and goals; and

(6) the setting of expectations, plans, and the management of processes to measure, assess and improve the Corporation and its subsidiaries governance, management, clinical and support activities.

(c) Notwithstanding anything to the contrary in these Bylaws, the Board shall not take any of the following actions without the approval of the Member:

(1) the sale, lease or exchange of all or substantially all the property or assets of the Corporation;

(2) merger or consolidation of the Corporation with any other corporation;

(3) dissolution of the Corporation and distribution of its assets pursuant thereto; and

(4) any other matter that by law, the Certificate of Incorporation or these Bylaws requires the approval of the Member.

Section 2. Number, Term, and Election of Governors. The Board of Governors shall consist of (i) not more than twenty (20) Governors, appointed by the Member, including the Chair and the Vice Chair; (ii) the President and Chief Executive Officer of the Corporation, who shall serve ex officio, with vote; (iii) the Episcopal Vicar for the Healthcare Apostolate of the Diocese of Metuchen (the "Member's Representative"), who shall serve ex officio, with vote; and (iv) the current and immediate past president of the medical staff who shall serve ex officio with vote. The exact number of Governors shall be the number fixed from time to time by the Member. Each year at the Annual Meeting of the Board, the Board shall, subject to the approval of the Member, elect or re-elect the non-ex officio Governors to serve as Governors as needed to replace or extend the terms of Governors whose terms are expiring or as deemed appropriate by the Board in accordance with these Bylaws. Non-ex officio Governors shall be appointed for one (1), two (2), or three (3) year terms at the Annual Meeting of the Board and shall serve until their successors are elected by the Board. Except as otherwise authorized by the Member, non-ex officio Governors who have served for nine (9) successive years shall observe a lapse of one (1) year before being eligible for reelection. Notwithstanding anything to the contrary herein, the Member's Representative has no specific term but shall serve at the pleasure of the Bishop. Thus, in the event of a vacancy in the office of the Member, by retirement, death, disability or otherwise, the Member's Representative shall no longer serve on the Board or any of the Committees of the Board. Members of the Board serving by virtue of their position as president or past president of the Medical Staff shall hold office for a term concurrent with such Medical Staff officer's term of Medical Staff Office.

Section 3. Qualifications of the Governors.

(a) Governors shall be elected for their ability to participate effectively in fulfilling the responsibilities of the Board. In order to be eligible for Governorship, the person so nominated shall agree to conduct the activities and business of the Corporation under the purview of and in accord with Roman Catholic philosophy and the Ethical and Religious Directives for Catholic Health Facilities as adopted by the National Conference of Catholic Bishops and the United States Catholic Conference and implemented by the Bishop. This shall include, but not be limited to, the belief in the right to life and the inviolability of the human person and the unqualified opposition to abortion.

(b) The principal qualifications of a Governor shall be commitment to community health and welfare, and an open-mindedness about necessary internal and external changes for the Corporation. A Governor shall possess, inter alia, the qualities of honesty, integrity, a sense of justice and a sound moral character. The Board may, from time to time, identify such further qualifications for Governorship as they deem appropriate.

(c) Each newly appointed Governor shall be required to acknowledge in writing his agreement to manage the business and affairs of the Corporation pursuant to the Certificate of Incorporation and the Bylaws of the Corporation.

Section 4. Honorary Governors. The Board may from time to time elect certain individuals to be Honorary Governors in recognition of meritorious or faithful service to the Corporation or its subsidiaries or in recognition of distinguished achievement. Honorary Governors may attend meetings of the Board on invitation by the Board, but shall not vote or be counted towards a quorum, nor shall they have any other rights associated with Board membership.

Section 5. Regular and Annual Meetings. Regular meetings of the Board shall be held not less often than quarterly at the principal place of business of the Corporation or such other place and time as shall be designated by the Chair. The Annual Meeting shall be held in January at the principal place of business of the Corporation or other convenient location and on such date and time as designated by the Chair. The Annual Meeting shall be the meeting of the Board of this Corporation at which the Board shall consider the budget of the Corporation and any other matters as may be brought to the attention of the Board by the Member. Business to be transacted at any regular meeting of the Board shall not be limited to those matters set forth in the notice of meeting.

Section 6. Special Meetings. Special meetings of the Board may be called at any time by the Member, the Chair, the President and Chief Executive Officer, or upon receipt of the written request of any four (4) or more Governors. The business to be transacted at any special meeting shall be limited to those items of business set forth in this notice of the meeting. Written notice of any special meeting, together with a proposed agenda, shall be sent at least forty-eight (48) hours prior thereto to each Governor.

Section 7. Notice of Board Meetings. Governors shall be given written notice of each meeting of the Board and such notice shall set forth the time and place of the meeting and notice of the matters of business to be transacted. Such notice shall be signed by the Secretary, or the Secretary's designee, and delivered to each Governor either personally or by mail, via facsimile, or electronic mail to his residence or place of business as listed in the President and Chief Executive Officer's office not less than one business day prior to such meeting.

Section 8. Waiver of Notice. Whenever any notice whatsoever is required to be given to any Governor under these Bylaws or by law, a waiver thereof in writing, signed at any time, whether before or after the time of the meeting, by the Governor entitled to such notice, shall be deemed equivalent to the giving of such notice. The attendance of a Governor at a meeting shall constitute a waiver of notice of such meeting, except where a Governor attends a meeting and objects thereat to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular meeting or special meeting of the Board, other than a proposed agenda, need be specified in the notice or waiver of notice of such meeting unless specifically required by law or these Bylaws.

Section 9. Voting. Except as otherwise permitted or required by these Bylaws, a vote of a majority of the Governors and the Chair, or his designee, at any meeting at which a quorum is present shall be required for approval of any issue that may properly come before the Board of Governors. Unless the Chair determines otherwise, the Vice-Chair of the Board shall be the Chair's designee in the Chair's absence. Proxy voting shall not be permitted.

Section 10. Quorum. A majority of the Governors which includes the Chair or his/her designee shall constitute a quorum for the transaction of business. The

Chair or his/her designee must be present to constitute a quorum. Unless the Chair determines otherwise, the President and Chief Executive Officer shall be the Chair's designee in the Chair's absence. In addition to those Governors who are actually present at a meeting, Governors shall be deemed as present at such meeting if a telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time is used. The act of a majority of the Governors which includes the Chair or his/her designee, present and voting at a meeting at which a quorum is present, shall be the act of the Board.

Section 11. Compensation; Reimbursement for Expenses Incurred by Governors. No Governor shall receive compensation for serving as such. A Governor may be reimbursed for any monetary expenses incurred by said Governor arising out of or during the course of the faithful discharge of his or her duties as a Governor. Payment shall be made upon receipt of a verified voucher submitted to the President and Chief Executive Officer and approved by the Chair.

Section 12. Action by Governors Without Meeting. Upon direction of the Chair or his/her designee, any action required or permitted to be taken at a meeting of the Board or a Board committee may be taken without a meeting upon the written consent of two-thirds (2/3) of the Governors of the Board or of such committee, as applicable. The written consents of the Governors consenting thereto shall be filed with the minutes of the Board or Board committee, as the case may be.

ARTICLE V

Committees of the Board

Section 1. General. The Board may delegate such of its powers as it considers advisable, except those powers which by law, the Certificate of Incorporation, or these Bylaws may not be so delegated, to such committees as the Board, or these Bylaws, may from time to time establish. All committees shall serve at the pleasure of the Board. The Chair shall appoint the members and the chairs of such standing committees of the Board as are provided for in these Bylaws. Unless otherwise specified, committee members may include persons other than Board members who shall serve in an advisory capacity to the voting members. In addition, the Chair may also appoint the members and chairpersons of such special committees as the Board or the Chair may establish. The Chair and the President and Chief Executive Officer shall be members of all committees ex officio, but without vote unless specifically named as a member of a particular committee, and the

Member's Representative shall be a member of all committees ex officio with vote.

Section 2. Limitations on Powers of Committees. No Committee of the Board shall (1) make, alter or repeal any bylaw of the Corporation; (2) elect or appoint any Governor of the Corporation or of any subsidiary, or remove any Officer or Governor of the Corporation or of any subsidiary; (3) submit to the Member any action that requires the Member's approval; or (4) amend or repeal any resolution previously adopted by the Board or the board of any subsidiary.

Section 3. Standing Committees. Standing committees shall be those named in subsequent sections of this Article V and others created by resolution of the Board from time to time, and shall have and may exercise all of the powers provided for in these Bylaws or in the resolutions creating them. Standing committees shall become thoroughly informed of their duties, give careful consideration to matters of policy, and make recommendations to the Executive Committee and to the Board. All committees shall maintain a permanent record of their findings, proceedings and actions and make regular reports thereof to the President and Chief Executive Officer and the Board. Unless otherwise specified in these Bylaws or in Board resolutions, standing committees shall meet at least quarterly.

Section 4. Special Committees. Special committees may be established by resolution of the Board as the Board deems necessary or convenient. The purpose, duties, number of members and reporting requirements of each such special committee shall be specified in the resolution establishing such committee. In addition, special committees may be appointed by the Chair.

Section 5. Executive Committee.

(a) Composition. The Executive Committee shall be limited to Governors and shall consist of the Chair, the President and Chief Executive Officer of the Corporation, and the Member's Representative, who shall each serve ex officio with vote, and up to six (6) additional Governors elected by the Board to serve on the Executive Committee.

(b) Duties. The Executive Committee shall:

(1) transact all business of the Board between meetings of the Board, subject to any limitations thereon set forth in these Bylaws, by law or otherwise imposed by the Board;

(2) coordinate recommendations from other committees of the Board and make recommendations to the Board on all matters of policy, keeping the Board advised at all times concerning the state of the Corporation's affairs;

(3) conduct an assessment of the performance of all non – ex officio Governors based, in part, on a self-assessment questionnaire distributed to each non–ex officio Governor, and make recommendations (non-binding) to the Board for non-ex officio Governors to be appointed and/or reappointed (committee members in the last year of their terms shall not partake in this recommendation process);

(4) review these Bylaws once a year and propose revisions to them if necessary or desirable to ensure compliance with applicable statutes, rules and regulations which govern the Corporation; and

(5) take such other actions as are necessary or convenient to ensure that all members of the Board understand and fulfill their responsibilities.

Section 6. Finance Committee.

(a) Composition.

The Finance Committee shall consist of the Treasurer (i.e., the Chief Financial Officer of the Corporation), the President and Chief Executive Officer of the Corporation, who shall each serve ex officio with vote, and up to seven (7) other Governors elected by the Board.

(b) Duties.

In addition to its general responsibility for overseeing the financial condition of the Corporation and making recommendations to the Board thereon, the Finance Committee shall:

(1) cause to be prepared and submit to the Board for approval, no later than its last meeting before the end of each fiscal year, a budget showing the expected receipts, income and expense of the Corporation and its subsidiaries for the ensuing year, and a long-term capital expenditure plan which reflects the Corporation's and its subsidiaries goals and objectives and, at a minimum, meets applicable laws and regulation;

(2) cause to be prepared a resolution of fiscal policy for the ensuing year, which will include, but not be limited to, treatment of depreciation, debt retirement, auditing, handling of fund accounts, employee bonding requirements, purchasing authorization and the subsidiaries' rate structures;

(3) see to it that all endowment and trust funds are properly invested, require prompt reports concerning such investments, and that income therefrom, after deduction of legitimate expenses, is paid into the proper fund of the Corporation and its subsidiaries and that both principal and income are used in accordance with the terms of the trusts; and

(4) perform any and all other functions and take any and all other actions as may be directed by the Board from time to time.

Section 7. Quality and Patient Safety Committee.

(a) Composition. The Quality and Patient Safety Committee shall consist of two (2) individuals designated by the Member, three (3) Governors appointed by the Chair, the Member's Representative, the Co-Chief Quality Officers of the Corporation and the Chief Nursing Officer of the Hospital. The Committee may also include additional persons elected by the Board, who need not be Governors, who are employees of the Corporation or its affiliates, members of the Medical/Dental Staff of the Hospital, or who are from the community served by the Corporation.

(b) Duties. The Quality and Patient Safety Committee shall have oversight of all patient care, patient safety and quality of service activities throughout the Corporation and its subsidiaries. The Quality Committee shall review all reports from the Performance Improvement Committee, the Patient Safety Committee, the Continuous Quality Improvement Committee and the Environment of Care Committee of the Hospital, and any other quality/patient safety related committees of any subsidiaries, including any committees hereafter formed. The Co-Chief Quality Officers or their designees shall report the following to the Quality Committee at the Committee's discretion:

All quality initiatives they undertake;

Serious occurrence meetings;

Sentinel Events;

All reportable events and any related documentation submitted to the regulatory agency;

All regulatory investigations related to quality of care and/or patient satisfaction issues; and

Any other serious patient safety issue.

The Quality and Patient Safety Committee shall monitor all quality and patient safety initiatives throughout the System and shall consider their impact on the Corporation's available resources. When indicated, the Committee shall seek and consider input from specific populations served by quality and safety initiatives. The Committee shall review and approve the clinical practice guidelines used when designing or improving processes. The Quality and Patient Safety shall also perform any and all other functions and take any and all other actions as may be directed by the Board from time to time.

Section 8. Audit Committee.

(a) Purpose. To assist the Board in fulfilling its oversight responsibilities for the financial reporting process, the system of internal control over financial reporting, the audit process, and each of the Corporation's and the affiliated corporations' processes for monitoring compliance with applicable laws, regulations and policies.

(b) Composition. The Audit Committee shall consist of a least three (3) and no more than seven (7) independent Governors. The Board will elect the members of the Audit Committee. The committee chair shall be the Member's Representative.

(c) Meetings. The committee shall meet at least four (4) times a year, with authority to convene additional meetings, as circumstances require. All committee members are expected to attend each meeting, in person or via tele- or video-conference. The Audit Committee will periodically hold executive sessions without management of the Corporation or affiliates present. Outside auditors and other independent consultants may be invited to attend such executive sessions. The Audit Committee shall meet periodically, but at least at least once per year with each of the affiliated corporations' auditors (as the case may be) without management present. Meeting agendas will be prepared and provided in advance to members, along with appropriate briefing materials. Minutes will be prepared and maintained.

(d) Responsibilities. The Audit Committee shall:

- make recommendations to the Board regarding the hiring and termination of the Corporation's and any affiliate's outside auditors and establishing the terms of the outside auditors' engagements;
- establish, propose or carry out policies relating to non-audit services provided by the outside auditors to the Corporation and its affiliates and other aspects of the corporation-auditor relationship that potentially could affect the auditor's independence;
- review and comment on the adequacy of the Corporation's and affiliates' financial disclosure and internal controls;
- review significant accounting and reporting issues, including complex or unusual transactions and highly judgmental areas, any recent professional and regulatory pronouncements, and understand their impact on the financial statements;

- review with management and the external auditors the results of financial audits of the Corporation and affiliates, including any difficulties encountered;
- review and when appropriate, recommend to the Executive Committee approval of the annual Auditor's Report;
- review the annual financial statements, and consider whether they are complete, consistent with information known to committee members, and reflect appropriate accounting principles;
- review other sections of the annual report and regulated regulatory filings before release and consider the accuracy and completeness of the information;
- review with management and the external auditors all matters required to be communicated to the committee under generally accepted auditing standards;
- understand how management develops interim financial information, and the nature and extent of internal and external auditor involvement;
- review interim financial reports with management and the external auditors, before filing with regulators, and consider whether they are complete and consistent with the information known to committee members;
- consider the effectiveness of the company's internal control over annual and interim financial reporting, including information technology security and control;
- understand the scope of internal and external auditors' review of internal control over financial report, and obtain reports on significant findings and recommendations, together with management's responses;
- review with management and the internal audit director the charter, plans, activities, staffing and organizational structure of the internal audit function;
- ensure there are no justified restrictions or limitations, and review and concur in the appointment, replacement or dismissal of the internal audit director;
- review the effectiveness of the internal audit function, including compliance with The Institute of Internal Auditors' Standards for the Professional Practice of Internal Auditing;
- on a regular basis, meet separately with the director of internal audit to discuss any matters that the committee or internal audit believes should be discussed privately;
- review the external auditors' proposed audit scope and approach, including coordination of audit effort with internal audit;
- review the performance of the external auditors, and exercise final approval on the appointment or discharge of the auditors;
- review and confirm the independence of the external auditors by obtaining statements from the auditors on relationships between the auditors and the

company, including non-audit services, and discussing the relationships with the auditors;

- on a regular basis, meet separately with the external auditors to discuss any matters that the committee or auditors believe should be discussed privately;
- review the effectiveness of the system for monitoring compliance with laws and regulations and the results of management's investigation and follow-up (including disciplinary action) of any instances of noncompliance;
- review the findings of any examinations by regulatory agencies, and any auditor observations;
- review the process for communicating the code of conduct to company personnel, and for monitoring compliance therewith;
- obtain regular updates from management and company legal counsel regarding compliance matters;
- perform other activities related to this charter as requested by the Board;
- institute and oversee special investigations as needed;
- review and assess the adequacy of the committee charter annually, requesting Board approval for proposed changes;
- evaluate the committee's and individual members' performance on a regular basis; and
- perform any and all other functions and take any and all other actions as may be directed by the Board from time to time.

(e) Reporting Responsibilities. The Audit Committee shall:

- report annually to the Board regarding the activities and findings of the committee;
- regularly report to the Board about committee activities, issues and related recommendations;
- provide an open avenue of communication between internal audit, the external auditors and the Board; and
- review any other reports the Corporation issues that relate to committee responsibilities.

(f) Reporting Responsibilities. The Audit Committee is authorized, and shall be provided with sufficient funding by the Board, to engage independent outside legal and accounting advisors when deemed necessary and advisable by the committee.

Section 9. Investment Committee.

(a) Composition. The Investment Committee shall consist of four (4) Governors appointed by the Member, and the Treasurer, who shall serve ex officio, with vote. The Member shall appoint one of the non-ex officio committee members to act as the Chair of the Investment Committee. The

Investment Committee may also include additional persons, who need not be Governors, who are employees of the Corporation or any affiliate, members of the Medical/ Dental Staff of the Hospital or who are from the community served by the Corporation.

(b) Duties. The Investment Committee shall:

- meet on a quarterly basis to review the investment portfolio;
- review the designation of the funds in the investment portfolio;
- meet with the various investment managers to determine whether the funds are being invested in investment vehicles that produce a high rate of return;
- oversee the investments of the Corporation's retirement plans;
- select investment managers in accordance with the Catholic Ethical and Religious Directives;
- regularly report to the Board their findings or recommendations; and
- perform any and all other functions and take any and all other actions as may be directed by the Board from time to time.

Section 10. Facilities Committee.

(a) Composition.

The Facilities Committee shall consist of the Chair, who shall serve ex officio with vote, the Corporation's Vice President of Facilities, who shall serve ex officio without vote, and not more than seven (7) additional Governors. The Committee may also include additional persons elected by the Board, who need not be Governors, who are employees of the Corporation or its affiliates, members of the Medical/Dental Staff of the Hospital or who are from the community served by the Corporation.

(b) Duties.

The Facilities Committee shall:

(1) consider and make recommendations to the Board concerning major matters relating to construction, alteration, improvement and expansion of the facilities of the Corporation;

(2) advise and where appropriate make recommendations on investments in real estate of the Corporation; and

(3) perform any and all other functions and take any and all other actions as may be directed by the Board from time to time.

Section 11. Strategy and Planning Committee.

(a) Composition.

The Strategy and Planning Committee shall consist of the Chair, who shall serve ex officio with vote, the Corporation's Vice President for Strategic Planning who shall serve ex officio without vote, and not more than seven (7) additional Governors. The Committee may also include additional persons elected by the Board, who need not be Governors, who are employees of the Corporation or its affiliates, members of the Medical/Dental Staff of the Hospital or who are from the community served by the Corporation.

(b) Duties.

The Strategy and Planning Committee shall:

(1) Review with management the process for development, approval and modification of the Corporation's long-term and short-term strategic plans and review, approve and modify on an ongoing basis, if necessary, the Corporation's long-term and short-term strategic plans;

(2) Review with management the key issues, options and external developments impacting the Corporation's strategy;

(3) Enumerate operating goals and objectives for each major business activity of the Corporation and for all new business activities of the Corporation, which must include plans for maximizing activities that enhance the carrying out of the mission of the Corporation;

(4) Facilitate an annual review of the Corporation's strategy and strategic options; and

(5) Address business needs as well as market opportunities and threats identified through ongoing market research and consultations with physicians, employees and other members of the Corporation's community; and

(6) Perform any and all other functions and take any and all other actions as may be directed by the Board from time to time.

Section 12. Marketing Committee.

(a) Composition.

The Marketing Committee shall consist of the Chair, who shall serve ex officio with vote, the Corporation's Vice President for Marketing who shall serve ex officio without vote, and not more than seven (7) additional Governors. The Committee may also include additional persons elected by the Board, who need not be Governors, who are employees of the

Corporation or its affiliates or members of the Medical/Dental Staff of the Hospital and who are from the community served by the Corporation.

(b) Duties.

The Marketing Committee shall:

(1) Review the Corporation's marketing plans and advertising strategies and advise on areas of emphasis for the advertising budget;

(2) Monitor the Corporation's public image and brand strength;

(3) Review and assess the effectiveness of the advertising efforts and expenditures for each completed fiscal year;

(4) Review and monitor the Corporation's service lines and new service development;

(5) Make recommendations to management on appropriate and effective communications, marketing messages, and public relations; and

(6) Perform any and all other functions and take any and all other actions as may be directed by the Board from time to time.

Section 13. Retirement Plan Committee.

(a) Composition.

The Retirement Plan Committee shall consist of the Chair, who shall serve ex officio with vote, the Corporation's Chief Financial Officer and the Corporation's Vice President for Human Resources, each of whom shall serve ex officio without vote, and not more than seven (7) additional Governors. The Committee may also include additional persons elected by the Board, who need not be Governors, who are employees of the Corporation or its affiliates or members of the Medical/Dental Staff of the Hospital and who are from the community served by the Corporation.

(b) Duties.

The Retirement Plan Committee shall:

(1) Possess overall responsibility for the oversight of the retirement plans sponsored by the Corporation;

(2) Oversee the management of plan assets relating to the defined benefits pension and other retirement and savings plans maintained by the Corporation;

(3) Review the Corporation's policy for funding its retirement plans;

(4) Receive and review periodic reports on the administration and operation of the Corporation's retirement plans to ensure the achievement of their intended purposes;

(5) Act on behalf of the Board with respect to the appointment and termination of Governors, third party administrators, investment managers, named fiduciaries or other positions relating to the retirement plans;

(6) Approve on behalf of the Board any amendment to the Corporation's retirement plans or do any other task with respect to the retirement plans that requires action by the Board;

(7) Receive periodic briefings regarding compliance with funding and other regulatory requirements, including the Employee Retirement Income Security Act of 1974, as amended;

(8) Review periodically the performance of any third parties engaged in the administration, management or investment of funds of any Corporation retirement plan, and to review the recommendations of management with respect to the engagement or termination of any third parties; and

(9) Perform any and all other functions and take any and all other actions as may be directed by the Board from time to time.

Section 14. Compensation Committee.

(a) Composition.

The Compensation Committee shall consist of the Chair, who shall serve ex officio with vote, and at least two (2) additional Governors, but not more than five (5). The Committee may also include additional persons elected by the Board, who need not be Governors, and who are from the community served by the Corporation.

(b) Duties.

The Compensation Committee shall:

(1) Establish goals, objectives and performance standards for executive officers of the Corporation and its subsidiaries;

(2) Review and recommend to the Board the compensation (including base salary, incentive compensation and other benefits) of the Chief Executive Officer, considering the performance by the Chief Executive Officer relative to goals, objectives and performance standards set by the Compensation Committee;

(3) Review and recommend to the Board the compensation (including base salary, incentive compensation and other benefits) of each other executive officer, including but not limited to the Chief Operating Officer and all Vice-Presidents (but not those executive officers whose compensation is set by the Chief Executive Officer or otherwise), considering the performance by each executive officer relative to applicable goals and objectives set by the Compensation Committee;

(4) Recommend to the Board for approval a determination of those officers whose compensation will be set by the Chief Executive Officer or other executive officers. Review and evaluate the compensation of those officers of the Corporation whose compensation is not set by the Board;

(5) Review and recommend to the Board for approval management incentive plans and other executive compensation plans. Recommend to the Board any necessary or desirable changes to such plans;

(6) Assure that the Corporation's compensation practices are in compliance with applicable laws and regulations;

(7) Retain such advisors, including independent counsel and/or compensation experts, as it may deem advisable; and

(8) Perform any and all other functions and take any and all other actions as may be directed by the Board from time to time.

Section 15. Pastoral Care Committee.

(a) Composition.

The Pastoral Care Committee shall consist of the Chair, who shall serve ex officio with vote, the Member's Representative who shall serve ex officio with vote, and not more than five (5) additional Governors.

(b) Duties.

The Pastoral Care Committee shall

(1) Establish goals and objectives and provide guidance to the Pastoral Care Department of the Corporation in order to foster and address the varied spiritual needs of patients, employees, health care professionals and other members of the Corporation's communities;

(2) Ensure that the Corporation operates in accordance with its Catholic mission; and

(3) Perform any and all other functions and take any and all other actions as may be directed by the Board from time to time.

Section 16. Committee Members' Term of Office. Each member of each committee of the Board shall be appointed for one year (unless otherwise specified in these Bylaws), and shall continue to act as a committee member until his or her successor is appointed unless the committee of which he is a member shall be sooner terminated by the Board or until his death, resignation or removal, whichever first occurs.

Section 17. Committee Meetings. Meetings of any committee of the Board may be called by the chair of such committee by giving notice of such meeting, setting forth its time and place, delivered personally or by mail or telephone to the residence or place of business of the committee member as listed in the Chief Executive Officer's office at least twenty-four (24) hours prior to such meeting. Unless otherwise provided in these Bylaws, a majority of the members of any committee shall constitute a quorum for the transaction of business. After a quorum has been established, the subsequent withdrawal of committee members from the meeting so as to reduce the number of committee members present to fewer than the number required for a quorum shall not affect the validity of any action taken at the meeting. Each committee shall keep minutes of its meetings and report to the Board as necessary with recommendations.

Section 18. Resignation or Removal of Committee Members. A member of any committee may resign at any time by tendering his resignation in writing to the Member. The Board may, by a majority vote, remove any non-ex officio member from any committee, at any time, with or without cause.

ARTICLE VI

Conflicts of Interest

The Corporation shall adopt, and shall at all times maintain a policy addressing the identification, management and handling of conflicts of interest and potential conflicts of interest posed by relationships and affiliations of the Corporation's Governors, officers, and senior managers. The conflict of interest policy of the Corporation shall be used as a model for the Corporation's subsidiaries and affiliates.

ARTICLE VII

Principal Officers

Section 1. Number of Officers. The officers of the Corporation shall be a Chair, a Vice-Chair, a President and Chief Executive Officer, a Secretary, an Assistant Secretary, and a Treasurer. The Chair, Vice-Chair, President and Chief Executive Officer, the Secretary, the Assistant Secretary, and the Treasurer shall be appointed by the Member, and they shall serve in their respective capacities until their successors are appointed by the Member. The President and Chief Executive Officer shall appoint all other officers as he or she deems necessary to conduct the business of the Corporation.

Section 2. Vacancies. A vacancy in the office of the Chair, the Vice-Chair, the President and Chief Executive Officer of the Corporation, the Secretary of the Corporation, the Assistant Secretary of the Corporation or the Treasurer of the Corporation shall be filled by the Member. A vacancy in any office other than any office appointed by the Member, shall be filled by the President and Chief Executive Officer, and any such officer so appointed shall hold office until his or her successor shall be appointed by the President and Chief Executive Officer.

Section 3. Resignation and Removal. In accordance with Article III, Section 2(b), the Member may remove the Chair, the Vice-Chair, the President and Chief Executive Officer, the Secretary, the Assistant Secretary or the Treasurer, in its sole discretion, with or without cause, at any time. Any officer appointed by the President and Chief Executive Officer may be removed by the President and Chief Executive Officer at his or her discretion, with or without cause, at any time. Such removal shall be without prejudice to contract rights, if any, of the person so removed. Election or appointment of an officer shall not of itself create contract rights.

ARTICLE VIII

Duties of Principal Officers and Designation of Other Officers

Section 1. Chair. The Chair shall be appointed by the Member, and shall preside at all meetings of the Board of Governors.

Section 2. Vice-Chair. The Vice-Chair shall be appointed by the Member. The Vice-Chair shall, in the absence or at the direction of the Chair, perform the duties of the Chair and shall have all powers and responsibilities of the office of the Chair.

Section 3. President and Chief Executive Officer. The President and Chief Executive Officer of the Corporation shall be appointed by the Member. Subject to the policies established by, and the directives of, the Board of Governors, the President and Chief Executive Officer shall be the principal executive officer of the Corporation and shall, in general, supervise and control all the business and affairs of the Corporation.

Section 4. Secretary. The Secretary shall be appointed by the Member and may be an employee of the Corporation recommended by the President and Chief Executive Officer. The Secretary shall keep or cause to be kept the minutes of the meetings of the Board of Governors and the corporate records in one or more books provided for that purpose; give or cause to be given all notices in accordance the provisions of these Bylaws or as required by law; affix or cause to be affixed the seal of the Corporation to all documents, the execution of which on behalf of the Corporation under its seal is duly authorized; keep or cause to be kept a register of the post office address of each Governor as furnished to the Secretary by each Governor; attest to the execution by the Chair or the President and Chief Executive Officer of such deeds, mortgages, bonds, contracts or other instruments, the issuance of which shall have been authorized by resolution of the Board of Governors, and perform or cause to be performed all duties incidental to the office of Secretary and such other duties as from time to time may be assigned to him or her by the Member, the President and Chief Executive Officer, or the Chair on behalf of the Board of Governors.

Section 5. Assistant Secretary. The Assistant Secretary shall be appointed by the Member. The Assistant Secretary shall, in the absence or at the direction of the Secretary, perform the duties of the Secretary and shall have all powers and responsibilities of the office of the Secretary.

Section 6. Treasurer. The Chief Financial Officer of the Corporation shall be the Treasurer of the Corporation, ex officio. The Treasurer shall be responsible for all funds of the Corporation and shall keep or cause to be kept a true and accurate accounting of the financial transactions of the Corporation. The Treasurer shall be bonded in an amount approved by the Board of Governors. The Treasurer shall perform or cause to be performed all duties incidental to the office of Treasurer and such other duties as from time to time may be assigned to him or her by the Member, the Member's Representative, the President and Chief Executive Officer, or the Chair on behalf of the Board of Governors.

ARTICLE IX

Indemnification

Section 1. For purposes of this Article IX the following terms shall have the following meanings:

(a) "Corporate Agent" means any person who is or was a Trustee, officer, employee or agent of the Corporation or of any constituent corporation absorbed by the Corporation in a consolidation or merger and any person who is or was a Governor, trustee, officer, employee or agent of any Other Enterprise, serving as such at the request of the Corporation, or of any such constituent corporation, or the legal representative of any such Governor, trustee, officer, employee or agent;

(b) "Other Enterprise" means any domestic corporation, foreign corporation, or other business entity, other than the Corporation or any employee benefit plan or trust;

(c) "Expenses" means reasonable costs, disbursements and counsel fees;

(d) "Liabilities" means amounts paid or incurred in satisfaction of settlements, judgments, fines and penalties; and

(e) "Proceeding" means any pending, threatened or completed civil, criminal, administrative or arbitrative action, suit or proceeding, and any appeal therein and any inquiry or investigation which could lead to the action, suit or proceeding.

Section 2. The Corporation shall indemnify a Corporate Agent against the Corporate Agent's Expenses and Liabilities in connection with any Proceeding involving the Corporate Agent because the Corporate Agent is or was a Corporate Agent, other than a proceeding by or in the right of the Corporation, if:

(a) the Corporate Agent acted in good faith and in a manner which the Corporate Agent reasonably believed to be in or not opposed to the best interests of the Corporation; and

(b) with respect to any criminal proceeding, the Corporate Agent had no reasonable cause to believe his/her conduct was unlawful.

The termination of any Proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not of itself create a presumption that the Corporate Agent did not meet the applicable standards of conduct set forth in paragraphs (a) and (b) of this Section 2.

Section 3. The Corporation shall indemnify a Corporate Agent against the Corporate Agent's Expenses in connection with any Proceeding by or in the right of the Corporation to procure a judgment in its favor which involves the Corporate Agent by reason of being or having been the Corporate Agent, if the Corporate Agent acted in good faith and in a manner which the Corporate Agent reasonably believed to be in or not opposed to the best interests of the Corporation. However, in such Proceeding no indemnification shall be provided in respect of any claim, issue or matter as to which the Corporate Agent shall have been adjudged to be liable to the Corporation, unless and only to the extent that the Superior Court of New Jersey or other court of competent jurisdiction in which the Proceeding was brought shall determine upon application that despite the adjudication of liability, but in view of all circumstances of the case, the Corporate Agent is fairly and reasonably entitled to indemnity for such

Expenses as the Superior Court of New Jersey or such other court shall deem proper.

Section 4. The Corporation shall indemnify a Corporate Agent against his/her Expenses to the extent that the Corporate Agent has been successful on the merits or otherwise in any Proceeding referred to in Sections 2 and 3 of this Article IX or in defense of any claim, issue or matter therein.

Section 5. Any indemnification under Section 2 of this Article IX and, unless ordered by a court, under Section 3 of this Article IX, may be made by the Corporation only as authorized in a specific case upon a determination that indemnification is proper in the circumstances because the Corporate Agent met the applicable standard of conduct set forth in Section 2 or Section 3 of this Article IX. Such determination shall be made:

(a) By the Board or a committee thereof at a meeting at which is present a quorum determined without including Governors who were parties to or otherwise involved in the Proceeding, acting by a majority vote of Governors who were not parties to or otherwise involved in the Proceeding;

(b) If a quorum is not obtainable, or, even if obtainable and the quorum of the Board or committee by a majority vote of the disinterested Governors so directs, by independent legal counsel, in a written opinion, the counsel to be designated by the Board; or

(c) By the Member.

Section 6. Expenses incurred by a Corporate Agent in connection with a Proceeding may be paid by the Corporation in advance of the final disposition of the Proceeding as authorized by the Board upon receipt of an undertaking by or on behalf of the Corporate Agent to repay the advanced amount if it shall ultimately be determined that the Corporate Agent is not entitled to be indemnified as provided in this Article IX.

Section 7. The foregoing provisions of this Article IX shall be deemed to be a contract between the Corporation and each Corporate Agent, in such a capacity at any time while this Article IX is in effect. Any repeal or modification of this Article IX or any applicable provision of the law of New Jersey shall not affect any rights or obligations then existing as it relates to any action or proceeding theretofore or thereafter brought or threatened based in whole or in part upon any such state of facts. However, the right of indemnification provided in this Article IX shall not be deemed exclusive of any other rights to which any Corporate Agent may now be or hereafter become entitled apart from this Article IX.

Section 8. The indemnification and advancement of Expenses provided by or granted pursuant to the other Sections of this Article IX shall not exclude any other rights, including the right to be indemnified against liabilities and Expenses incurred in Proceedings by or in the right of the Corporation, to which a Corporate Agent may be entitled under the Certificate of Incorporation, these Bylaws, or any agreement, vote of the Member, or otherwise; provided that no indemnification shall be made to or on behalf of a Corporate Agent if a judgment or other final adjudication adverse to the Corporate Agent establishes that his acts or omissions (a) were in breach of his duty of loyalty to the Corporation or its Member, (b) were not in good faith or involved a knowing violation of law or (c) resulted in receipt by the Corporate Agent of an improper personal benefit.

Section 9. The Corporation shall have the power (but not any obligation) to purchase and maintain insurance on behalf of any Corporate Agent against any Expenses incurred in any Proceeding and any liabilities asserted against him by reason of his being or having been a Corporate Agent, whether or not the Corporation would have the power to indemnify him against such Expenses and liabilities under the provisions of this Article IX. The Corporation may purchase such insurance from, or such insurance may be reinsured in whole or in part by, an insurer owned by or otherwise affiliated with the Corporation, whether or not such insurer does business with other insureds.

Section 10. The powers granted by this Article IX may be exercised by the Corporation notwithstanding the absence of any provision in its Certificate of Incorporation authorizing the exercise of such powers.

Section 11. Except as required by Section 4 of this Article IX, no indemnification shall be made or Expenses advanced by the Corporation under this Article IX, and none shall be ordered by a court, if such action would be inconsistent with a provision of the Certificate of Incorporation, a Bylaw, a resolution of the Board or of the Member, or an agreement or other proper corporate action, in effect at the time of the accrual of the alleged cause of action asserted in the Proceeding, which prohibits, limits or otherwise conditions the exercise of indemnification powers by the Corporation or the rights of indemnification to which a Corporate Agent may be entitled.

Section 12. This Article IX does not limit the Corporation's power to pay or reimburse Expenses incurred by a Corporate Agent in connection with the Corporate Agent's appearance as a witness in a Proceeding at a time when the Corporate Agent has not been made a party to the Proceeding.

Section 13. Nothing contained herein shall be construed as providing indemnification to any person in any malpractice action or proceeding arising out of or in any way connected with such person’s practice of his profession.

Section 14. No Governor of this Corporation shall be personally liable for monetary damages as such for any action taken or for any failure to take any action unless:

(a) the Governor has breached or failed to perform the duties of his office as set forth in applicable statutes (including, but not limited to N.J.S.A. 15:6-14) related to standard of care and justifiable reliance; and

(b) the breach or failure to perform constitutes self-dealing, willful misconduct or recklessness.

ARTICLE X

Miscellaneous

Section 1. Fiscal Year. The fiscal year of the Corporation shall begin on the 1st day of January of each year and end on the last day of December of each year.

Section 2. Corporate Seal. The Board of Governors shall provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the Corporation, the words "State of New Jersey" and "Corporate Seal," and the year of incorporation.

Section 3. Execution of Instruments.

(a) Unless otherwise specifically determined by the Board, these Bylaws, or otherwise required by law, formal contracts of the Corporation, promissory notes, deeds of trust, mortgages or other evidences of indebtedness of the Corporation, and other corporate instruments or documents, shall be executed, signed or endorsed by the Chief Executive Officer or other officer(s) of the Corporation or any agent(s) of the Corporation to whom the Board, by resolution, shall have delegated such power, and may have the corporate seal affixed thereto.

(b) Except as set forth in these Bylaws, endorsements for deposit of commercial paper to the credit of the Corporation in any of its duly authorized depositories may be made, without countersignature, by the Chief Financial Officer or such other officers or agents of the Corporation to whom the Board, by resolution, shall have delegated such power, or by hand stamped impression in the name of the Corporation.

(c) All checks, drafts, or other order for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to the Corporation, shall be signed or endorsed by the Chief Executive Officer, Chief Financial Officer or such other person or persons and in such manner as shall be determined from time to time by resolution of the Board.

Section 4. Deposits of Funds.

All funds of the Corporation shall be deposited from time to time to the credit of the Corporation with such banks, trust companies, or other depositories as the Board may select or as may be selected by the Chief Executive Officer, Chief Financial Officer or any other officer or officers, agent or agents of the Corporation to whom such power may be delegated from time to time by the Board.

ARTICLE XI

Dissolution

The Corporation shall be dissolved only upon the vote of two-thirds of the Board of Governors and the approval of the Member. In the event of the dissolution of the Corporation, after payment of any and all just debts and liabilities, all remaining assets shall be distributed to organizations designated by the Board of Governors, provided said organizations enjoy an exempt status under Section 501(c) (3) of the Internal Revenue Code of 1986 and amendments and successor provisions thereto.

ARTICLE XII

Amendments

These Bylaws and the Certificate of Incorporation of the Corporation may be amended only by action of the Member, except as otherwise provided by law.

THIRD AMENDMENT TO THE AMENDED AND RESTATED BYLAWS OF SAINT PETER'S HEALTHCARE SYSTEM, INC.

Pursuant to Article XII of the Amended and Restated Bylaws of Saint Peter's Healthcare System, Inc. (the "Corporation"), the Amended and Restated Bylaws of the Corporation (the "Bylaws") are hereby further amended as follows:

1. Amendments.

a) The Bylaws of the Corporation are amended by the renumbering of the existing Sections 16, 17 and 18 of Article V to now become numbered as Sections 17, 18 and 19, respectively.

b) The Bylaws of the Corporation are amended by the addition of a new *Section 16 in Article* V, which shall read as follows:

Section 16. Physician Transaction Review Committee.

(a) Composition. The Physician Transaction Review Committee shall consist only of Governors who are not members of the Medical Staff, and shall consist of at least three (3) and not more than seven (7) of such Governors, as designated by the Chair of the Board and approved by the Board.

(b) Meetings. The Physician Transaction Review Committee shall meet at least once a month and on an ad hoc basis at other times depending on the urgency of a particular Physician Transaction. Meetings may be held via teleconference if so stated in the notice of the meeting. In addition to meeting notices described in Section 18, meetings may also be noticed via email to each committee member's email address of record.

(c) Duties. The Physician Transaction Review Committee shall:

1) have the delegated authority to, and is expressly authorized to, conduct all business of the Board with regard to overseeing, reviewing and approving all "Physician Transactions" between the Corporation (or one of its subsidiaries or affiliated entities) and any "Physician", as such terms are defined in the Recruitment, Selection and Engaging in Physician Transactions Policy adopted by the Board;

2) establish any controls deemed advisable to support the fair market value of all physician compensation arrangements;

3) structure its review and approval process in a manner designed to satisfy the rebuttable presumption of reasonableness for

Physicians who may be "disqualified persons" as per the IRS's Intermediate Sanctions Rules;

4) any committee member who is not "disinterested" as per the IRS's Intermediate Sanction Rules with respect to a particular Physician Transaction shall recuse themselves from all aspects of the committee's review, discussion, consideration and approval of such Physician Transaction; and

5) perform any and all other functions and take any and all other actions as may be directed by the Board from time to time.

2. No Other Amendment. Except as modified by the above Amendments, no other term, condition or provision of the Bylaws shall be considered amended.

IN WITNESS WHEREOF, the Bishop of the Diocese of Metuchen, the sole Member of the Corporation, has approved the above Third Amendment to the Amended and Restated Bylaws of Saint Peter's Healthcare System, Inc., as evidenced by the written consent attached hereto as Exhibit A.

Exhibit A

See Attached

SAINT PETER'S HEALTHCARE SYSTEM, INC.

UNANIMOUS WRITTEN CONSENT
OF
THE SOLE MEMBER
IN LIEU OF MEETING

The undersigned, the Bishop of the Diocese of Metuchen, being the sole member ("Sole Member") of Saint Peter's Healthcare System, Inc. (the "Corporation"), pursuant to the laws of the State of New Jersey and Article XII of the bylaws of the Corporation, hereby waives a formal meeting of the members of the Corporation and hereby consents to, approves and authorizes the following actions, and hereby adopts the following resolutions pursuant to and in accordance with Section 15A:5-6 of the New Jersey Nonprofit Corporation Act (the "Act"):

WHEREAS, upon the recommendation from the Board of Governors of the Corporation, the Sole Member has determined, after consideration of all relevant facts and circumstances, that it is in the best interest of the Corporation to amend the current Amended and Restated Bylaws of the Corporation.

NOW, THEREFORE, BE IT RESOLVED, that the Third Amendment to the Amended and Restated Bylaws of the Corporation, in the form attached hereto as Exhibit A, is hereby approved.

IN WITNESS WHEREOF, the undersigned has executed this Unanimous Written Consent as of the 27 day of July, 2016.

Sole Member:

Bishop of the Diocese of Metuchen

+James F. Checchio

FIRM:33925639v4

EXHIBIT C

SILLS CUMMIS & GROSS P.C.
One Riverfront Plaza
Newark, New Jersey 07102-5400
(973) 643-7000

Attorneys for Defendants

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

LAURENCE KAPLAN, on behalf of himself, individually, and on behalf of all others similarly situated,	Civil Action No. 13-2941 (MAS) (TJB)
Plaintiff, v.	Honorable Michael A. Shipp United States District Judge
SAINT PETER'S HEALTHCARE SYSTEM, RONALD C. RAK, an individual, SUSAN BALLESTERO, an individual, GARRICK STOLDT, an individual, and JOHN and JANE DOES, each an individual, 1-20,	**REPLY CERTIFICATION OF GARRICK STOLDT** (Electronically Filed Document)
Defendants.	

GARRICK STOLDT hereby certifies as follows:

1. I am Vice President and Chief Financial Officer of Saint Peter's Healthcare System, Inc. ("Saint Peter's" or "the Corporation"), and a defendant herein. I submitted a prior certification in this matter, executed on August 12, 2013, and a Supplemental Certification executed on August 28, 2013. I submit this Reply Certification in further support of Defendants' Motion to Dismiss the

Complaint to address an inconsistency pointed out by plaintiff between my prior Certification and Saint Peter's IRS Form 990, filed earlier this year with the Internal Revenue Service.

2. My prior Certification set forth the corporate structure of the Corporation and powers of the Bishop of the Diocese of Metuchen (the "Bishop"). Among other things, it noted that the sole member of the Corporation is the Bishop (*Cert.* at ¶ 4); that the Bishop appoints all members of the Board of Governors except two (*Cert.* at ¶ 9); that the Bishop has the power to remove any and all Governors of the Board, and the Trustees of the Corporation's subsidiaries; and that the Bishop has the power to veto any action by the Corporation or its Board. (*Cert.* at ¶ 7). All of these statements were supported by citations to the Corporation's governing documents, either its Certificate of Incorporation or its By-laws.

3. I am advised that plaintiff's Brief alleges an inconsistency between my prior Certification on the one hand and answers provided on Saint Peter's 2011 IRS Form 990 with respect to its governing structure. In particular, the Brief points out that in Part VI, answers to questions 6, 7a and 7b indicated that the Corporation did not have members, that the Corporation did not have members who had the power to elect or appoint one or more members of the governing

body, and did not have governance decisions reserved to or subject to approval by members. Upon review of this form, I have determined that these boxes were checked incorrectly because they are inconsistent with Saint Peter's governing documents. As set forth in my prior Certification, Saint Peter's Certificate of Incorporation and Article III, Section 1 of its By-laws expressly state that the Bishop of Metuchen is Saint Peter's sole corporate member, with the powers set forth in the By-laws. Article III, Section 2(a) of the By-laws provides that the Bishop has the power to remove any and all members of Saint Peter's Board of Governors or its subsidiaries' Board of Trustees at any time in his sole discretion. Article III, Section 2(b) provides that the Bishop appoints and removes, *inter alia*, the Chair of the Board and the CEO in his sole discretion. Article III, Section 1(c) and (d) provide that the Bishop appoints and removes the Executive Directors of Saint Peter's subsidiaries at any time, for any reason, in his sole discretion, and that he may directly exercise the powers of Saint Peter's over any subsidiary in his sole discretion. Article III, Section 2(e) gives the Bishop the power to veto any action of the Board of Governors. Article IV, Section 2 provides that the annual election or re-election of members of the Board of Governors by the Board is "subject to the approval of the Member," i.e. the Bishop. The Certificate of Incorporation and By-laws are Saint Peter's authoritative governing documents. (*Stoldt Cert.*, Exh. A and B). It follows that the answers to Questions 6, 7a and 7b on the 2011 Form 990 were inaccurate insofar as they stated that Saint Peter's does not have a member, does not have a member with authority to appoint members of the governing body, or that the decisions of the governing body were not subject to approval by a Member. I have therefore directed that Saint Peter's file an amended Form 990 that accurately reflects its governance and organizational structure.

4. The 2011 Form 990 with supporting schedules consists of 61 pages and was prepared by our accountants, WithumSmith+Brown, P.C. The Governance Section, Part VI, contains a series of questions seeking 'Yes' or 'No' answers by completion of x's in the appropriate box. Pages 3-6 of IRS Form 990 contain a series of approximately 118 questions, including subparts, seeking yes or no answers. These three boxes were inadvertently checked incorrectly. The corporate structure and powers of the Bishop are correctly stated in my prior Certification, which also attaches the underlying governing documents. There can be no dispute about these powers and structure.

5. The Brief also argues that the statement contained in Schedule O of the 2011 Form 990 containing the Community Benefit statement is somehow inconsistent with my prior Certification. This is not the case. That Community Benefit statement points to control of Saint Peter's University Hospital, a

subsidiary of the Corporation, resting with its Board of Trustees, which is comprised of independent civil leaders and other prominent members of the community. (*Bunch Decl.*, Exh. K at p. 30). The Board of Trustees of the Hospital, of course, controls its affairs subject to the Bishop's powers of appointment, the Bishop's power to remove any and all Trustees, and the Bishop's power to exercise the power of the Corporation with respect to the Corporation's subsidiaries. *See Stoldt Cert.* ¶¶ 7 and 10, Exh. B, By-laws, Article III, Section 2.

I certify under penalty of perjury that the foregoing is true and correct.

Executed on October 14, 2013.

GARRICK STOLDT

EXHIBIT D

AMENDED RETURN

Form **990** — Department of the Treasury, Internal Revenue Service

Return of Organization Exempt From Income Tax

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation)

▶ The organization may have to use a copy of this return to satisfy state reporting requirements.

OMB No. 1545-0047 — **2011** — Open to Public Inspection

A For the 2011 calendar year, or tax year beginning , 2011, and ending , 20

B Check if applicable: [ ] Address change [ ] Name change [ ] Initial return [ ] Terminated [X] Amended return [ ] Application pending

C Name of organization: SAINT PETERS HEALTHCARE SYSTEM, INC.

Doing Business As

Number and street (or P.O. box if mail is not delivered to street address): 254 EASTON AVENUE — Room/suite

City or town, state or country, and ZIP + 4: NEW BRUNSWICK, NJ 08901

D Employer identification number: 26-2019056

E Telephone number: (732) 745-8600

G Gross receipts $ 31,053,334.

F Name and address of principal officer: RONALD C. RAK, JD, 254 EASTON AVENUE NEW BRUNSWICK, NJ 08901

H(a) Is this a group return for affiliates? [ ] Yes [X] No

H(b) Are all affiliates included? [ ] Yes [ ] No — If "No," attach a list. (see instructions)

I Tax-exempt status: [X] 501(c)(3) [ ] 501(c) ( ) ◀ (insert no.) [ ] 4947(a)(1) or [ ] 527

J Website: ▶ WWW.SAINTPETERSHCS.COM

H(c) Group exemption number ▶

K Form of organization: [X] Corporation [ ] Trust [ ] Association [ ] Other ▶ — L Year of formation: 2007 — M State of legal domicile: NJ

Part I Summary

Activities & Governance

1 Briefly describe the organization's mission or most significant activities:
THE ORGANIZATION IS THE PARENT ENTITY OF THE SAINT PETER'S HEALTHCARE SYSTEM AND ITS AFFILIATES; A TAX-EXEMPT NOT FOR-PROFIT INTEGRATED HEALTHCARE DELIVERY SYSTEM.

2 Check this box ▶ [ ] if the organization discontinued its operations or disposed of more than 25% of its net assets.

3	Number of voting members of the governing body (Part VI, line 1a)	3	20.
4	Number of independent voting members of the governing body (Part VI, line 1b)	4	13.
5	Total number of individuals employed in calendar year 2011 (Part V, line 2a)	5	162.
6	Total number of volunteers (estimate if necessary)	6	0
7a	Total unrelated business revenue from Part VIII, column (C), line 12	7a	0
b	Net unrelated business taxable income from Form 990-T, line 34	7b	0

			Prior Year	Current Year
Revenue	8	Contributions and grants (Part VIII, line 1h)	0	0
	9	Program service revenue (Part VIII, line 2g)	27,299,990.	31,051,582.
	10	Investment income (Part VIII, column (A), lines 3, 4, and 7d)	0	1,752.
	11	Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)	0	0
	12	Total revenue - add lines 8 through 11 (must equal Part VIII, column (A), line 12)	27,299,990.	31,053,334.
Expenses	13	Grants and similar amounts paid (Part IX, column (A), lines 1-3)	119,303.	219,915.
	14	Benefits paid to or for members (Part IX, column (A), line 4)	0	0
	15	Salaries, other compensation, employee benefits (Part IX, column (A), lines 5-10)	13,550,336.	16,935,563.
	16a	Professional fundraising fees (Part IX, column (A), line 11e)	0	0
	b	Total fundraising expenses (Part IX, column (D), line 25) ▶ 0		
	17	Other expenses (Part IX, column (A), lines 11a-11d, 11f-24e)	13,630,351.	13,897,856.
	18	Total expenses. Add lines 13-17 (must equal Part IX, column (A), line 25)	27,299,990.	31,053,334.
	19	Revenue less expenses. Subtract line 18 from line 12	0	0
			Beginning of Current Year	**End of Year**
Net Assets or Fund Balances	20	Total assets (Part X, line 16)	2,883,023.	4,325,578.
	21	Total liabilities (Part X, line 26)	2,883,023.	4,325,578.
	22	Net assets or fund balances. Subtract line 21 from line 20	0	0

Part II Signature Block

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Sign Here

▶ Signature of officer: Garrick J. Stoldt — Date: 10-22-2013

▶ Type or print name and title: Garrick J. Stoldt, Chief Financial Officer

Paid Preparer Use Only

Print/Type preparer's name	Preparer's signature	Date	Check [ ] if self-employed	PTIN
Anthony Panico	Anthony Panico	10/21/13		P00365556

Firm's name ▶ WITHUMSMITH+BROWN, PC — Firm's EIN ▶ 22-2027092

Firm's address ▶ 465 SOUTH ST STE 200 MORRISTOWN, NJ 07960-6497 — Phone no. 973-898-9494

May the IRS discuss this return with the preparer shown above? (see instructions) [X] Yes [ ] No

For Paperwork Reduction Act Notice, see the separate instructions. Form **990** (2011)

Part VI Governance, Management, and Disclosure *For each "Yes" response to lines 2 through 7b below, and for a "No" response to line 8a, 8b, or 10b below, describe the circumstances, processes, or changes in Schedule O. See instructions.*

Check if Schedule O contains a response to any question in this Part VI . . . [X]

Section A. Governing Body and Management

				Yes	No
1a	Enter the number of voting members of the governing body at the end of the tax year. If there are material differences in voting rights among members of the governing body, or if the governing body delegated broad authority to an executive committee or similar committee, explain in Schedule O.	1a 20			
b	Enter the number of voting members included in line 1a, above, who are independent	1b 13			
2	Did any officer, director, trustee, or key employee have a family relationship or a business relationship with any other officer, director, trustee, or key employee?		2	X	
3	Did the organization delegate control over management duties customarily performed by or under the direct supervision of officers, directors, or trustees, or key employees to a management company or other person?		3		X
4	Did the organization make any significant changes to its governing documents since the prior Form 990 was filed?		4		X
5	Did the organization become aware during the year of a significant diversion of the organization's assets?		5		X
6	Did the organization have members or stockholders?		6	X	
7a	Did the organization have members, stockholders, or other persons who had the power to elect or appoint one or more members of the governing body?		7a	X	
b	Are any governance decisions of the organization reserved to (or subject to approval by) members, stockholders, or persons other than the governing body?		7b	X	
8	Did the organization contemporaneously document the meetings held or written actions undertaken during the year by the following:				
a	The governing body?		8a	X	
b	Each committee with authority to act on behalf of the governing body?		8b	X	
9	Is there any officer, director, trustee, or key employee listed in Part VII, Section A, who cannot be reached at the organization's mailing address? *If "Yes," provide the names and addresses in Schedule O*		9		X

Section B. Policies *(This Section B requests information about policies not required by the Internal Revenue Code.)*

			Yes	No
10a	Did the organization have local chapters, branches, or affiliates?	10a		X
b	If "Yes," did the organization have written policies and procedures governing the activities of such chapters, affiliates, and branches to ensure their operations are consistent with the organization's exempt purposes?	10b		
11a	Has the organization provided a complete copy of this Form 990 to all members of its governing body before filing the form?	11a	X	
b	Describe in Schedule O the process, if any, used by the organization to review this Form 990.			
12a	Did the organization have a written conflict of interest policy? *If "No," go to line 13*	12a	X	
b	Were officers, directors, or trustees, and key employees required to disclose annually interests that could give rise to conflicts?	12b	X	
c	Did the organization regularly and consistently monitor and enforce compliance with the policy? *If "Yes," describe in Schedule O how this was done*	12c	X	
13	Did the organization have a written whistleblower policy?	13	X	
14	Did the organization have a written document retention and destruction policy?	14	X	
15	Did the process for determining compensation of the following persons include a review and approval by independent persons, comparability data, and contemporaneous substantiation of the deliberation and decision?			
a	The organization's CEO, Executive Director, or top management official	15a	X	
b	Other officers or key employees of the organization	15b	X	
	If "Yes" to line 15a or 15b, describe the process in Schedule O (see instructions.)			
16a	Did the organization invest in, contribute assets to, or participate in a joint venture or similar arrangement with a taxable entity during the year?	16a		X
b	If "Yes," did the organization follow a written policy or procedure requiring the organization to evaluate its participation in joint venture arrangements under applicable federal tax law, and take steps to safeguard the organization's exempt status with respect to such arrangements?	16b		

Section C. Disclosure

17 List the states with which a copy of this Form 990 is required to be filed ▶____________________

18 Section 6104 requires an organization to make its Forms 1023 (or 1024 if applicable), 990, and 990-T (Section 501(c)(3)s only) available for public inspection. Indicate how you made these available. Check all that apply.
[ ] Own website [ ] Another's website [X] Upon request

19 Describe in Schedule O whether (and if so, how), the organization made its governing documents, conflict of interest policy, and financial statements available to the public during the tax year.

20 State the name, physical address, and telephone number of the person who possesses the books and records of the organization: ▶GARRICK J. STOLDT, FHFMA, CPA 254 EASTON AVENUE NEW BRUNSWICK, NJ 08901 (732)745-8600

SCHEDULE O (Form 990 or 990-EZ)

Department of the Treasury Internal Revenue Service

Supplemental Information to Form 990 or 990-EZ

Complete to provide information for responses to specific questions on Form 990 or 990-EZ or to provide any additional information.
▶ Attach to Form 990 or 990-EZ.

OMB No. 1545-0047

2011

Open to Public Inspection

Name of the organization	Employer identification number
SAINT PETERS HEALTHCARE SYSTEM, INC.	26-2019056

AMENDED RETURN

CORE FORM, PART VI, SECTION A; QUESTIONS 6 & 7

THE ORGANIZATION IS AMENDING ITS FEDERAL FORM 990 TO CORRECTLY REFLECT THE FACT THAT THE BISHOP OF THE DIOCESE OF METUCHEN IS THE SOLE MEMBER OF THIS ORGANIZATION AND HAS THE POWER TO APPOINT MOST GOVERNORS, TO REMOVE ALL, AND TO EXERCISE OTHER POWERS OF THE ORGANIZATION. PLEASE REFER TO THE ORGANIZATION'S RESPONSE TO CORE FORM, PART VI, SECTION A, QUESTIONS 6 & 7 BELOW FOR A MORE DETAILED EXPLANATION.

DISCLOSURE INFORMATION

CORE FORM, PART VI, SECTION A; QUESTIONS 6 & 7

THE BISHOP OF THE DIOCESE OF METUCHEN ("THE MEMBER") SHALL BE, EX-OFFICIO, THE SOLE MEMBER OF THE ORGANIZATION AND SHALL BE RESPONSIBLE FOR ENSURING THE COMPLIANCE OF THE ORGANIZATION AND ITS SUBSIDIARIES WITH THE "ETHICAL AND RELIGIOUS DIRECTIVES FOR CATHOLIC HEALTH CARE FACILITIES." THE MEMBER SHALL HAVE THE POWERS SET FORTH IN THE ORGANIZATION'S BYLAWS. IN THE EVENT OF A VACANCY IN THE OFFICE OF THE BISHOP OF THE DIOCESE OF METUCHEN, BY RETIREMENT, DEATH, DISABILITY OR OTHERWISE, THE POWERS OF THE MEMBER SHALL VEST IN THE INDIVIDUAL APPOINTED BY THE ROMAN CATHOLIC CHURCH TO ASSUME THE POWERS OF THAT OFFICE UNTIL SUCH TIME AS A SUCCESSOR BISHOP IS APPOINTED, AND SUCH INDIVIDUAL SHALL ACT AS THE MEMBER UNTIL SUCH TIME AS A SUCCESSOR BISHOP

EXHIBIT E

Form **990**

Department of the Treasury
Internal Revenue Service

Return of Organization Exempt From Income Tax

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations)
▶ Do not enter social security numbers on this form as it may be made public
▶ Information about Form 990 and its instructions is at www.irs.gov/form990.

OMB No 1545-0047
2016
Open to Public Inspection

A For the 2016 calendar year, or tax year beginning , 2016, and ending , 20

B Check if applicable: Address change; Name change; Initial return; Final return/terminated; Amended return; Application pending

C Name of organization: SAINT PETERS HEALTHCARE SYSTEM, INC.
Doing business as
Number and street (or P O box if mail is not delivered to street address): 254 EASTON AVENUE — Room/suite
City or town, state or province country, and ZIP or foreign postal code: NEW BRUNSWICK, NJ 08901

D Employer identification number: 26-2019056
E Telephone number: (732) 745-8600
G Gross receipts $ 42,822,913.

F Name and address of principal officer: LESLIE D. HIRSCH, FACHE
254 EASTON AVENUE NEW BRUNSWICK, NJ 08901

H(a) Is this a group return for subordinates? Yes [ ] No [X]
H(b) Are all subordinates included? Yes [ ] No [ ]
If "No" attach a list (see instructions)

I Tax-exempt status: [X] 501(c)(3) [ ] 501(c) ( ) ◀ (insert no) [ ] 4947(a)(1) or [ ] 527

J Website ▶ WWW.SAINTPETERSHCS.COM

H(c) Group exemption number ▶ 0928

K Form of organization: [X] Corporation [ ] Trust [ ] Association [ ] Other ▶
L Year of formation 2007
M State of legal domicile NJ

Part I Summary

Activities & Governance

1 Briefly describe the organization's mission or most significant activities THE ORGANIZATION IS THE TAX-EXEMPT PARENT ENTITY OF SAINT PETER'S HEALTHCARE SYSTEM AND AFFILIATES; A TAX-EXEMPT INTEGRATED HEALTHCARE DELIVERY SYSTEM.

2 Check this box ▶ [ ] if the organization discontinued its operations or disposed of more than 25% of its net assets

3	Number of voting members of the governing body (Part VI, line 1a)	3	11.
4	Number of independent voting members of the governing body (Part VI, line 1b)	4	8.
5	Total number of individuals employed in calendar year 2016 (Part V, line 2a)	5	207.
6	Total number of volunteers (estimate if necessary)	6	0.
7a	Total unrelated business revenue from Part VIII, column (C), line 12	7a	0.
b	Net unrelated business taxable income from Form 990-T, line 34	7b	0.

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IRS-OSC

		Prior Year	Current Year
Revenue			
8	Contributions and grants (Part VIII, line 1h)	0.	0.
9	Program service revenue (Part VIII, line 2g)	40,386,235.	42,822,913
10	Investment income (Part VIII, column (A), lines 3, 4, and 7d)	0.	0.
11	Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)	0.	0.
12	Total revenue - add lines 8 through 11 (must equal Part VIII, column (A), line 12)	40,386,235.	42,822,913.
Expenses			
13	Grants and similar amounts paid (Part IX, column (A), lines 1-3)	161,385.	137,788.
14	Benefits paid to or for members (Part IX, column (A), line 4)	0	0.
15	Salaries, other compensation, employee benefits (Part IX, column (A), lines 5-10)	24,582,995.	26,077,076.
16a	Professional fundraising fees (Part IX, column (A), line 11e)	0.	0.
b	Total fundraising expenses (Part IX, column (D), line 25) ▶ 0.		
17	Other expenses (Part IX, column (A), lines 11a-11d, 11f-24e)	14,709,413.	17,490,489.
18	Total expenses Add lines 13-17 (must equal Part IX, column (A), line 25)	39,453,793.	43,705,353.
19	Revenue less expenses Subtract line 18 from line 12	932,442.	-882,440.

Net Assets or Fund Balances		Beginning of Current Year	End of Year
20	Total assets (Part X, line 16)	37,285,335.	51,476,876.
21	Total liabilities (Part X, line 26)	37,285,335.	51,476,876.
22	Net assets or fund balances Subtract line 21 from line 20	0.	0.

Part II Signature Block

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge

Sign Here
▶ Signature of officer — Date 11-5-2017
▶ GARRICK J. STOLDT, CHIEF FINANCIAL OFFICER
Type or print name and title

Paid Preparer Use Only
Print/Type preparer's name: ANTHONY J PANICO
Preparer's signature [redacted]
Firm's name ▶ WITHUMSMITH+BROWN, PC [redacted]
Firm's address ▶ 200 JEFFERSON PARK SUITE 400 WHIPPANY, NJ 07 [redacted]

May the IRS discuss this return with the preparer shown above? (see instructio [redacted]

For Paperwork Reduction Act Notice, see the separate instructions.

JSA
6E1010 1 000
06615S U600

SCANNED DEC 12 2017

Part VI **Governance, Management, and Disclosure** *For each "Yes" response to lines 2 through 7b below, and for a "No" response to line 8a, 8b, or 10b below, describe the circumstances, processes, or changes in Schedule O See instructions*

Check if Schedule O contains a response or note to any line in this Part VI . . . . [X]

Section A. Governing Body and Management

				Yes	No
1a	Enter the number of voting members of the governing body at the end of the tax year	1a 11			
	If there are material differences in voting rights among members of the governing body, or if the governing body delegated broad authority to an executive committee or similar committee, explain in Schedule O				
b	Enter the number of voting members included in line 1a, above, who are independent	1b 8			
2	Did any officer, director, trustee, or key employee have a family relationship or a business relationship with any other officer, director, trustee, or key employee?		2		X
3	Did the organization delegate control over management duties customarily performed by or under the direct supervision of officers, directors, or trustees, or key employees to a management company or other person?		3		X
4	Did the organization make any significant changes to its governing documents since the prior Form 990 was filed?		4		X
5	Did the organization become aware during the year of a significant diversion of the organization's assets?		5		X
6	Did the organization have members or stockholders?		6	X	
7a	Did the organization have members, stockholders, or other persons who had the power to elect or appoint one or more members of the governing body?		7a	X	
b	Are any governance decisions of the organization reserved to (or subject to approval by) members, stockholders, or persons other than the governing body?		7b	X	
8	Did the organization contemporaneously document the meetings held or written actions undertaken during the year by the following				
a	The governing body?		8a	X	
b	Each committee with authority to act on behalf of the governing body?		8b	X	
9	Is there any officer, director, trustee, or key employee listed in Part VII, Section A, who cannot be reached at the organization's mailing address? *If "Yes," provide the names and addresses in Schedule O*		9		X

Section B. Policies *(This Section B requests information about policies not required by the Internal Revenue Code)*

			Yes	No
10a	Did the organization have local chapters, branches, or affiliates?	10a		X
b	If "Yes," did the organization have written policies and procedures governing the activities of such chapters, affiliates, and branches to ensure their operations are consistent with the organization's exempt purposes?	10b		
11a	Has the organization provided a complete copy of this Form 990 to all members of its governing body before filing the form?	11a	X	
b	Describe in Schedule O the process, if any, used by the organization to review this Form 990			
12a	Did the organization have a written conflict of interest policy? *If "No," go to line 13*	12a	X	
b	Were officers, directors, or trustees, and key employees required to disclose annually interests that could give rise to conflicts?	12b	X	
c	Did the organization regularly and consistently monitor and enforce compliance with the policy? *If "Yes," describe in Schedule O how this was done*	12c	X	
13	Did the organization have a written whistleblower policy?	13	X	
14	Did the organization have a written document retention and destruction policy?	14	X	
15	Did the process for determining compensation of the following persons include a review and approval by independent persons, comparability data, and contemporaneous substantiation of the deliberation and decision?			
a	The organization's CEO, Executive Director, or top management official	15a	X	
b	Other officers or key employees of the organization	15b	X	
	If "Yes" to line 15a or 15b, describe the process in Schedule O (see instructions)			
16a	Did the organization invest in, contribute assets to, or participate in a joint venture or similar arrangement with a taxable entity during the year?	16a		X
b	If "Yes," did the organization follow a written policy or procedure requiring the organization to evaluate its participation in joint venture arrangements under applicable federal tax law, and take steps to safeguard the organization's exempt status with respect to such arrangements?	16b		

Section C. Disclosure

17 List the states with which a copy of this Form 990 is required to be filed ▶

18 Section 6104 requires an organization to make its Forms 1023 (or 1024 if applicable), 990, and 990-T (Section 501(c)(3)s only) available for public inspection Indicate how you made these available Check all that apply

[ ] Own website [ ] Another's website [X] Upon request [ ] Other *(explain in Schedule O)*

19 Describe in Schedule O whether (and if so, how) the organization made its governing documents, conflict of interest policy, and financial statements available to the public during the tax year

20 State the name, address, and telephone number of the person who possesses the organization's books and records ▶
GARRICK J. STOLDT, FHFMA, CPA 254 EASTON AVENUE NEW BRUNSWICK, NJ 08901 (732)745-8600

EXHIBIT F

ALABAMA · COLORADO · ARIZONA · MAINE · TEXAS · UTAH · ALASKA · GEORGIA · DELAWARE · ILLINOIS · KANSAS · NORTH CAROLINA · OREGON · NEBRASKA · KENTUCKY

IOWA · LOUISIANA · WISCONSIN · TENNESSEE · IDAHO · NEW HAMPSHIRE · NEW JERSEY · NEW MEXICO · CONNECTICUT · FLORIDA · MASSACHUSETTS

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The Official Catholic Directory

Anno Domini

2017

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Community Child Care Solutions, 103 Center St., Perth Amboy, 08861. Tel: 732-324-4357; Fax: 732-826-4136. Joan Lorah, L.C.S.W., Exec. Dir.

[F] GENERAL HOSPITALS

NEW BRUNSWICK. *Saint Peter's Healthcare System, Inc.*, 254 Easton Ave., New Brunswick, 08901. Tel: 732-745-8588; Fax: 732-745-9099.

Saint Peter's Foundation, 254 Easton Ave., New Brunswick, 08901. Tel: 732-745-8542; Fax: 732-745-7573.

Saint Peter's Health & Management Services Corporation, 254 Easton Ave., New Brunswick, 08901. Tel: 732-745-8556; Fax: 732-745-9099.

Saint Peter's Properties Corporation, Inc., 254 Easton Ave., New Brunswick, 08901. Tel: 732-448-0332; Fax: 732-745-9099.

Saint Peter's University Hospital (1907) 254 Easton Ave., P.O. Box 591, New Brunswick, 08903-0591. Tel: 732-745-8600; Fax: 732-745-9099; Email: kkillion@saintpetersuh.com; Web: www.saintpetersuh.com. Revs. A. David Chalackal, C.M.I., Chap.; Peter Suhaka, Chap.; Virginia Grey; Margaret O'Halloran; Deacon James A. Tesoriero, Dir. Pastoral Care; James Jones. Bassinets 77; Bed Capacity 478; Total Staff 3,136; Neonatal Intensive Care Bassinets 35; Intermediate Care Bassinets 19; Patients Assisted 452,324.

[G] HOMES FOR AGED

WOODBRIDGE. *St. Joseph Assisted Living*, One St. Joseph Ter., Woodbridge, 07095. Tel: 732-634-0004. Sr. Zdzislawa Krukowska, L.S.I.C., Admin.

St. Joseph Home, Assisted Living and Nursing Center Residents 56; Little Servant Sisters 13; Staff 64.

St. Joseph Nursing Home, 3 St. Joseph Ter., Woodbridge, 07095. Bed Capacity 51; Little Servant Sisters 8; Staff 58.

[H] MONASTERIES AND RESIDENCES FOR PRIESTS AND BROTHERS

METUCHEN. *Brothers of the Sacred Heart* (1901) 145 Plainfield Ave., 08840. Tel: 732-548-2292; Fax: 732-548-3101. Bros. Gary Humes, S.C., Dir.; Ronald Cairns, S.C.; Richard Leven, S.C.; Michael Migasz, S.C. Brothers 4.

NEW BRUNSWICK. *The New Brunswick Congregation of the Oratory of St. Philip Neri*, 94 Somerset St., New Brunswick, 08901. Tel: 732-545-6820; Fax: 732-545-4069; Email: oratorians@nboratory.org; Web: www.nboratory.org. Very Rev. Peter Cebulka, C.O., Provost; Revs. Thomas A. Odorizzi, C.O., Vicar & Treas.; Kevin Kelly, C.O.; Jeffrey Calia, C.O., Sec.; Bro. John Fredy Triana, C.O. Novices 1; Priests 4.

RARITAN. *Clairvaux House*, 52 W. Somerset St., Raritan, 08869. Tel: 908-300-8167; Fax: 908-393-4978; Web: shrinechapel.com. Rev. Robert G. Gorman.

NORTH BRUNSWICK. *Consolata Society for Foreign Missions* (1901) Mailing Address: P.O. Box 5550, Somerset, 08875-5550. Tel: 732-297-9191; Fax: 732-940-3121; Email: supreus@consolata.net; Web: www.consolata.org. Provincial Headquarter, 2624 Rte. 27, North Brunswick, 08902. Revs. James Kingori, I.M.C., (Kenya); Paolo Fedrigoni, I.M.C., Coord. U.S. Group; Timothy Kinyua Gatitu, I.M.C.

SOMERSET. *Maria Regina Residence*, 5 Dellwood Ln., Somerset, 08873. Tel: 732-828-6800; Fax: 732-828-7206. Rev. Msgrs. John B. Szymanski, P.A., V.G., Dir., (Retired); William J. Haughney, (Retired); Revs. Marco A. Caceres, (Retired); Charles F. Kelly, (Retired); J. William Mickiewicz, (Retired); Daniel Sloan, (Retired); Herbert J. Stab, (Retired); Louis F. Stingel, (Retired); Edward J. Struzik, (Retired); A. Gregory Uhrig; Sisters M. Simona Frohning, F.S.G.M., Supvr.; M. Jessica Herbold, F.S.G.M.; Revs. Henry L. Hemmerling, (Retired), (Retired); Pervais Indrias, In Res. Retirement home for Diocesan priests.

[I] CONVENTS AND RESIDENCES FOR SISTERS

METUCHEN. *St. Clare Convent*, 52 Elm Ave., 08840. Tel: 732-549-7598. Felician Sisters 2.

St. Francis Convent, 44 Elm Ave., 08840. Tel: 732-662-5729. Sisters of Christian Charity 3.

BELVIDERE. *Immaculate Conception Convent - Augustinian Recollect Sisters*, 743 Water St., Belvidere, 07823. Tel: 908-475-9947. Mother Beatriz Garcia Sanchez, Contact Person. Sisters 8.

EDISON. *St. Thomas Aquinas Convent* (1969) 15 Wren Ct., Edison, 08820. Tel: 732-321-0137; Fax: 732-549-9050; Email: srcynthia@bgahs.org. Sisters Cynthia Marie Babyak, C.S.S.F., Local Min.; Donna Marie Trukowski, C.S.S.F.; Mary Charles Wienckoski, C.S.S.F. Sisters 3.

FLEMINGTON. *The Carmel of Mary Immaculate and St. Mary Magdalen*, 26 Harmony School Rd., Flemington, 08822. Tel: 908-782-4802; Fax: 888-503-3091; Web: www.flemingtoncarmel.org. Rev. Msgr. Pafnouti Wassef, Chap. Novices 1; Nuns Professed with Solemn Vows 15.

MARTINSVILLE. *Vocationist Sisters Convent*, 1881 Washington Valley Rd., Martinsville, 08836. Tel: 732-667-5275; Fax: 732-667-5277. Sr. Romilda Borges, S.D.V., Delegation Leader. Vocationist Sisters 7.

NORTH PLAINFIELD. *Epiphany Convent - Congregation of the Servants of the Holy Child Jesus*, 99 Harrison Ave., North Plainfield, 07060. Tel: 908-370-3616. Sisters 10.

PISCATAWAY. *St. Joseph of Chestnut Hill*, 137 Metlars Ln., 08854. Tel: 732-393-9640; Email: metlarslane@yahoo.com. Sisters 3.

SOMERSET. *St. Elizabeth Convent*, 13 Renfro Rd., Somerset, 08873. Tel: 732-247-3697; Email: vocations@altonfranciscans.org. Sr. M. Simona Frohning, F.S.G.M., Supr. Sisters 2.

WATCHUNG. *McAuley Hall Inc.*, 1633 U.S. Hwy 22, Watchung, 07069-6505. Tel: 908-754-3663. Sr. Brenda Rowe, R.S.M., Life Coord. Retired Sisters 43.

Mount St. Mary, 1645 U.S. Hwy. 22 W., Watchung, 07069-6587. Tel: 908-756-0994; Fax: 908-754-0164; Web: www.mercymidatlantic.org. Sr. Patricia Vetrano, R.S.M. Professed Sisters in Residence 45.

WOODBRIDGE. *St. Joseph Convent*, 184 Amboy Ave., Woodbridge, 07095. Tel: 732-634-0807; Fax: 732-634-7888; Email: lsicmaria@aol.com. Sr. Maria Pietrzyk, L.S.I.C., Supr. Sisters 8.

St. Joseph Home Convent, 3 St. Joseph Ter., Woodbridge, 07095. Tel: 732-750-0077; Fax: 732-634-4586. Sr. Elzbieta Lopatka, L.S.I.C., Supr. Little Servant Sisters 14.

[J] RETREAT HOUSES

BELVIDERE. *Augustinian Recollect Sisters*, 20 Manunka Chunk Rd., Belvidere, 07823. Tel: 908-475-9947. Mother Beatriz Garcia Sanchez, Contact Person. Sisters 8.

FLEMINGTON. *Our Lady of Providence*, 31 Britton Dr., Flemington, 08822. Tel: 908-581-4297. Sr. Bernice Marie, L.S.P., Dir. Little Sisters of the Poor.

WATCHUNG. *Mt. St. Mary House of Prayer* (1976) 1651 U.S. Hwy. 22, Watchung, 07069-6587. Tel: 908-753-2091; Fax: 908-757-0792; Email: msmhope@msmhope.org; Web: www.msmhope.org. Sisters Eileen P. Smith, R.S.M., Dir.; Laura Arvin, O.P., Co-Dir.; Mary Jo Kearns, R.S.M., Co-Dir. Sisters 3.

[K] SHRINES AND PUBLIC ORATORIES

BERNARDSVILLE. *Sacred Heart Chapel* (Chapel of Convenience)Bernards Ave., Bernardsville, 07924. Tel: 908-766-0079; Fax: 908-766-1185. Our Lady of Perpetual Help, 111 Claremont Ave., Bernardsville, 07924. Rev. Msgr. John N. Fell, S.T.D., Pastor.

RARITAN. *Shrine Chapel of the Blessed Sacrament*, 50 W. Somerset St., Raritan, 08869. Tel: 908-300-8167; Fax: 908-393-4978; Email: shrinechapel@yahoo.com; Web: shrinechapel.com. Rev. Robert G. Gorman, Rector.

WASHINGTON. *National World Apostolate of Fatima, USA, Inc. Blue Army Shrine of the Immaculate Heart of Mary*, P.O. Box 976, Washington, 07882. Tel: 908-689-1700; Fax: 908-689-0721; Email: service@bluearmy.com; Web: www.bluearmy.com. Revs. Paul Ruge, In residence; J. Michael Venditti, Chap.

[L] PUBLIC ASSOCIATIONS OF THE FAITHFUL

BLOOMSBURY. SISTERS OF JESUS OUR HOPE (1992) 376 Bellis Rd., Bloomsbury, 08804. Tel: 908-995-7261; Fax: 908-995-7262; Web: www.sistersofjesusourhope.org. Sr. Christine Quense, S.J.H., Community Sister Servant. Sisters 9.

FLEMINGTON. DOMINICAN SISTERS OF DIVINE PROVIDENCE (1982) 25 Harmony School Rd., Flemington, 08822. Tel: 908-782-1504; Fax: 908-788-7394; Email: srmcath25@gmail.com. Sr. Mary Catherine Baidy, O.P., Prioress. Sisters 3.

NEW BRUNSWICK. SISTERS OF JESUS OUR HOPE, 61 Jefferson Ave., New Brunswick, 08901. Tel: 732-246-3065. Sr. Claire Marie Lessard, S.J.H., Sister Servant. Sisters 4.

OXFORD. THE ANAWIM COMMUNITY (1975) 354 Jonestown Rd., P.O. Box 207, Oxford, 07863. Tel: 908-453-3886; Fax: 908-453-3786; Email: oxford@anawim.com; Web: www.anawim.com. Revs. Daniel H. Healy, Dir.; Richard M. Rusk, Missions Dir. & Vocations Dir. Priests 2; Staff 1.

STEWARTSVILLE. *Society of Jesus Christ the Priest*, 70 Edison Rd., P.O. Box 157, Stewartsville, 08886. Tel: 908-213-1447; Fax: 908-859-5210; Email: meadwater@slsonline.org. Revs. Lope D. Pascual, Nat. Dir.; Jose Lorente; Manuel Lorente; Raymond L. Nacarino, Treas.

[M] CAMPUS MINISTRY

NEW BRUNSWICK. *Catholic Center at Rutgers University*, 84 Somerset St., New Brunswick, 08901. Tel: 732-545-6663; Fax: 732-545-3490; Email: coldon@rci.rutgers.edu; Web: www.catholiccenter.rutgers.edu. Very Rev. Peter Cebulka, C.O., Chap.; Rev. Jason Pavich, Chap.; Bros. Joseph Donovan, B.H., Campus Min.; Parker Jordan, B.H., Campus Min.; Patrick Reilly, B.H., Dir.; Sr. Lorraine Doiron, S.J.H., Campus Min.; Laura Greet, Women's Pastoral Ministry.

[N] MISCELLANEOUS LISTINGS

METUCHEN. *The Foundation for Catholic Education*, P.O. Box 191, 08840. Most Reverend James F. Checchio, J.C.D., M.B.A.

The Fund for the Future, Inc., P.O. Box 191, 08840. Most Reverend James F. Checchio, J.C.D., M.B.A.

The Priestly Education Fund, Inc., P.O. Box 191, 08840. Most Reverend James F. Checchio, J.C.D., M.B.A.

The Retirement Plan for the Priests of the Diocese of Metuchen, P.O. Box 191, 08840.

NEW BRUNSWICK. *The National Gianna Center for Women's Health & Fertility, Inc.*, 254 Easton Ave., New Brunswick, 08901. Tel: 732-339-7003; Fax: 732-249-6018.

SOMERSET. *The Center for Great Expectations, Inc.*, 19 B Dellwood Ln., Somerset, 08873. Tel: 732-247-7003, Ext. 27; Fax: 732-247-7043; Web: www.cgenj.org. Mrs. Peg Wright, Pres.

WOODBRIDGE. *Mt. Carmel Home Nursing Service*, 184 Amboy Ave., Woodbridge, 07095. Tel: 732-277-8569; Fax: 732-634-7888. Sr. Maria Dziuba, L.S.I.C., Dir.

RELIGIOUS INSTITUTES OF MEN REPRESENTED IN THE DIOCESE

For further details refer to the corresponding bracketed number in the Religious Institutes of Men or Women section.

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[0200]—*Benedictine Monks*—O.S.B.
[]—*Brotherhood of Hope*—B.H.
[1100]—*Brothers of the Sacred Heart*—S.C.
[0470]—*The Capuchin Friars*—O.F.M.Cap.
[0275]—*Carmelites of Mary Immaculate*—C.M.I.
[0360]—*Claretian Missionaries* (USA Prov.)—C.M.F.
[0650]—*Congregation of the Holy Spirit*—C.S.Sp.
[0390]—*Consolata Missionaries*—I.M.C.
[]—*Oblates of Mary Immaculate*—O.M.I.
[0950]—*Oratorians*—C.O.
[]—*Order of Discalced Carmelites*—O.C.D.
[]—*Order of Friars Minor Capachin*—O.F.M.Cap.
[1070]—*Redemptorist Fathers*—C.Ss.R.
[1190]—*Salesians of Don Bosco*—S.D.B.
[1340]—*Society of Divine Vocations*—S.D.V.
[0690]—*Society of Jesus*—S.J.
[1200]—*Society of the Divine Savior*—S.D.S.
[1335]—*Vincentian Retreat Master*—V.C.

RELIGIOUS INSTITUTES OF WOMEN REPRESENTED IN THE DIOCESE

[]—*Augustinian Recollects*—O.A.R.
[1810]—*Bernardine Sisters of the Third Order of St. Francis*—O.S.F.
[1980]—*Congregation of the Servants of the Holy Child Jesus*—O.S.F.
[0420]—*Discalced Carmelite Nuns*—O.C.D.
[1070-18]—*Dominican Sisters* (Caldwell)—O.P.
[1070-05]—*Dominican Sisters of Amityville*—O.P.
[]—*Dominican Sisters of Divine Providence*—O.P.
[1070-06]—*Dominican Sisters of Hope* (Ossining, N.Y.)—O.P.
[1170]—*Felician Sisters* (Our Lady of Hope Prov.)—C.S.S.F.
[1180]—*Franciscan Sisters of Allegany* (St. Bonaventure, NY)—O.S.F.
[1425]—*Franciscan Sisters of Peace*—F.S.P.
[2575]—*Institute of the Sisters of Mercy of the Americas*—R.S.M.

[illegible]—*Little Servant Sisters of the Immaculate Conception*—L.S.I.C.
[illegible]—*Little Sisters of the Poor* (Brooklyn Prov.)—L.S.P.
[illegible]—*Missionary Catechists of the Sacred Hearts of Jesus and Mary*—M.C.S.H.
[illegible]—*Missionary Sisters of Mother of God* (Byzantine-Ukrainian)—M.S.M.G.
[illegible]—*Missionary Sisters of the Immaculate Conception*—S.M.I.C.
[illegible]—*Religious Teachers Filippini* (St. Lucy Prov.)—M.P.F.
[illegible]—*School Sisters of the Third Order of St. Francis*—O.S.F.
[illegible]—*Sisters of Charity of Saint Elizabeth, Convent Station*—S.C.
[0660]—*Sisters of Christian Charity* (North American Eastern Prov.)—S.C.C.
[]—*Sisters of Jesus Our Hope*—S.J.H.
[3893]—*Sisters of Saint Joseph of Chestnut Hill, Philadelphia*—S.S.J.
[1600]—*Sisters of St. Francis of the Martyr St. George*—F.S.G.M.
[2170]—*Sisters Servants of the Immaculate Heart of Mary*—I.H.M.
[]—*Society of the Holy Child Jesus*—S.H.C.J.
[]—*Trinitarium Sisters of Redemptor Homini*—T.R.H.
[4210]—*Vocationist Sisters*—S.V.D.

DIOCESAN CEMETERIES

EAST BRUNSWICK. *The Crematory at Holy Cross Burial Park*, 840 Cranbury-South River Rd., Jamesburg, 08831. Tel: 732-533-0631; Fax: 732-463-8807. Diocese of Metuchen Office of Cemeteries, P.O. Box 191, 08840

JAMESBURG. *Holy Cross Burial Park*, 840 Cranbury-South River Rd., Jamesburg, 08831. Tel: 732-463-1424; Fax: 732-463-8807. Diocese of Metuchen Office of Cemeteries, P.O. Box 191, 08840. Mary Ellen Gerrity, Dir.

PISCATAWAY. *Resurrection Burial Park*, Resurrection Cemetery & Mausoleum, 899 Lincoln Ave., 08854. Tel: 732-463-1424; Fax: 732-463-8807. Diocese of Metuchen Office of Cemeteries, P.O. Box 191, 08840. Mary Ellen Gerrity, Dir.

NECROLOGY

An asterisk (*) denotes an organization that has established tax-exempt status directly with the IRS and is not covered by the USCCB Group Ruling.

EXHIBIT G

This document is not to be relied upon or otherwise cited as precedent by taxpayers.

General Counsel Memoranda 39007

SECTION 0414
DEFINITIONS AND SPECIAL RULES 0414.00-00
-- CHURCH PLAN 0414.08-00

GCM 39007; 1983 GCM LEXIS 54

July 1, 1983

[*1]

REFERENCE: CC:EE-25-82, EE-26-82
Br2:JPainter
ACTION DOC: *Private Ruling 8315054, Private Ruling 8325131,*

UI LIST:

UI No. 0414.00-00,
UI No. 0414.08-00

TEXT:

Church Plans I -- ***

Church Plans II -- ***

S. ALLEN WINBORNE

Assistant Commissioner (Employee Plans and Exempt Organizations)

Attention: Director, Employee Plans Division

In two separate memoranda dated February 26, 1982, the Employee Plans Division (OP:E:EP:T:1) requested our concurrence or comments on proposed ruling letters to the above organizations classifying the retirement plan of each order as a "church plan" described in *I.R.C. § 414(e).* As that conclusion would be inconsistent with the conclusion stated in ***, *G.C.M. 37266,* I-24-77 (September 22, 1977), we find it necessary to reconsider that memorandum in the light of amendments made to *I.R.C. § 414(e)* by the Multiemployer Pension Plan Amendments Act of 1980 (MPPA).

ISSUE

Whether a retirement plan covering the lay employees of a religous order whose main activity is the operation of nursing homes or hospitals can be a "church plan" within the meaning of *I.R.C. § 414(e)*.

CONCLUSION

A retirement plan covering the lay employees of a religious order whose main activity is the operation of nursing homes [*2] or hospitals exempt from tax under *section 501* may be a church plan if the requirements of *section 414(e)* are met.

FACTS

The subject cases involve two religious orders established by the Roman Catholic Church.

The *** is a religious Order of Nuns that was incorporated in ***. The general purpose of the order is to own, maintain and conduct schools, hospitals, orphanages, homes for the aged and poor, and other benevolent and charitable institutions and to receive gifts, bequests and donations from charitably inclined persons, associations and corporations for use in acquiring, maintaining and conducting such institutions. The order is listed in the Official Catholic Directory for 1982 as being exempt from taxation under *section 501*.

To help it carry out its stated purpose, the order operates and maintains various health maintenance institutions including three hospitals and a home for the aged. Each of these organizations has been determined to be exempt from taxation under *section 501(a)*.

In 1965, the order established a retirement plan for the benefit of its employees and the employees of its health maintenance institutions. The plan was determined to be a qualified plan under [*3] *section 401(a)* and exempt from tax under *section 501(a)* by a ruling letter dated *** 1966. After the enactment of the Employee Retirement Income Security Act of 1974 (ERISA), the order attempted to obtain a ruling that the plan qualified as a church plan under *section 414(e)*. Because the regulations had not yet been issued, the Service did not issue the requested ruling. The order would now like to terminate the plan and use alternative methods of funding retirement benefits for its employees. The order has been advised by the Pension Benefit Guaranty Corporation to seek again a ruling from the Service on the issue of whether this plan is a church plan, since this would be determinative of whether it is necessary to file a Notice of Intention to Terminate.Therefore, the order has requested a ruling that its pension plan is a church plan as defined in *section 414(e)*, as amended by the MPPA.

The *** is a religious congregation of women canonically erected as such by the Holy See according to the tenets and canon law of the Roman Catholic Church. The Sisters take the vows of poverty, chastity and obedience. Their stated purpose and objective is to promote the general welfare and [*4] care of the sick, poor, aged and infirm through works of a charitable nature and to participate in harmony with the Apostolate of the Roman Catholic Church in health, education, social, and other charitable and benevolent activities in which the services of religious members may be needed.

The order was incorporated under the laws of *** in *** and currently has *** members. The Order is also exempt from tax under *section 501(a)*. Over the years, members of the Order have established hospitals, nursing homes and health care facilities. Some sisters work in these institutions, while others pursue the Church's apostolate in education, social and other charitable activities.

The order established a retirement plan for their lay employees effective January 1, 1964. (This plan is separate from the retirement plan for members of the order, known as the *** The plan provided retirement benefits to the lay employees of the order and *** hospitals until it was replaced by a second plan effective January 1, 1974. The governing boards of ten agencies established by the order have executed agreements to participate in the plan for the benefit of their employees. Each of the ten participating [*5] agencies is a separate corporation and exempt from income tax pursuant to *section 501(c)(3)* except for *** which is owned and operated by the *** the *** corporation that is the sponsor of the Plan. For a more extensive discussion of this order and its pension plan, see *** *G.C.M. 37266*, I-24-77 (September 22, 1977), where we determined that the same plan did not qualify as a church plan under the law in effect prior to the Multiemployer Pension Plan Amendments Act of 1980 (MPPA) because the order was not a church.

ANALYSIS

In general, to qualify under Code *§ 401(a)*, an employees' plan must meet the minimum participation standards of Code *§ 410*, the minimum vesting standards of Code *§ 411*, and the minimum funding standards of Code *§ 412*. However, each of these sections contains a provision that provides an exemption for a "church plan" as defined in Code *§ 414(e)*. See Code *§§ 410(c)(1)(B)*, *411(e)(1)(B)* and *412(h)(4)*.

Section 414(e)(1) of the Code, as amended, defines a church plan as a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from taxation under *section 501*.

Section 414(e)(3)(B)(ii) [*6] provides that the term employee of a church shall include an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under *section 501* and which is controlled by order associated with a church or a convention or association of churches.

Section 414(e)(3)(D) provides that an organization, whether a civil law corporation or otherwise, is "associated" with a church or convention or association of churches if the organization shares common religious bonds and convictions with that church or convention or association of churches.

Section 414(e)(3)(A) provides that a plan otherwise qualified will qualify as a church plan if it is maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

Treas. Reg. § 1.511-2(a)(3)(ii) provides in part:

The term "church" includes a religious order [*7] or a religious organization if such order or organization (a) is an integral part of a church, and (b) is engaged in carrying out the functions of a church, whether as a civil law corporation or otherwise. In determining whether a religious order or organization is an integral part of a church, consideration will be given to the degree to which it is connected with, and controlled by, such church. A religious order or organization shall be considered to be engaged in carrying out the functions of a church if its duties include the ministration of sacerdotal functions and the conduct of religious worship. If a religious order or organization is not authorized to carry out the functions of a church (administration of sacerdotal functions and conduct of religious worship) then it is subject to the tax imposed by *section 511* whether or not it engages in religious, educational, or charitable activities approved by a church. What constitutes the conduct of religious worship or the ministration of sacerdotal functions depends on the tenets and practices of a particular religious body constituting a church....

Although we agree that the employees of both orders are eligible for coverage [*8] under a "church plan", at least one of the plans will need structural changes before it can actually qualify as a "church plan." A church plan must be maintained either by "a church or... a convention or association of churches which is exempt from tax under *section 501*" as provided in *section 414(e)(1)*, or by "an organization... the principal purpose or function of which is the administration or funding of a plan... for the provision of retirement benefits or welfare benefits... for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches", as provided in *section 414(e)(3)(A)*.

Treas. Reg. § 1.511-2(a)(3)(ii) defines a church to include a religious order that is (a) an integral part of a church, and (b) is engaged in carrying out the functions of a church. The first sentence of *§ 1.511-2(a)(3)(ii)* has been carried almost verbatim into the regulations under *section 414(e)*; see § 1.414(e)-1(e). In *** *G.C.M. 37266*, I-24-77 (September 22, 1977), under the law in effect before the passage of MPPA, this office considered the status of plans maintained by religious [*9] orders whose main activity was operating hospitals and held that those orders were not "churches" and therefore, their pension plans were not "church plans" within the meaning of *section 414(e)*. This G.C.M. relied on *De La Salle Institute v. United States, 195 F. Supp. 891 (N.D. Cal. 1961)*, in which *§ 1.511-2(a)(3)(ii)* was approved, and applied to hold that a Catholic order whose main activities were operating schools and a winery was not a "church". See also, *Chapman v. Commissioner, 48 T.C. 358, 366 (1967)*, (Dawson, J., concurring), where the same regulation was described as "appropirate and reasonable".

The only judicial decision on point is an unreported district court opinion in Harclerode v. Sisters of Mercy, No. 79-4022 (D. Kans. November 2, 1981). That was a private civil action in which, apparently, the views of the Department of the Treasury and the Department of Labor were not sought. The plaintiff, a former employee, alleged that the pension plan of the defendant violated the vesting requirements of ERISA. The defendant moved for summary judgment on this claim on the ground that the plan was a church plan, so that the vesting requirements of ERISA were not applicable. [*10] The Sisters of Mercy operated a hospital. Without referring to the 1980 amendments to the church plan provisions, the court held that the plan was a church plan and granted the motion for summary judgment. The opinion stated, in part, as follows:

... We find no requirement that the agency of the church have a religious purpose, provided it is exempt from tax under *Section 501* of Title 26.... Hospitals are frequently associated with religious orders and we do not believe that this association is the sort of abuse at which Section 513 was directed. Furthermore, we note that it is difficult to separate healing of the sick from religious purposes. The founder of the Christian faith himself also healed many as an application of his religious principles, and to further those principles. See, e.g. Luke 17:11-19; John 11:44-45.The treatment of the sick at Mercy Hospital contributes importantly to the purposes of the Roman Catholic Church and satisfies the test in the tax regulations. See, *'26 C.F.R. § 1.513-1(d)*.

The Harclerode decision does not cite either *§ 1.511-2(a)(3)(ii)*, supra, or the De La Salle Institute decision, which seems to be an explicit rejection of the Harclerode [*11] analysis. In view of the fact that neither the Department of the Treasury nor the Department of Labor was a party to the action, and in view of the weakness of the court's analysis, we do not consider the decision as in any way binding on us.

Therefore, we find convincing the reasoning in *** *G.C.M. 37266*, which found that a religious order was not a church. Under the principles enunciated there, neither the *** nor the *** qualify as a church.

Since religious orders can now have their employees covered by a church plan without a determination that such orders are churches, this nonchurch status is not fatal. To have a qualified "church plan", the sisters must establish that their employees are deemed employees of the Catholic Church through *section 414(e)(3)(C)* by virtue of the order's affiliation with the church and that the fund will be administered by one of the organizations described in the statute.

Under *section 414(e)(3)(D)*, the sisters are "associated with" the Catholic Church by reason of sharing "common religious bonds and convictions" as evidenced by the listing of both orders in The Official Catholic Directory Anno Domini 1982 (P. J. Kenedy and Sons, New York). [*12] Any organization listed in this directory is considered associated with the Roman Catholic Church in the United States. Therefore, under *section 414(e)(3)(B)(ii)*, an employee of either order is considered as an employee of the Roman Catholic Church of the United States for purposes of the church plan rules. Conversely, under *section 414(e)(3)(C)*, the "convention or association of churches" is treated as the employer of the sister's employees for purposes of those provisions.

Having established that its employees are church employees, the orders must still establish that their plans are administrated by the proper organization designated in *section 414(e)(1)* or *(3)(A)*. To meet the requirements of *section 414(e)(1)*, an order's plan would have to be established and maintained by a church or convention or association of churches. We have already established that neither order is a church. Therefore, the plan for a religious order must be maintained either by the Catholic Church, which does qualify as a church, or by an organization described in *section 414(e)(3)(A)*. To be described in *section 414(e)(3)(A)*, an organization must have as its principal purpose administering the fund [*13] and must also be controlled by or associated with a church.

*** the *** pension trust agreement provides, in effect, that the plan is to be administered by a three-member Administrative Committee appointed by the order. (*** the powers and duties of the Administrative Committee include the "power to construe the Plan and to determine all questions arising thereunder, including questions submitted by the Trustee on matters pertaining to the proper discharge of its duties; to determine the status of employees and Participants with respect to the Plan; and to set forth policies and rules of interpretation and administration.") The Administrative Committee, as such, appears to have no other function than the administration of the plan.If "association" with the church can be established, the Administrative Committee would be an organization described in *section 414(e)(3)(A)*, so that the plan would meet the criteria of *section 414(e)*. If there were to be an ongoing plan, we would prefer that the plan document recite that the Administrative Committee shares common religious bonds and convictions with the Catholic Church. However, as the ruling request relates to the proposed termination [*14] of the plan, and in the suspicion that the members of the Administrative Committee are probably members of the order, we suggest that parol evidence may be sufficient to establish the requisite "association" in this case.

The administrative file relating to the *** does not contain a copy of the plan, nor does it contain other information as to who will administer the plan. We suggest that further information on the plan's administration be sought, and, if necessary, amendment of the plan be recommended. As indicated above, the plan will qualify as a church plan only if it is maintained by an organization, controlled by or associated with the church, whose principal purpose or function is the administration of the plan. (Incidentally, we do not believe that it is necessary for the individuals who are officers of such an organization to do so on a full-time basis or to have their role with the organization as their principal activity or responsibility.) We note parenthetically that *section 414(e)(4)* provides ample time for the making of an amendment if one is necessary.

In short, because of the passage of the MPPA, church plan status no longer hinges on whether an order is a church. [*15] n1 Therefore, although the test articulated in *** *G.C.M. 37266* is correct as to whether the order is a church, that issue is no longer determinative as to whether the employees of the order are eligible for coverage by a church plan. Therefore, *** *G.C.M. 37266*, I-24-77 (September 22, 1977) is revoked on the ground that it is obsolete.

JAMES F. MALLOY

Director

By: JONATHAN P. MARGET

Assistant Director

Employee Plans and Exempt

Organizations Division

FOOTNOTES:

n1

That organizations other than churches are now eligible to have their employees covered by church plans is evidenced by the floor statement of Senator Jacob Javits. As to the church pension plans, I might say that I am not too happy about those as it exempts those who work for schools and similar institutions which are church-related but, nontheless, if we want a bill there were some things we had to give and that was one of them and I was very unhappy with it. Cong. Rec. S10102 (daily ed. July 29, 1980).

EXHIBIT H

SAINT PETER'S HEALTHCARE SYSTEM

RETIREMENT PLAN

As Amended and Restated Effective January 1, 2010

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SAINT PETER'S HEALTHCARE SYSTEM RETIREMENT PLAN

WHEREAS, the Saint Peter's University Hospital Retirement Plan (formerly known as the St. Peter's Medical Center Retirement Plan), a defined benefit plan, was established for eligible employees of Saint Peter's University Hospital. Effective March 1, 2010, sponsorship of the plan was changed to Saint Peter's Healthcare System and the name of the plan was changed to the Saint Peter's Healthcare System Retirement Plan (the "Plan"). The Plan is intended to be a qualified plan under Section 401(a) of the Internal Revenue Code of 1986, as amended (the "Code") and a church plan as defined in Section 414(e) of the Code and Section 3(33) of the Employee Retirement Income Security Act of 1974, as amended.

WHEREAS, except as may be otherwise specifically provided in the Plan or required by law (and to the extent consistent with Plan's status as a church plan under Section 3(33) of the Employee Retirement Income Security Act of 1974, as amended), Participants who terminated their employment with the System prior to January 1, 2010 shall look solely to the applicable sections of the Plan as in effect at the time of their termination for their retirement income benefits, if any.

NOW, THEREFORE, the Plan is hereby amended and restated in its entirety effective January 1, 2010.

ARTICLE 1

DEFINITIONS

Wherever used herein, the following terms shall have the following meanings unless the context otherwise requires:

1.01 Accrued Benefit

"Accrued Benefit" means, for any Participant as of any date, either (i) the sum of subsection (a) and subsection (b), or (ii) if greater, subsection (c) following:

(a) For each Participant of the Plan on January 1, 1987, the Participant's Accrued Benefit as of January 1, 1987, determined in accordance with the provisions of the Plan as in effect on January 1, 1987; and

(b) For periods commencing after January 1, 1987, the monthly retirement benefit determined in accordance with Section 5.01 with Credited Service as of the date of determination; or

(c) The monthly retirement benefit determined in accordance with Section 5.01(d).

The Accrued Benefit of any Participant with at least one Hour of Service in a Plan Year beginning after December 31, 1988 shall be equal to the greater of (d) or (e):

(d) the Participant's Accrued Benefit calculated above based upon the Normal Retirement Benefit formula provided in Section 5.01.

(e) the sum of (i) the Participant's Frozen Accrued Benefit, and (ii) the Participant's Accrued Benefit calculated above with respect to years beginning after December 31, 1988, except that the number of Plan Years of Service taken into account for determining the excess portion of the monthly retirement benefit pursuant to Section 5.01 shall be limited to thirty-five (35) minus the number of Years of Service completed by the Participant as of the close of the Plan Year beginning prior to January 1, 1989.

The Accrued Benefit of any Participant with at least one Hour of Service in a Plan Year beginning after December 31, 1990 shall be equal to the greater of (f) or (g):

(f) the Participant's Accrued Benefit calculated above based on the Normal Retirement Benefit formula provided in Section 5.01.

(g) the sum of (i) the Participant's Frozen Accrued Benefit, and (ii) the Participant's Accrued Benefit calculated above with respect to years beginning after December 31, 1990.

Notwithstanding the preceding, for Participants under the Plan as of December 31, 1975, in no event shall the amount as hereinbefore determined be less than the Accrued Benefit determined at December 31, 1975, under the provisions of the Plan as in effect on December 31, 1975.

In no event shall the Participant's Accrued Benefit:

(h) be more than the maximum benefit provided in Section 5.10,

(i) be less than the minimum benefit provided in Article 11 if the Participant is a "Non-Key Employee" as defined in Article 11.

1.02 Actuarial Equivalent

"Actuarial Equivalent" means a benefit of equivalent value when computed on the basis of the factors denoted below:

(a) For purposes other than Sections 6.02(b)(iii) and 6.05:

Actuarial Equivalent shall mean, unless the Plan expressly refers to the Applicable Mortality Table or Applicable Interest Rate, the benefit having an equivalent value computed using the 1971 Group Annuity Table for Females and an interest rate of seven and one-half percent (7.5%).

(b) For purposes of Sections 6.02(b)(iii) and 6.05:

Effective for distributions made before January 1, 2009, Actuarial Equivalent shall mean an equivalent value computed using a fixed blend of fifty percent (50%) of the male mortality rates and fifty percent (50%) of the female mortality rates from the 1983 Group Annuity Mortality Table and an interest rate equal to the annual rate of interest on 30-year Treasury securities of constant maturity in effect during the month of November preceding the Plan Year in which the distribution occurs. The annual rate of interest on 30-year Treasury securities of constant maturity is the rate published by the Board of Governors of the Federal Reserve System.

Effective for distributions made on or after January 1, 2009, Actuarial Equivalent shall mean an equivalent value computed using mortality rates per the Applicable Mortality Table (defined below) and the interest rate specified in Section 417(e)(3)(C) of the Code for the month of August preceding the Plan Year in which the distribution occurs, determined in accordance with published guidance from the Internal Revenue Service; provided, however, that the table specified in Section 417(e)(3)(D)(iii) of the Code shall be modified as follows:

In the case of plan years beginning in:	**The applicable percentage is:**
2009	20%
2010	40%
2011	60%
2012	80%

For purposes of the preceding paragraph, Applicable Mortality Table shall mean the “applicable mortality table” specified in Section 417(e)(3)(B) of the Code (as periodically updated) or other applicable guidance from the Internal Revenue Service.

Notwithstanding anything in the Plan to the contrary, the amount payable as of an Annuity Starting Date on or after July 1, 2004 in the form of an immediate annuity in the applicable normal form pursuant to Section 6.02(b)(iv) shall never be less than the Participant’s Accrued Benefit determined as of June 30, 2004, payable in such form of benefit based on the applicable actuarial factors in effect as of June 30, 2004.

1.03 Age

“Age” means the age attained by a Participant as of his last birthday.

1.04 Affiliated Group or Controlled Group

“Affiliated Group” or “Controlled Group” means the System and all corporations, partnerships or other organizations, the employees of which are treated as employed by the System pursuant to Section 414(b), (c), (m), (n) or (o) of the Code, as modified, where applicable, by Section 415(h) of the Code.

1.05 Annuity Starting Date

"Annuity Starting Date" means the first day of the period for which an amount is payable as an annuity. If a benefit is not payable in the form of an annuity, the first day on which all events have occurred which entitle the Participant to such benefit.

1.06 Beneficiary

"Beneficiary" means the individual or entity designated as such by a Participant pursuant to the Plan or otherwise entitled to receive any payment pursuant to the Plan upon the death of the Participant. If with respect to any payment no individual or entity has been designated by a Participant, or no designated Beneficiary survives the Participant, the Participant's Beneficiary shall be (a) the Participant's surviving Spouse, if living at the time of such payment; or in default thereof (b) the Participant's surviving issue, per stirpes; or in default thereof (c) the Participant's estate.

1.07 Board of Governors

"Board of Governors" means the Board of Governors of the System.

1.08 Break in Service

"Break in Service" means any Plan Year during which the Employee does not complete more than five hundred (500) Hours of Service; provided, however, that absence from employment due to illness, Leave of Absence or temporary layoff followed by return to employment within twelve (12) months shall not be deemed to be a Break in Service; and provided further, however, that absence from employment by reason of service in the armed forces of the United States, or with the prior approval of the Board of Governors, by reason of service in a governmental agency, shall not be deemed a Break in Service if such Employee is reemployed by the System within four (4) months after his discharge or release from such service in the armed forces or in a governmental agency; and provided further, however, absence from work due to (i) the pregnancy of the Participant, (ii) the birth of a child of the Participant, (iii) the placement of a child with the Participant as a result of the adoption of such child by the Participant, or (iv) a period beginning immediately after the birth or placement for purposes of caring for such child, shall be treated as Hours of Service which would normally have been credited to the Participant but for such absence. For purposes of the preceding sentence, in no event shall the total number of hours treated as Hours of Service exceed five hundred one (501) hours. For purposes of determining a Break in Service, due to a maternity or paternity leave, the Hours of Service resulting from such absence shall be credited to the Plan Year in which the absence begins if a Break in Service would be prevented in such Plan Year, otherwise, in the immediately following Plan Year.

1.09 Code

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and the corresponding provisions of any subsequently enacted Federal tax laws.

1.10 Committee

"Committee" means the Retirement Plan Committee appointed by the Bishop of the Diocese of Metuchen.

1.11 Compensation

"Compensation" means total base earnings, including any differentials or premiums paid by the System for evening and night shifts, but excluding overtime payments, bonuses, call fees and other irregular remuneration of any kind.

Compensation shall include only that compensation which is actually paid to the Participant during the applicable period. Except as provided elsewhere in this Plan, the applicable period shall be the Plan Year.

Notwithstanding the above, Compensation shall include any amount which is contributed by the System pursuant to a salary reduction agreement and which is not includable in the gross income of the Employee under Sections 125, 402(e)(3), 402(h) or 403(b) of the Code.

In addition to other applicable limitations set forth in the Plan, and notwithstanding any other provision of the Plan to the contrary, for Plan Years beginning on or after January 1, 1994, the annual Compensation of each Employee taken into account under the Plan shall not exceed the OBRA '93 annual compensation limit. The OBRA '93 annual compensation limit is $150,000, as adjusted by the Commissioner for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Internal Revenue Code. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which Compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the OBRA '93 annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12).

For Plan Years beginning on or after January 1, 1994 and before 2002, any reference in this Plan to the limitation under Section 401(a)(17) of the Code shall mean the OBRA '93 annual compensation limit set forth in this provision. If Compensation for any prior determination period is taken into account in determining an employee's benefits accruing in the current Plan Year, the Compensation for that prior determination period is subject to the OBRA '93 annual compensation limit in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the first Plan Year beginning on or after January 1, 1994, the OBRA '93 annual compensation limit is $150,000.

The annual Compensation of each Participant taken into account in determining benefit accruals in any Plan Year beginning after December 31, 2001 shall not exceed $200,000. Annual Compensation means compensation during the Plan Year or such other consecutive 12-month period over which Compensation is otherwise determined under the Plan (the determination period). For purposes of determining benefit accruals in a

Plan Year beginning after December 31, 2001, Compensation for any prior determination period shall not exceed $200,000.

Effective for Plan Years beginning on and after January 1, 1997, the rules requiring the aggregation of family members of certain Participants and the Compensation of family members of certain Participants for purposes of computing benefits under the Plan shall cease to apply.

1.12 Credited Service

"Credited Service" means, for any Employee as of any date, his aggregate number of Years of Service, excluding:

(a) Any Year of Service prior to a One Year Break in Service, if the One Year Break in Service occurred before he had completed sufficient Years of Service to be entitled to a deferred retirement benefit under Section 4.02, provided the number of consecutive One Year Breaks in Service equals or exceeds the greater of (i) five (5) consecutive One Year Breaks in Service, or (ii) the aggregate number of Years of Service prior to the break (such prior Years of Service shall not include any Year of Service as herein provided due to a prior break). However, the provisions of this Section 1.12(a) shall apply only to Employees actively participating in the Plan on and after the first day of the Plan Year following December 31, 1984;

(b) For purposes of determining a Participant's normal retirement benefit under Section 5.01, any Year of Service prior to the Participant's date of participation in the Plan; and

(c) Years of Service with the St. Peter's Medical Center Auxiliary prior to January 1, 1995.

Notwithstanding the preceding, any Employee who was excluded from participation in the Plan for periods prior to January 1, 1988, because his original date of employment with the System from which Credited Service was determined was within five (5) years of his Normal Retirement Age, and who completes an Hour of Service on or after January 1, 1988, shall receive Credited Service for benefit accrual purposes in accordance with the provisions of this Section 1.12 for such period of employment.

1.13 Delayed Retirement Date

"Delayed Retirement Date" means the first day of any month coinciding with or next following the actual date the Participant severs his employment with the Employer after his Normal Retirement Age.

1.14 Disability Retirement Date

"Disability Retirement Date" means the first day of any month, prior to a Participant's Normal Retirement Age, coinciding with or next following a determination that a

Participant who has completed at least five (5) years of Vesting Service is Totally and Permanently Disabled.

1.15 Early Retirement Age

"Early Retirement Age" means the date on which a Participant has attained at least age fifty-five (55) and completed at least five (5) years of Vesting Service.

1.16 Early Retirement Date

"Early Retirement Date" means the first day of the month coinciding with or next following the Participant's Early Retirement Age.

1.17 Effective Date

"Effective Date" means January 1, 2010, the effective date of this amended and restated Plan. The original effective date of the Plan is January 1, 1964.

1.18 Employee

"Employee" means any Employee of the System, but excluding:

(a) any person considered a Leased Employee;

(b) any person who is represented by a collective bargaining unit for the purpose of bargaining with the System with respect to wages, hours of employment or other conditions of employment, if there is evidence that retirement benefits were the subject of good faith bargaining, unless the resulting bargaining agreement provides for participation in the Plan;

(c) any person whose personal services are being rendered to the System solely in the capacity of a trustee or consultant; and

(d) any physician-employee, unless (i) the Board has approved the Plan participation of such individual, as reflected on Appendix I to the Plan, and (ii) the conditions of employment of such individual are regulated pursuant to the terms of an employment contract between such physician-employee and the System that was entered into or renewed on or after January 1, 2004 and provides for such physician-employee's participation in the Plan.

In addition, the term "Employee" for purposes of eligibility to participate in the Plan includes only persons treated as such on the Employer's payroll and personnel records at the time such determination is made. Persons treated by the Employer as independent contractors and persons serving the Employer through third-party payroll providers, consulting firms and temporary help agencies at the time of the determination of the person's status are specifically excluded, regardless of whether they are leased employees within the meaning of Section 414(n)(2) of the Code. Eligibility status at the time of a determination of a person's employment status shall not be changed as a result of a retroactive reclassification of the person's employment status by the Internal Revenue Service, another governmental agency or a court of competent jurisdiction. Therefore, notwithstanding anything else herein to the contrary, any person not treated as an Employee on the payroll and personnel records of the Employer at the time the determination is made shall in no event be retroactively eligible for participation in the Plan during the period covered by such determination.

1.19 Fiduciary

"Fiduciary" means any person that exercises any discretionary authority or discretionary control respecting the management or disposition of Plan assets or renders any investment advice for a fee or other compensation or exercises any discretionary authority or responsibility for the administration of the Plan.

1.20 Fresh-Start Date

"Fresh-Start Date" means the last day of the Plan Year preceding a Plan Year for which any amendment of the Plan that directly or indirectly affects the amount of a Participant's benefit determined under the current benefit formula, is made effective.

1.21 Frozen Accrued Benefit

"Frozen Accrued Benefit" means a Participant's Accrued Benefit under the Plan determined as of the latest Fresh-Start Date as if the Participant terminated employment with the System on that date and without regard to any amendment to the Plan adopted after that date, other than amendments recognized as effective as of or before that date under Section 401(b) of the Code or Regulation 1.401(a)(4)-11(g).

If, as of the latest Fresh-Start Date, the amount of a Participant's Frozen Accrued Benefit was limited by the application of Section 415 of the Code, the Participant's Frozen Accrued Benefit will be increased for years after the latest Fresh-Start Date to the extent permitted under Section 415(d)(1) of the Code. In addition, the Frozen Accrued Benefit of a Participant whose Frozen Accrued Benefit includes the top-heavy minimum benefits provided in Article 11, will be increased to the extent necessary to comply with the average compensation requirement of Section 416(c)(1)(D)(i) of the Code.

If: (a) the Plan's normal form of benefit in effect on the latest Fresh-Start Date is not the same as the normal form under the Plan after the latest Fresh-Start Date, and/or (b) the Normal Retirement Age for any Participant on that date was greater than the Normal Retirement Age for that Participant under the Plan after the latest Fresh-Start Date, the stated Frozen Accrued Benefit will be expressed as an actuarially equivalent benefit in the normal form under the Plan after the latest Fresh-Start Date, commencing at the Participant's Normal Retirement Age under the Plan in effect after the latest Fresh-Start Date.

1.22 Highly Compensated Employee

"Highly Compensated Employee" means any highly compensated active employees and highly compensated former employees.

Effective January 1, 1997, a highly compensated active employee includes any Employee who performs service for the Employer or a member of the Controlled Group during the determination year and who, during the look-back year, received compensation (as defined in Section 414(q)(4) of the Code) from the Employer or a member of the Controlled Group in excess of $80,000, as adjusted under Section 414(q)(1) of the Code. The term Highly Compensated Employee also includes Employees who are 5 percent owners, as defined under Section 414(q)(2) of the Code, at any time during the look-back year or determination year.

For this purpose, the determination year shall be the Plan Year. The look-back year shall be the twelve (12) month period immediately preceding the determination year.

A highly compensated former employee includes any Employee who separated from service (or was deemed to have separated) prior to the determination year, performs no service for the Employer or a member of the Controlled Group during the determination year, and was a highly compensated active employee for either the separation year or any determination year ending on or after the Employee's fifty-fifth (55th) birthday.

1.23 Hour of Service

"Hour of Service" means:

(a) Each hour for which an Employee is paid, or entitled to payment, for the performance of duties for the Employer. These hours will be credited to the Employee for the computation period in which the duties are performed; and

(b) Each hour for which an Employee is paid, or entitled to payment, by the Employer on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence. No more than five hundred one (501) Hours of Service will be credited under this paragraph for any single continuous period (whether or not such period occurs in a single computation period). Hours under this paragraph will be calculated and credited pursuant to Section 2530.200b-2 of the Department of Labor Regulations which is incorporated herein by this reference; and

(c) Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer. The same Hours of Service will not be credited both under subsection (a) or (b), as the case may be, and under this subsection (c). These hours will be credited to the Employee for the computation period or periods to which the award or agreement pertains rather than the computation period in which the award, agreement or payment is made.

Hours of Service shall be credited for a leave of absence that qualifies as FMLA leave under the Family and Medical Leave Act to the extent required under such Act and for qualified military leave to the extent required by the Uniformed Services Employment and Reemployment Rights Act.

Hours of Service will be credited for employment with other members of an Affiliated Group (under Section 414(m)), a controlled group of corporations (under Section 414(b)), or a group of trades or businesses under common control (under Section 414(c)) of which the adopting Employer is a member, and any other entity required to be aggregated with the Employer pursuant to Section 414(o) and the regulations thereunder.

Hours of Service will also be credited for any individual considered an Employee for purposes of this Plan under Section 414(n) or Section 414(o) and the regulations thereunder.

Notwithstanding anything in the Plan to the contrary, an Employee shall be deemed to earn at least 1,000 Hours of Service for the 2007 Plan Year if such individual is:

(a) designated as having a termination of employment pursuant to a scheduled May 1, 2007 reduction in force; and

(b) projected to earn at least 1,000 Hours of Service for the 2007 Plan Year, based on his current work schedule immediately prior to May 1, 2007.

1.24 Leased Employee

"Leased Employee" means any person (other than an employee of the recipient) who pursuant to an agreement between the recipient and any other person ("leasing organization") has performed services for the recipient (or for the recipient and related persons determined in accordance with Section 414(n)(6) of the Code) on a substantially full-time basis for a period of at least one year, and (i) prior to January 1, 1997, such services are of a type historically performed by Employees in the business field of the recipient Employer, and (ii) on and after January 1, 1997, such services are performed under the primary direction and control of the recipient Employer. Contributions or benefits provided a leased employee by the leasing organization which are attributable to services performed for the recipient Employer shall be treated as provided by the recipient Employer.

1.25 Leave of Absence

"Leave of Absence" means any leave of absence which may be granted by the Employer in accordance with reasonable standards and policies uniformly observed and consistently applied and may include, by way of illustration and not limitation, leaves of absence granted because of illness of the Employee or of his family members, vacations without pay, and pursuit of educational or vocational studies.

1.26 Life Annuity

"Life Annuity" means a benefit payable in equal monthly amounts for the life of the annuitant and ceasing with the payment made on the first day of the month in which the annuitant dies.

1.27 Limitation Year

"Limitation Year" means, for purposes of complying with Section 415 of the Code, a Plan Year.

1.28 Maternity/Paternity Leave

"Maternity/Paternity Leave" means a temporary cessation from active employment with the System or with any member of the Affiliated Group which begins on or after the first day of the first Plan Year beginning after December 31, 1984, for any of the following reasons:

(a) the pregnancy of the Employee;

(b) the birth of a child of the Employee;

(c) the placement of a child with the Employee in connection with the adoption of such child by the Employee; or

(d) the caring for such child for a period beginning immediately following such birth or placement; provided, however, that in order for an Employee's absence to qualify as a Maternity/Paternity Leave of Absence, the Employee must furnish the Committee in a timely manner, with such information and documentation as the Committee may reasonably request to establish that the absence from work is for reasons referred to above and the number of days for which there was such absence.

1.29 Normal Retirement Age

"Normal Retirement Age" means the later of:

(a) the date on which a Participant attains age sixty-five (65); or

(b) the earlier of (i) the completion of five (5) years of Vesting Service, or (ii) the fifth (5th) anniversary of the date as of which the Participant commenced Plan participation.

1.30 Normal Retirement Date

"Normal Retirement Date" means the first day of the month coinciding with or next following the Participant's Normal Retirement Age.

1.31 One Year Break in Service

"One Year Break in Service" means each twelve (12) month computation period in which an Employee does not complete more than five hundred (500) Hours of Service. For purposes of determining Years of Eligibility Service, the computation shall be the period used in determining Years of Eligibility Service. For purposes of determining Years of Service, the computation period shall be the Plan Year.

1.32 Participant

"Participant" means a person who meets the requirements of Article 2 for participation in the Plan, including a former Participant.

1.33 Participating Employer

"Participating Employer" means any direct or indirect subsidiary of the System or any other entity designated by the Board of Governors, which has adopted this Plan with the approval of the System, if any. The Participating Employers are set forth in Appendix II to the Plan.

1.34 Plan

"Plan" means the Saint Peter's Healthcare System Retirement Plan, as set forth herein and as it may be amended.

1.35 Plan Year

"Plan Year" means each twelve (12) month period beginning on January 1 and ending on December 31.

1.36 Qualified Joint and Survivor Annuity

"Qualified Joint and Survivor Annuity" means an immediate annuity for the life of the Participant with a survivor annuity for the life of the Spouse which is fifty percent (50%) of the amount of the annuity which is payable during the joint lives of the Participant and the Spouse and which is the amount of benefit which can be purchased with the Actuarial Equivalent of the Participant's vested Accrued Benefit. Effective July 1, 2010, fifty percent (50%) shall be replaced with one hundred percent (100%) in the preceding sentence.

1.37 Self-Employed Individual

"Self-Employed Individual" means an individual who has earned income for the taxable year from the trade or business for which the Plan is established; also, an individual who would have had earned income but for the fact that the trade or business had no net profits for the taxable year.

1.38 Service

"Service" means the existence of a relationship with the System as an Employee, or any period of Disability or approved leave of absence.

1.39 Spouse

"Spouse" means the person to whom the Participant is legally married at the earlier of the Participant's death or the date on which payment of the Participant's benefits commence, and any former Spouse to the extent provided under a qualified domestic relations order as described in Section 414(p) of the Code ("QDRO"). Except as otherwise required pursuant to a QDRO, an individual shall not be considered to be a Spouse eligible to receive the Spouse's Survivor Annuity pursuant to Article VII, unless such individual was married to the Participant for the one year period ending on the Participant's death.

1.40 System or Employer

"System" or "Employer" means Saint Peter's Healthcare System (or its predecessor that maintained the Plan), including any Participating Employer, which shall adopt this Plan for its Employees, with the approval of the System, and any other corporation, partnership, business association or proprietorship, which shall have assumed in writing the obligations of the Plan and Trust, with the approval of the System, including any successor to an employer as a result of a statutory merger, purchase of assets or any other form of reorganization or the business of the System.

1.41 Taxable Wage Base

"Taxable Wage Base" means the maximum amount of earnings which may be considered wages with respect to any Plan Year under Section 3121(a)(1) of the Code and determined as of the first day of each such Plan Year.

1.42 Total and Permanent Disability or Totally and Permanently Disabled

"Total and Permanent Disability" or "Totally and Permanently Disabled" means a physical or mental condition which totally and permanently prevents a Participant from engaging in any substantially gainful activity. The determination as to whether a Participant is Totally and Permanently Disabled shall be made on evidence that the Participant is currently receiving disability benefits under the Social Security Act in effect at the date of disability. The Committee or its delegate may require that a Participant receiving a disability retirement benefit periodically submit proof of his continued disability.

1.43 Trust Fund

"Trust Fund" means the assets of the Trust.

1.44 Trustee

"Trustee" means the person or persons acting as trustee or trustees hereunder at any time or from time to time.

1.45 Vesting Service

"Vesting Service" means, for any Employee as of any date, his aggregate number of Years of Service, excluding any Year of Service prior to a One Year Break in Service, if the One Year Break in Service occurred before he had completed sufficient Years of Service to be entitled to a deferred retirement benefit under Section 4.02, provided the number of consecutive One Year Breaks in Service equals or exceeds the greater of:

(a) five (5) consecutive One Year Breaks in Service, or

(b) the aggregate number of Years of Service prior to the break (such prior Years of Service shall not include any Year of Service as herein provided due to a prior break).

However, the provisions of Section 1.45(a) shall apply only to Employees actively participating in the Plan on and after the first day of the Plan Year following December 31, 1984.

Notwithstanding the preceding, any Employee who was excluded from participation in the Plan for periods prior to January 1, 1987 because his original date of employment with the System was within five (5) Years of his Normal Retirement Age, and who completes an Hour of Service on or after January 1, 1987, shall receive Vesting Service in accordance with the provisions of this Section 1.45 for such period of employment.

For purposes of determining Vesting Service in accordance with this Section 1.45:

(c) Periods of employment with an Affiliate which would have constituted Vesting Service had the Employee been employed by the System shall be included as if such periods had been performed for the System;

(d) Periods of employment with the System other than as an Employee which would have constituted Vesting Service had the Employee been employed as an Employee shall be included as if such periods had been performed as an Employee; and

(e) Any Vesting Service prior to the Plan Year in which the Employee attains the age of eighteen (18) shall be excluded.

1.46 Year of Service

"Year of Service" means, for any Employee, a stated twelve (12) consecutive month period commencing on each January 1, during which the Employee completed one thousand (1,000) or more Hours of Service. Notwithstanding the foregoing, for purposes of determining Vesting Service under Section 1.45, any Participant who was employed on January 1, 1986, shall receive credit for one (1) Year of Service for the calendar year during which his employment commenced, regardless of whether such Participant completed one thousand (1,000) Hours of Service during such calendar year. In addition, notwithstanding the foregoing, for purposes of determining Years of Service for benefit purposes, any Participant who retires on or after his Early Retirement Age or Normal Retirement Age shall receive credit for one (1) Year of Service for the calendar year in which he retired, regardless of whether such Participant completed one thousand (1,000) Hours of Service during such calendar year. For purposes of this definition, Hours of Service shall include periods during which the Employee is not paid or entitled to payment at the number of hours the Employee would have completed under the System's normal basic work schedule applicable to such Employee for a Leave of Absence.

If an Employee is simultaneously in the employ of more than one Employer or is transferred from the employment of one Employer to the employment of another Employer, the number of Hours of Service completed during any twelve (12) consecutive month period shall be the sum of the number of Hours of Service completed for each Employer during such period.

For purposes of determining eligibility in Article 2:

(a) Periods of employment with an Affiliate which would have constituted a Year of Service had the Employee been employed by the System shall be included as if such periods had been performed for the System; and

(b) Periods of employment with the System other than as an Employee which would have constituted a Year of Service had the Employee been employed as an Employee shall be included as if such periods had been performed as an Employee.

For purposes of determining Vesting Service pursuant to Section 1.45, Employees of the St. Peter's Medical Center Auxiliary (the "Auxiliary") who become Participants in the Plan as of January 1, 1995 shall receive credit for all Years of Service with the Auxiliary; provided, however, that no Years of Service with the Auxiliary for a period prior to January 1, 1995 shall be credited for benefit accrual purposes.

ARTICLE 2

ELIGIBILITY

2.01 Eligibility for Participation

(a) Any Employee who, as of December 31, 1988, was a Participant under the Plan shall become a Participant under this Plan as of January 1, 1989, subject to the provisions hereinafter contained.

Any Employee who was previously excluded from participation in the Plan because his original date of employment with the System was within five (5) years of his Normal Retirement Age and who completes an Hour of Service on or after January 1, 1988 shall become a Participant as of January 1, 1988, provided he has otherwise met the requirements for participation in the Plan. If such an Employee does not become a Participant as of January 1, 1988, because he does not otherwise meet the requirements for participation in the Plan, he shall be eligible to participate on the January 1 following his satisfaction of the eligibility requirements of the Plan.

(b) Each Employee who was not a Participant on December 31, 1988, and any Employee who becomes an Employee after January 1, 1989, but before January 1, 1990, shall be eligible to participate in the Plan on the January 1 coinciding with or next following the latest of:

(i) January 1, 1989;

(ii) the attainment of age twenty (20);

(iii) the completion of six (6) months of Service subsequent to the date on which he completed his first Hour of Service.

(c) Any other present Employee and any future Employee shall be eligible to participate in the Plan as follows:

(i) If the Employee completes a Year of Service during the twelve (12) month period subsequent to the date on which he completed his first Hour of Service, he shall become a Participant retroactive to the first day of the month coinciding with or next following the later of (A) the date he attains age twenty (20), or (B) the six (6) month anniversary of the date on which the Employee completed his first Hour of Service.

(ii) If the Employee does not complete a Year of Service pursuant to (i) above, then the Employee shall become a Participant retroactive to the later of (A) the July 1 of the Plan Year in which the Employee completes a Year of Service, or (B) the first day of the month coinciding with or next following the date he attains age twenty (20).

(iii) If any Employee described in Section 1.18(d) of the Plan is precluded from participating in the Plan prior to the date that his employment contract with the System is renewed, then the Employee shall become a Participant as of the later of the date that such contract is renewed or the date of participation determined in accordance with subparagraph (c)(ii) above (provided that such Participant's participation in the Plan is approved by the Board).

(d) Notwithstanding any other provision of the Plan, eligibility for participation in the Plan shall be frozen and no Employee who is hired by the System for the first time after June 30, 2010 shall become a Participant in the Plan after such date.

2.02 Eligibility on Reemployment

Any Participant (other than a Totally and Permanently Disabled Participant) who terminates employment and is rehired on or after July 1, 2010 shall have a frozen Accrued Benefit, unless his rehire date is prior to the first anniversary of his termination of employment. Any Participant who was rehired prior to July 1, 2010, shall become a Participant on his reemployment date.

2.03 Participation

Each person who becomes a Participant shall remain a Participant so long as he remains an Employee or is entitled to future benefits under the terms of the Plan.

ARTICLE 3

SYSTEM CONTRIBUTIONS

3.01 Amount

No contribution shall be required of any Participant as a condition of his participation in the Plan. The System shall contribute to the Plan, for each Plan Year at least the amount, if any, necessary to satisfy the minimum funding requirements of the Code for such Plan Year.

3.02 Payment

System contributions for any Plan Year shall be paid in cash to the Trustee no later than the date prescribed by Section 412 of the Code (and the regulations thereunder) for meeting the minimum funding requirements for such Plan Year.

3.03 Forfeitures

Any forfeitures arising under the Plan shall be used to reduce the System's contribution.

3.04 Return of System Contributions

A contribution made by the System may be returned to the System if:

(a) the contribution is made by the reason of a mistake of fact, provided such contribution is returned within one year of the mistaken payment, or

(b) the contribution is conditioned on its deductibility for Federal income tax purposes (each contribution shall be deemed to be so conditioned unless otherwise stated in writing by the System) and such deduction is disallowed; provided such contribution is returned within one year of the disallowance of the deduction for Federal income tax purposes, or

(c) the contribution is made prior to the receipt of a determination letter of the Internal Revenue Service as to the initial qualification of the Plan under Section 401(a) of the Code and no favorable determination letter is received; provided that any contribution made incident to that initial qualification must be returned to the System within one year after the initial qualification is denied, but only if the application for qualification is made by the time prescribed by law for filing the System's return for the taxable year in which the Plan is adopted, or such later date as the Secretary of the Treasury may prescribe.

The amount of any contribution which may be returned shall be reduced to reflect its proportionate share of any net investment loss in the Trust Fund. In the event subsection (c) applies, the returned contribution may include any net investment earnings or gains in the Trust Fund.

ARTICLE 4

VESTING

4.01 Full Vesting

Each Participant shall be vested in his Accrued Benefit as determined in this Article. Notwithstanding anything herein to the contrary, in all events a Participant shall be one hundred percent (100%) vested upon the attainment of his Normal Retirement Age.

4.02 Vesting Schedule

A Participant who is not fully vested in his Accrued Benefit under Section 4.01 shall be vested in accordance with the following schedule based upon the number of years of Vesting Service of the Participant on the date of termination of employment:

If years of Vesting Service as of the Date of Termination Equal:	The Participant's Nonforfeitable Percentage is:
4 or less	0%
5 or more	100%

Notwithstanding the foregoing, Participants who are employees of the Food Services, Laundry and Environmental Services and who terminate employment with the System as of midnight October 23, 1999 and immediately thereafter commence employment with Majestic Management Services, L.L.C. shall have a one hundred percent (100%) vested interest in their retirement benefits accrued under the Retirement Plan as of such termination of employment.

4.03 Break in Service

Subject to the requirements of Section 1.45, if a Participant who is entitled to a deferred retirement benefit under the provisions of Section 4.02 later is reemployed as an Employee prior to the commencement of such retirement benefit, his rights to any such retirement benefit shall thereupon be suspended. Such Participant's rights to benefits under the Plan shall be subject to redetermination at any subsequent termination of employment or retirement under the Plan in accordance with the provisions of the Plan then in effect.

4.04 Forfeitures

A Participant who has no vested interest in his Accrued Benefit shall be deemed to be paid his entire interest in the Plan upon his termination of employment and shall forfeit the nonvested portion of his Accrued Benefit as of such date. However, if the Participant is reemployed by the System or an Affiliated Group member prior to incurring five (5) consecutive One Year Breaks in Service, such forfeited portion of the Accrued Benefit shall be reinstated.

4.05 Prior Vesting Schedule

(a) Notwithstanding the vesting schedule hereinabove, the vested percentage of a Participant's Accrued Benefit shall not be less than the vested percentage attained as of January 1, 1989.

(b) A Participant with at least three (3) Years of Service as of the effective date of any amendment changing the vesting schedule may elect to have his nonforfeitable percentage computed under the Plan as in effect prior to such amendment. Notwithstanding the foregoing, for Plan Years beginning before December 31, 1988, or with respect to Employees who fail to complete at least one Hour of Service in a Plan Year beginning after December 31, 1988, five (5) shall be substituted for three (3) in the preceding sentence. If a Participant fails to make such election, then such Participant shall be subject to the new vesting schedule. The Participant's election period shall commence on the effective date of the amendment and shall end sixty (60) days after the latest of:

(i) the adoption date of the amendment,

(ii) the effective date of the amendment, or

(iii) the date the Participant receives written notice of the amendment from the Employer or Administrator.

Except, however, any Employee who was a participant as of January 1, 1989 and who completed three (3) Years of Service shall be subject to the pre-amendment vesting schedule provided such schedule is more liberal than the new vesting schedule.

The election described above shall also be applicable when a Top-Heavy Plan reverts to non Top-Heavy status.

ARTICLE 5

AMOUNT AND COMMENCEMENT OF RETIREMENT BENEFIT

5.01 Normal Retirement Benefit

If the Participant's Service terminates on the Participant's Normal Retirement Age, a Participant shall receive a monthly retirement benefit which shall commence on his Normal Retirement Date and shall be paid in accordance with Article 6.

Effective January 1, 1991, subject to subsection (e), the amount of the monthly retirement benefit shall be one-twelfth (1/12) of the greater of either (i) the sum of subsections (a), (b) and (c) below, or (ii) the amount determined under subsection (d) below:

(a) For periods of Service commencing prior to January 1, 1987, one and one-fourth percent (1.25%) of the Participant's Compensation for the 1986 Plan Year multiplied by the Participant's Years of Service, including completed months as a fraction of a year, earned prior to January 1, 1987.

(b) For periods of Service commencing on or after January 1, 1987, but before January 1, 1991, the sum of (i) and (ii) following:

(i) One and one-half percent (1.5%) of the Participant's Compensation up to the Taxable Wage Base for each Year of Service, earned during the period on or after January 1, 1987, but before January 1, 1991; and

(ii) One and three-fourths percent (1.75%) of the Participant's Compensation in excess of the Taxable Wage Base for each Year of Service, earned during the period on or after January 1, 1987, but before January 1, 1991.

(c) For periods of Service commencing on and after January 1, 1991, the sum of (i), (ii) and (iii) following:

(i) One and one-half percent (1.5%) of the Participant's Compensation up to the Taxable Wage Base for each Year of Service earned during the period commencing on or after January 1, 1991, up to a maximum of thirty-five (35) years;

(ii) One and three-fourths percent (1.75%) of the Participant's Compensation in excess of the Taxable Wage Base for each Year of Service earned during the period commencing on or after January 1, 1991, up to a maximum of thirty-five (35) years; and

(iii) One and one-half percent (1.5%) of the Participant's Compensation for each Year of Service, earned during the period commencing on or after January 1, 1991, in excess of thirty-five (35) years.

(d) The product of (i) and (ii) following:

(i) Two dollars and fifty cents ($2.50) per month; and

(ii) The Participant's years of Credited Service under the Plan,

up to a maximum benefit of twenty-five dollars ($25.00) per month.

(e) Notwithstanding any provision under this Plan to the contrary, with respect to total Employer provided benefits under this Plan for all Years of Service, the difference between the Excess Benefit Percentage and the Base Benefit Percentage, as such terms are defined under Section 401(l) of the Code, shall be limited to ¾ of one percent (.75%) times the Participant's total Years of Service (up to 35 Years of Service).

Furthermore, with respect to benefits payable under the Plan prior to Social Security Retirement Age, including benefits payable at Normal Retirement Age, Early Retirement Age and Disability benefits (other than qualified disability benefits within the meaning of Section 401(a)(4) of the Code), the difference between the Excess Benefit Percentage and the Base Benefit Percentage will not exceed the Maximum Excess Allowance, as such terms are defined under Section 401(l) of the Code, as adjusted for other required reductions, reduced as set forth in Treasury Regulations Section 1.401(l)-3(e).

5.02 Early Retirement Benefit

Upon retirement at his Early Retirement Age, a Participant shall receive a monthly retirement benefit which shall commence on his Normal Retirement Date and shall be paid in accordance with Article 6. The amount of the monthly retirement benefit shall be the Participant's Accrued Benefit as of his Early Retirement Age.

Notwithstanding anything contained herein to the contrary, a Participant who retires at his Early Retirement Age shall have the right to elect, in writing, to receive his retirement benefit commencing as of his Early Retirement Age or on the first day of any month thereafter which precedes his Normal Retirement Date. If the Participant makes an election to receive his retirement benefit at an earlier commencement date, the amount of monthly retirement benefit payable at such earlier commencement date shall be the Participant's Accrued Benefit as of his Early Retirement Age, reduced by four percent (4%) per year for each year between the Participant's Annuity Starting Date and his Normal Retirement Date.

Notwithstanding the preceding, for Participants of the Plan on December 31, 1986, in no event shall the benefit payable at the commencement of an early retirement benefit be less than the early retirement benefit the Participant would have received determined on the basis of the actuarial equivalent reduction factors for early retirement under the Plan as in effect on December 31, 1986. The actuarial equivalent reduction factors for disability retirement benefits in effect on December 31, 1986 were one-fifteenth (1/15th) for each of the first five (5) years and one-thirtieth (1/30th) for each of the next five (5) years by which the date as of which payments are to commence precedes the Participant's Normal Retirement Date.

5.03 Delayed Retirement Benefit

Upon retirement at his Delayed Retirement Date, a Participant shall receive a monthly retirement benefit which shall commence on the date of his retirement and shall be paid in accordance with Article 6. The amount of the monthly retirement benefit shall be the larger of either subsection (a) or subsection (b) following:

(a) A monthly retirement benefit determined in the same manner as for retirement at his Normal Retirement Age with Compensation and Credited Service computed as of his Delayed Retirement Age.

(b) A monthly retirement benefit determined at his Normal Retirement Age with Compensation and Credited Service computed as of his Normal Retirement Age and the benefit shall be increased so that such monthly retirement benefit shall be the Actuarial Equivalent, as of his Delayed Retirement Age, of the monthly retirement benefit that would have been payable had he retired on his Normal Retirement Age.

5.04 Disability Retirement Benefit

Upon retirement at his Disability Retirement Date, a Participant shall receive a monthly retirement benefit which shall commence on his Normal Retirement Age, if he is then living, and shall be paid in accordance with Article 6. The amount of the monthly retirement benefit shall be the monthly benefit the Participant would have been entitled to under Section 5.01 had he remained in Service as an Employee until his Normal Retirement Age and then retired, with Credited Service computed as of what would otherwise have been his Normal Retirement Age and with Compensation computed as of the Plan Year prior to his Disability Retirement Date.

Notwithstanding anything contained herein to the contrary, a Totally and Permanently Disabled Participant shall have the right to elect, in writing, to receive his retirement benefit commencing as of his Early Retirement Age or on the first day of any month thereafter which precedes his Normal Retirement Age. If the Totally and Permanently Disabled Participant makes an election to receive his retirement benefit at an earlier commencement date, the amount of monthly retirement benefit payable at such earlier commencement date shall be the monthly benefit the Participant would have been entitled to under Section 5.02 had he remained in Service as an Employee until his Early Retirement Age and then retired, with Credited Service computed as of what would otherwise have been his Early Retirement Age and with Compensation computed as of the Plan Year prior to his Disability Retirement Date, with such amount reduced as described in Section 5.02.

Notwithstanding the preceding, for Participants of the Plan on December 31, 1986, in no event shall the benefit payable at the commencement of an early retirement benefit be less than the disability retirement benefit the Participant would have received determined on the basis of the actuarial equivalent reduction factors for disability retirement under the Plan as in effect on December 31, 1986. The actuarial equivalent reduction factors for disability retirement benefits in effect on December 31, 1986 were one-fifteenth (1/15th) for each of the first five (5) years and one-thirtieth (1/30th) for each of the next five (5) years by which the date as of which payments are to commence precedes the Participant's Normal Retirement Date.

If a Totally and Permanently Disabled Participant in receipt of or eligible for a monthly retirement benefit in accordance with this Section 5.04 recovers to the extent that he is no longer Totally and Permanently Disabled, he no longer shall be entitled to a disability retirement benefit hereunder.

If a Participant whose disability retirement benefit is being deferred returns to the employ of the System, he shall resume his status as an active Participant. If such Participant does not return to the employ of the System, he shall be considered to have terminated his Service as of the date he is no longer Totally and Permanently Disabled. In either event, the period during which the participant was Totally and Permanently Disabled shall be considered for purposes of Credited Service. To effectuate this result, if the Employee is paid or entitled to payment, directly or indirectly, by the System during the Employee's period of Total and Permanent Disability, from sources other than this Plan, he shall be credited with Hours of Service in accordance with Section 1.23(b), however, more than five hundred one (501) Hours of Service may be credited under that paragraph. If the Employee is not being paid or entitled to payment, directly or indirectly, by the System during his period of Total and Permanent Disability, he shall be credited with the number of Hours of Service that he presumably would have performed and been compensated for but for the fact that he became Totally and Permanently Disabled.

5.05 Termination of Service

A terminated Participant who is entitled to a deferred vested benefit in accordance with the provisions of Section 4.02 shall be entitled to receive his benefit commencing as of his Normal Retirement Age, if he is then alive, paid in accordance with Article 6.

Notwithstanding the preceding, a terminated Participant who has completed at least five (5) years of Vesting Service at his date of termination of Service may elect in writing to have his otherwise deferred monthly retirement benefit commence as of the first day of the month coinciding with or next following his attainment of the age of fifty-five (55) or as of the first day of any month thereafter which precedes his Normal Retirement Age. Alternatively, if such Participant is eligible to elect a lump sum form of payment in accordance with Section 6.02(b)(iii), he may elect in writing to have his benefit paid in a lump sum or the normal form (as described in Section 6.02(b)(iv)), commencing as of the first day of the month coinciding with or next following his termination date or as of the first day of any month thereafter which precedes his Normal Retirement Age.

In addition, if a terminated Participant makes an election to receive his retirement benefit at a commencement date prior to his Normal Retirement Age, the amount of the monthly retirement benefit payable at such earlier commencement date shall be equal to the amount of monthly retirement benefit otherwise deferred to his Normal Retirement Age reduced for early retirement to reflect the period by which the benefit commencement date precedes what otherwise would be the Participant's Normal Retirement Age as follows:

(a) as described in Section 5.02 for each of the first ten (10) years that commencement precedes his Normal Retirement Date; and

(b) if such Participant is eligible to elect a lump sum form of payment in accordance with Section 6.02(b)(iii), reduced by the Actuarial Equivalent factors set forth in Section 1.02(a) to reflect the period, if any, by which the benefit commencement date precedes the Participant's Early Retirement Age.

5.06 Increase in Benefits for Retired Participants

Each retired Participant whose retirement benefit payments commenced prior to January 1, 1987 and who is still receiving a retirement benefit as of January 1, 1987 (including any Beneficiaries of such Participant) shall have his retirement benefit increased by seven percent (7%), effective with the January 1, 1987 payment.

5.07 Mandatory Commencement of Benefits

Unless a Participant elects otherwise, payment of the Participant's vested Accrued Benefit must commence not later than the sixtieth (60th) day after the close of the Plan Year in which occurs the latest of:

(a) the Participant attains the earlier of age sixty-five (65) or the Normal Retirement Age,

(b) the date the Participant's Service terminates, or

(c) the tenth (10th) anniversary of the year in which the Participant commenced Plan participation.

5.08 Return to Service

If a Participant is reemployed as an Employee after the commencement of a retirement benefit due to retirement at his Early Retirement Age or the commencement of a benefit prior to the attainment of his Normal Retirement Age, his retirement benefit shall be discontinued. The Participant's rights to future benefits under the Plan shall be subject to redetermination upon any subsequent termination of employment or retirement under the Plan in accordance with the Plan provisions then in effect. Any benefits thereafter payable shall be adjusted to reflect the Actuarial Equivalent value of the retirement benefits received by the Participant in the period during which he was in receipt of a retirement benefit. Notwithstanding the preceding, the monthly retirement benefit thereafter payable shall not be less than the monthly retirement benefit payable immediately before his latest reemployment plus the Actuarial Equivalent of any monthly retirement benefit suspended while the Participant is not employed in Service as described in Department of Labor Regulations 2530.203-3(c)(1).

If a Participant is reemployed as an Employee after the commencement of a retirement benefit under any of the provisions of the Plan and after reaching his Normal Retirement Age and the Participant has been credited with at least one thousand (1,000) Hours of Service in a Plan Year, payment of the Participant's monthly retirement benefit shall be suspended until he subsequently terminates his active employment with the System, subject to the following requirements:

(a) Each Participant whose monthly retirement benefit is suspended under this Section 5.08 shall be notified of the suspension. The notification shall be made by personal delivery or first class mail during the first calendar month or payroll period (if applicable) in which the Participant's monthly retirement benefit is suspended. The notification shall contain the following information (either expressly or by reference to the Plan's summary plan description):

(i) A description of the specific reasons why benefit payments are being suspended;

(ii) A general description and copy of the Plan provisions relating to the suspension of benefit payments;

(iii) A statement that applicable Department of Labor Regulations may be found in Section 2530.203-3 of the Code of Federal Regulations; and

(iv) A description of the Plan's claims procedure for affording a review of the suspension of benefits.

(b) As of his Normal Retirement Age, a Participant's monthly retirement benefit may be suspended under this Section 5.08 for each month or, if applicable, each four (4) or five (5) week payroll period ending in a calendar month after which the Participant completes one thousand (1,000) or more Hours of Service (other than Hours of Service credited only on account of back pay that was awarded or agreed to by the System) in a Plan Year. During each calendar month or payroll period (if applicable) after which a Participant meets the preceding requirements, he shall be deemed to be in the Service of the System for purposes of this Section 5.08. A Participant who has reached his Normal Retirement Age and who does not perform forty (40) or more Hours of Service during any calendar month or payroll period (if applicable) shall be deemed to have terminated employment with the System and, as a result, shall be entitled to a monthly retirement benefit for the period for which he is deemed to have terminated his employment in accordance with Section 5.08(c).

(c) Upon the actual retirement of a Participant who does not complete forty (40) or more Hours of Service in any calendar month or payroll period (if applicable) pursuant to Section 5.08(b), his monthly retirement benefit shall be increased by the Actuarial Equivalent of the payments which otherwise would have been paid by reason of the Participant being deemed to have terminated his employment with the System.

(d) Upon the actual retirement of a Participant who is deemed to have terminated his employment under Section 5.08(b), he shall be entitled to receive a monthly retirement benefit equal to the greater of (i) the benefit determined in accordance with Section 5.08(c), or (ii) a benefit determined in the same manner as the normal retirement benefit including any Credited Service earned after his Normal Retirement Age. Payment of such Participant's monthly retirement benefit shall commence no later than the first day of the third calendar month after the calendar month in which the Participant retires.

(e) The Committee shall follow the procedure described in the Plan's summary plan description for the review of claims. A Participant may request, and the Committee shall render, a determination of whether specific contemplated employment shall result in a suspension of his benefit payments.

5.09 Change in Employment Status

A Participant who ceases to be an Employee as defined in Section 1.18 due to a change in employment status while remaining an Employee of the System shall cease to accrue Credited Service as of the date of such change in employment status, but he shall continue to earn Vesting Service and become a limited Participant until such time as he again becomes an Employee as defined in Section 1.18. If the limited Participant does not again become an Employee as defined in Section 1.18 prior to his termination of employment, the amount, if any, of the benefits to which he is entitled shall be determined based on his Credited Service as of the date of his change in employment status and Vesting Service as of the date of his termination of employment including Vesting Service earned while a limited Participant.

If an Employee of the System becomes an Employee as defined in Section 1.18 due to a change in employment status with the System, he shall become eligible for participation as of the date of his change in employment status provided he satisfies the requirements of Article 2 as if he has been an Employee during such prior period of employment. If such an Employee becomes a Participant, he shall receive Credited Service only from the date of such change in employment status and Vesting Service from his date of employment in accordance with the provisions of Section 4.02.

5.10 Maximum Retirement Benefit

The following limitations apply with respect to Limitation Years beginning on and after January 1, 2008 or such earlier Limitation Years as are specified herein. Notwithstanding the foregoing, the limitations in effect prior to January 1, 2002 apply with respect to a Participant who is not credited with an Hour of Service on or after January 1, 2002.

(a) The maximum annual retirement allowance attributable to Employer contributions under the Plan payable to a Participant shall not exceed the lesser of:

(1) $160,000, as adjusted effective as of January 1st of each calendar year for increases in the cost-of-living, if any, in accordance with regulations or other pronouncements issued by the Secretary of the Treasury or Commissioner of Internal Revenue, for such calendar year, under the authority granted by Section 415(d) of the Code; and

(2) One hundred percent (100%) of the Participant's average annual 415 Compensation for the three (3) consecutive calendar years during which the Participant received the greatest aggregate 415 Compensation from the Employer. This limitation shall also apply to benefits commencing before or after a Participant's Normal Retirement Date. In the case of a Participant who is rehired by the Employer after a severance from employment, the Participant's high three-year average 415 Compensation shall be calculated by excluding all years for which the Participant performs no services for and receives no 415 Compensation from the Employer (the break period) and by treating the years immediately preceding and following the break period as consecutive. A Participant's 415 Compensation for a year of service shall not include 415 Compensation in excess of the limitation under Section 401(a)(17) of the Code that is in effect for the calendar year in which such year of service begins.

If a Participant has multiple Annuity Starting Dates, these limitations must be satisfied as of each Annuity Starting Date, actuarially adjusting for past and future distributions.

In the event that the retirement benefit otherwise payable to a Participant who has retired or terminated employment has been limited by the dollar limitation of Section 5.10(a)(1) above, such limited annual retirement allowance shall be increased in accordance with any automatic cost-of-living adjustments in such dollar limitation made pursuant to Section 5.10(a)(1).

(b) In the event that the annual retirement allowance payable to a Participant under this Plan and all other defined benefit plans of the Employer does not exceed $10,000 for the Plan Year or any prior Plan Year, and the Employer had not at any time maintained a separate defined contribution plan in which the Participant participated, the limitation otherwise imposed by this Section shall not apply.

(c) If the Participant has fewer than 10 years of participation in the Plan, the defined benefit dollar limitation set forth in 5.10(a)(1) shall be multiplied by a fraction, (i) the numerator of which is the number of years (or part thereof) of participation in the Plan and (ii) the denominator of which is 10. In the event that a Participant has less than ten (10) Years of Service, the limitations referred to in the foregoing Sections 5.10(a)(2) and 5.10(b) shall be multiplied by a fraction, the numerator of which is the Participant's number of years of service (or part thereof) and the denominator of which is ten (10).

(d) Except as provided below, where a benefit is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this Section. For a Participant who has or will have distributions commencing at more than one Annuity Starting Date, the annual straight life annuity shall be determined as of each such Annuity Starting Date (and shall satisfy the limitations of this Section as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other Annuity Starting Dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to Section 1.401(a)-20, Q&A 10(d), and with regard to Section 1.415(b)-1(b)(1)(iii)(B) and (C) of the Income Tax Regulations.

No actuarial adjustment to the benefit shall be made for (i) survivor benefits payable to a Surviving Spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the Participant's benefit were paid in another form; (ii) benefits that are not directly related to retirement benefits (such as a qualified disability benefit, pre-retirement incidental death benefits, and postretirement medical benefits); or (iii) the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to Section 417(e)(3) of the Code and would otherwise satisfy the limitations of this Section, and the Plan provides that the amount payable under the form of benefit in any Limitation Year shall not exceed the limits of this Section applicable at the Annuity Starting Date, as increased in subsequent years pursuant to Section 415(d) of the Code. For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic periodic increases to the benefits paid in that form.

The determination of the annual straight life annuity shall take into account Social Security supplements described in Section 411(a)(9) of the Code and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant to Section 1.411(d)-4, Q&A 3(c) of the Income Tax Regulations, but shall disregard benefits attributable to employee contributions or rollover contributions.

Effective for distributions in Plan Years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with Section 5.10(d)(1) or Section 5.10(d)(2).

(1) Benefit Forms Not Subject to Section 417(e)(3) of the Code. The straight life annuity that is actuarially equivalent to the Participant's form of benefit shall be determined under this Section 5.10(d)(1) if the form of the Participant's benefit is either (i) a non-decreasing annuity (other than a

straight life annuity) payable for a period of not less than the life of the Participant (or, in the case of a qualified pre-retirement survivor annuity, the life of the Surviving Spouse), or (ii) an annuity that decreases during the life of the Participant merely because of (I) the death of the survivor annuitant (but only if the reduction is not below 50% of the benefit payable before the death of the survivor annuitant), or (II) the cessation or reduction of Social Security supplements or qualified disability payments (as defined in Section 401(a)(11) of the Code).

(A) Limitation Years beginning before January 1, 2008. For Limitation Years beginning before January 1, 2008, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit computed using whichever of the following produces the greater annual amount: (i) the Actuarial Equivalent factors specified in Section 1.02(a) for the particular form of benefit payment; or (ii) a 5 percent interest rate assumption and the Applicable Mortality Table for that Annuity Starting Date.

(B) Limitation Years beginning on or after January 1, 2008. For Limitation Years beginning on or after January 1, 2008, the actuarially equivalent straight life annuity is equal to the greater of (i) the annual amount of the straight life annuity (if any) payable to the Participant under the Plan commencing at the same Annuity Starting Date as the Participant's form of benefit; and (ii) the annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit, computed using a 5 percent interest rate assumption and the Applicable Mortality Table for that Annuity Starting Date.

(2) Benefit Forms Subject to Section 417(e)(3) of the Code. The straight life annuity that is actuarially equivalent to the Participant's form of benefit shall be determined under this paragraph if the form of the Participant's benefit is other than a benefit form described in Section 5.10(d)(1). In this case, the actuarially equivalent straight life annuity shall be determined as follows:

(A) Annuity Starting Date in Plan Years Beginning After 2005. If the Annuity Starting Date of the Participant's form of benefit is in a Plan Year beginning after 2005, the actuarially equivalent straight life annuity is equal to the greatest of (i) the annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit, computed using the Actuarial Equivalent factors specified in Section 1.02(a) for the particular form of benefit payment; (ii) the annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit, computed using a 5.5 percent interest rate assumption and the Applicable Mortality Table; or (iii) the annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit, computed using the Applicable Mortality Table and the Applicable Interest Rate, divided by 1.05.

(B) Annuity Starting Date in Plan Years Beginning in 2004 or 2005. If the Annuity Starting Date of the Participant's form of benefit is in a Plan Year beginning in 2004 or 2005, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit, computed using whichever of the following produces the greater annual amount: (i) the Actuarial Equivalent factors specified in Section 1.02(a) for the particular form of benefit payment; and (ii) a 5.5 percent interest rate assumption and the Applicable Mortality Table.

(e) If a Participant's retirement benefit begins before the Participant attains age 62, the defined benefit dollar limitation set forth in Section 5.10(a)(1) applicable to the Participant shall be adjusted as follows:

(1) Limitation Years Beginning Before January 1, 2008. If the Annuity Starting Date for the Participant's benefit is prior to age 62 and occurs in a Limitation Year beginning before January 1, 2008, the defined benefit dollar limitation set forth in Section 5.10(a)(1) for the Participant's Annuity Starting Date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's Annuity Starting Date that is the actuarial equivalent of the defined benefit dollar limitation set forth in Section 5.10(a)(1) (adjusted under Section 5.10(c) for years of participation less than 10, if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (A) the reductions specified in Section 5.05 for adjusting benefits for early commencement; or (B) a 5 percent interest rate assumption and the Applicable Mortality Table.

(2) Limitation Years Beginning on or after January 1, 2008.

(A) Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age 62 and the Age of Benefit Commencement. If the Annuity Starting Date for the Participant's benefit is prior to age 62 and occurs in a Limitation Year beginning on or after January 1, 2008, and the Plan does not have an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limitation set forth in Section 5.10(a)(1) for the Participant's Annuity Starting Date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's Annuity Starting Date that is the actuarial equivalent of the defined benefit dollar limitation set forth in Section 5.10(a)(1) (adjusted under Section 5.10(c) for years of participation less than 10, if required) with actuarial equivalence computed using a 5 percent interest rate assumption and the Applicable Mortality Table for the Annuity Starting Date (and expressing the Participant's age based on completed calendar months as of the Annuity Starting Date).

(B) Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age 62 and the Age of Benefit Commencement. If the Annuity Starting Date for the Participant's benefit is prior to age 62 and occurs in a Limitation Year beginning on or after January 1, 2008, and the Plan has an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limitation for the Participant's Annuity Starting Date is the lesser of the limitation determined under Section 5.10(e)(2)(A) and the defined benefit dollar limitation (adjusted under Section 5.10(c) for years of participation less than 10, if required) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the Plan at the Participant's Annuity Starting Date to the annual amount of the immediately commencing straight life annuity under the Plan at age 62, both determined without applying the limitations of this Section.

(f) If a Participant's annual retirement allowance begins after the Participant attains age 65, the defined benefit dollar limitation set forth in Section 5.10(a)(1) applicable to the Participant shall be adjusted as follows:

(1) Limitation Years Beginning Before January 1, 2008. If the Annuity Starting Date for the Participant's benefit is after age 65 and occurs in a Limitation Year beginning before January 1, 2008, the defined benefit dollar limitation set forth in Section 5.10(a)(1) for the Participant's Annuity Starting Date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's Annuity Starting Date that is the actuarial equivalent of the defined benefit dollar limitation set forth in Section 5.10(a)(1) (adjusted under Section 5.10(c) for years of participation less than 10, if required) with the actuarial equivalence computed using whichever of the following produces the

smaller annual amount: (i) the adjustments specified in Section 5.03 for late retirement benefits under the Plan; or (ii) a 5 percent interest rate assumption and the Applicable Mortality Table.

(2) Limitation Years Beginning on or after January 1, 2008.

(A) Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age 65 and the Age of Benefit Commencement. If the Annuity Starting Date for the Participant's benefit is after age 65 and occurs in a Limitation Year beginning on or after January 1, 2008, and the Plan does not have an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limitation set forth in Section 5.10(a)(1) for the Participant's Annuity Starting Date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's Annuity Starting Date that is the actuarial equivalent of the defined benefit dollar limitation set forth in Section 5.10(a)(1) (adjusted under Section 5.10(c) for years of participation less than 10, if required) with actuarial equivalence computed using a 5 percent interest rate assumption and the Applicable Mortality Table for the Annuity Starting Date (and expressing the Participant's age based on completed calendar months as of the Annuity Starting Date).

(B) Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age 65 and the Age of Benefit Commencement. If the Annuity Starting Date for the Participant's benefit is after age 65 and occurs in a Limitation Year beginning on or after January 1, 2008, and the Plan has an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limitation for the Participant's Annuity Starting Date is the lesser of the limitation determined under Section 5.10(f)(2)(A) and the defined benefit dollar limitation (adjusted under Section 5.10(c) for years of participation less than 10, if required) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the Plan at the Participant's Annuity Starting Date to the annual amount of the adjusted immediately commencing straight life annuity under the Plan at age 65, both determined without applying the limitations of this Section. For this purpose, the adjusted immediately commencing straight life annuity under the Plan at the Participant's Annuity Starting Date is the annual amount of such annuity payable to the Participant, computed disregarding the Participant's accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the Plan at age 65 is the annual amount of such annuity that would be payable under the Plan to a hypothetical Participant who is age 65 and has the same accrued benefit as the Participant.

(g) Notwithstanding the other requirements in Sections 5.10(e) and (f), no adjustment shall be made to the defined benefit dollar limitation set forth in Section 5.10(a)(1) to reflect the probability of a Participant's death between the Annuity Starting Date and age 62, or between age 65 and the Annuity Starting Date, as applicable, if benefits are not forfeited upon the death of the Participant prior to the Annuity Starting Date. To the extent benefits are forfeited upon death before the Annuity Starting Date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the Participant's death if the Plan does not charge Participants for providing a qualified pre-retirement survivor annuity upon the Participant's death, as defined in Section 417(c) of the Code.

(h) The following definitions shall apply for purposes of this Section 5.10:

(1) Applicable Interest Rate means effective January 1, 2000, the annual interest rate on 30-year Treasury securities in effect for the month of November (the "lookback month") preceding the Plan Year (the "stability period") in which the Annuity Starting Date occurs. Effective January 1, 2008, Applicable Interest Rate shall mean the interest rate defined in Section 417(e)(3)(C) of the Code, for the month of November (the "lookback month") preceding the Plan Year (the "stability period") in which the Annuity Starting Date occurs. Effective January 1, 2009, Applicable Interest Rate shall mean the interest rate defined in Section 417(e)(3)(C) of the Code, for the month of August (the "lookback month") preceding the Plan Year (the "stability period") in which the Annuity Starting Date occurs.

(2) Applicable Mortality Table means the Blended 1983 Group Annuity Mortality Table (as described in IRS Revenue Ruling 95-6) or such other applicable mortality table prescribed by the Secretary of the Treasury, based on the prevailing commissioners' standard table (described in Section 807(d)(5)(A) of the Code) used to determine reserves for group annuity contracts issued on the date as of which the present value is being determined (without regard to any other subparagraph of Section 807(d)(5) of the Code). Effective January 1, 2003, Applicable Mortality Table means the mortality table in effect at the applicable determination date as prescribed in Revenue Ruling 2001-62. Effective January 1, 2008, Applicable Mortality Table means the mortality table in effect at the applicable determination date as defined in Section 417(e)(3)(B) of the Code.

(3) Employer includes all employers required to be treated as one employer under Sections 414(b) and (c) of the Code (as modified by Section 415(h))

and Sections 414(m) and (o) of the Code.

(4) 415 Compensation means a Participant's earned income, wages, salaries, and fees for professional services, and other amounts received for personal services actually rendered in the course of employment with the Employer maintaining the Plan (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips and bonuses), and excluding the following:

(i) Employer contributions to a plan of deferred compensation which are not included in the Employee's gross income for the taxable year in which contributed or employer contributions under a simplified employee pension plan to the extent such contributions are deductible by the Employee, or any distributions from a plan of deferred compensation;

(ii) Amounts realized from the exercise of a nonqualified stock option, or when restricted stock (or property) held by the Employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;

(iii) Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option;

(iv) Other amounts which receive special tax benefits, or contributions made by the Employer (whether or not under a salary reduction agreement) towards the purchase of an annuity described in Section 403(b) of the Code (whether or not the amounts are actually excludable from the gross income of the Employee);

(v) Effective for Limitation Years beginning on and after January 1, 1998, amounts excluded from taxable income under Section 125, Section 402(e)(3) or Section 457 of the Code; and

(vi) Effective for Limitation Years beginning on and after January 1, 2001, amounts excludable from taxable income by reason of Section 132(f) of the Code.

Except as specifically provided in this Section 5.10(h)(4), 415 Compensation for any Limitation Year is the compensation actually paid or includable in gross income during such year.

Effective for Limitation Years beginning on or after January 1, 2008, 415 Compensation includes compensation paid by the later of 2½ months after severance from employment or the end of the

Limitation Year in which severance from employment occurred if the payment is regular compensation or other compensation that would, absent a termination of employment, have been paid to the Participant while the Participant continued in employment, or payment of unused sick, vacation or other leave that the Participant would have been able to use if employment had not terminated.

(i) Notwithstanding any other provision of this Plan, this Section 5.10 shall be construed in a manner which is consistent with Section 415 of the Code (which is hereby incorporated herein) and the rulings and regulations issued thereunder.

(j) The application of the provisions of this Section 5.10 shall not cause the maximum annual retirement allowance for any Participant to be less than the Participant's Accrued Benefit under all the defined benefit plans of the Employer (or a predecessor employer) as of the end of the last Limitation Year beginning before January 1, 2008 under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to Section 415 of the Code in effect as of the end of the last Limitation Year beginning before January 1, 2008, as described in Section 1.415(a)-1(g)(4) of the Income Tax Regulations.

5.11 Applicable Employer

For purposes of this Article, Employer shall mean the Employer that sponsors this Plan, and all members of a controlled group of corporations (as defined in Section 414(b) of the Code as modified by Section 415(h) of the Code), all commonly controlled trades or business (as defined in Section 414(c) of the Code as modified by Section 415(h) of the Code), or Affiliated Groups (as defined in Section 414(m) of the Code) of which the sponsoring Employer is a part, and any other entity required to be aggregated with the Employer pursuant to regulations under Section 414(o) of the Code.

5.12 Incorporation by Reference

Notwithstanding anything hereinabove to the contrary, the limitations, adjustments and other requirements prescribed in this Article shall at all times comply with the provisions of Section 415 of the Code and the regulations thereunder, the terms of which are specifically incorporated herein by reference.

5.13 Veterans

Notwithstanding any provision of the Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code, the Uniformed Services Employment and Reemployment Rights Act and the applicable required provisions of the Heroes Earnings

Assistance and Relief Tax ("HEART") Act of 2008, and shall be interpreted in accordance with such requirements.

ARTICLE 6

FORM OF BENEFIT PAYMENT

6.01 Normal Form of Payment

Unless a Participant has elected pursuant to Section 6.02 that his vested Accrued Benefit be paid in another form or to a Beneficiary other than his surviving Spouse, a Participant's vested Accrued Benefit shall be paid in whichever of the following forms is applicable:

(a) If the Participant does not have a Spouse at the time payment of his vested Accrued Benefit commences, the vested Accrued Benefit shall be payable in the form of a Life Annuity.

(b) If the Participant has a Spouse at the time payment of the vested Accrued Benefit commences, the Participant's vested Accrued Benefit shall be payable in the form of a Qualified Joint and Survivor Annuity which is the Actuarial Equivalent of the vested Accrued Benefit payable to the Participant as a Life Annuity.

6.02 Optional Forms of Payment

(a) In lieu of the form of payment provided in Section 6.01, a Participant may elect in the manner prescribed by the Committee and during the election period described in subsection (c) of this Section 6.02, a form of benefit payment provided under subsection (b) of this Section 6.02; provided, however, that any election, made by a Participant who has a Spouse not to have payment of the Participant's benefits made in the form of a Qualified Joint and Survivor Annuity under subsection (b) of Section 6.01, as applicable, shall not be effective unless:

(i) The Spouse of the Participant consents in writing to the election; the election designates a specific Beneficiary, including any class of beneficiaries or any contingent beneficiaries, which may not be changed without spousal consent (or the Spouse expressly permits designations by the Participant without any further spousal consent); the Spouse's consent acknowledges the effect of such election and is witnessed by the Committee or a Notary Public. Additionally, a Participant's waiver of the Qualified Joint and Survivor Annuity shall not be effective unless the election designates a form of benefit payment which may not be changed without spousal consent (or the Spouse expressly permits designations by the Participant without any further spousal consent).

(ii) If it is established to the satisfaction of the Committee that the required consent may not be obtained because there is no Spouse, because the Spouse cannot be located, or because of such other circumstances as provided in Treasury regulations under the applicable provisions of the Code, a waiver will be deemed a qualified election.

Any consent by a Spouse (or establishment that the consent of a Spouse may not be obtained) under this Section 6.02(a) shall be effective only with respect to such Spouse. At any time during the election period described in Section 6.02(c), a Participant may, without the consent of the Participant's Spouse, revoke the election pursuant to this Section 6.02(a) to have payment of the Accrued Benefit made in a form other than a Qualified Joint and Survivor Annuity.

(b) In the event an election is validly made and in effect pursuant to Section 6.02(a) not to receive payment of benefits in the normal form provided in Section 6.01, then the benefit payable to a Participant shall be the Actuarial Equivalent of the Accrued Benefit otherwise payable to the Participant in the form of a Life Annuity. A Participant may, in the form and manner prescribed by the Committee, elect either one of the following optional forms of payment:

(i) a Life Annuity or a Life Annuity with a period certain feature, such that, in the event of the Participant's death before one hundred twenty (120) monthly payments have been made, such monthly payments shall be continued to be paid to the Participant's Beneficiary until a total of one hundred twenty (120) monthly payments, including the payments to the Participant, have been made;

(ii) a joint and survivor annuity which pays a reduced benefit for the Participant's lifetime and, after the Participant's death, continues to pay 100%, 75%, 50%, or 25% (as specified by the Participant and subject to Section 6.03 of the Plan) of such reduced benefit for the lifetime of one designated Beneficiary.

(iii) a lump sum payment, if the Actuarial Equivalent of the Participant's vested Accrued Benefit is greater than $3,500 ($5,000 effective January 1, 2002) but not more than $10,000. This provision shall be effective for distributions made on account of a Participant separating from Service on or after January 1, 1996; or

(iv) an immediate annuity, in lieu of any lump sum payment otherwise available under Section 6.02(b)(iii), each former Employee who has a vested benefit payable at Normal Retirement Age with a present value greater than $3,500 ($5,000 effective January 1, 2002) (but not more than $10,000) shall have the right to have the Actuarial Equivalent of the Normal Retirement Benefit payable to such former Employee at Normal Retirement Date paid in the form of an immediate annuity in the normal form described in Section 6.01 hereof, as applicable, or in the form of a 75% joint and survivor annuity if the Participant has a Spouse at the time payment of the vested Accrued Benefit commences. Effective July 1, 2010, 75% shall be replaced with 50% in the preceding sentence. Before a Participant described in the preceding sentence may elect to receive a lump sum under Section 6.02(b)(iii), such Participant and his Spouse, if any, must consent in the manner described in Section 6.02(a) hereof, not to receive such actuarially equivalent immediate annuity.

(c) Any election to receive payment of benefits under the Plan in a form other than the normal form provided in Section 6.01 shall be made at any time during the election period in writing by the Committee. Any such election may be revoked in writing, and a new election made, at any time during the election period. The election period shall begin on the date that notice is provided pursuant to Section 6.04 of the Plan and, subject to Section 6.04(c)(iii) of the Plan, end on the later of the Annuity Starting Date or thirty (30) days after the date such notice is provided. Notwithstanding the preceding, the election period may be extended in accordance with administrative procedures adopted by the Committee and uniformly applied to similarly situated Participants, provided that in no event shall a Participant's Annuity Starting Date be more than one hundred eighty (180) days after the notice date.

6.03 Minimum Distribution Requirements

The requirements of this Section 6.03 will take precedence over any inconsistent provisions of the Plan. In no event, however, is this Section intended to expand the available forms of distribution under the Plan or to defer the date on which a distribution is otherwise required to commence under the Plan. All distributions required under this Section will be determined and made in accordance with the Treasury regulations under Section 401(a)(9) of the Code. Notwithstanding the other provisions of this Section, distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to Section 242(b)(2) of TEFRA.

(a) Time and Manner of Distribution

(i) Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.

(ii) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, then except as provided in Section 6.03(a)(iv), the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(A) If the Participant's surviving Spouse is the Participant's sole Designated Beneficiary, distributions to the surviving Spouse will begin on the date specified in the Plan for commencement of such surviving Spouse benefit, but in any event by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.

(B) If the Participant's surviving Spouse is not the Participant's sole Designated Beneficiary, then distributions to the Designated Beneficiary will begin on the date specified in the Plan for commencement of such survivor benefit, but in any event by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(C) If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, the entire benefit, if any, payable under the Plan with respect to the Participant will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(D) If the Participant's surviving Spouse is the Participant's sole Designated Beneficiary and the surviving Spouse dies after the Participant but before distributions to the surviving Spouse begin, this Section 6.03(a)(ii), other than Section 6.03(a)(ii)(A), will apply as if the surviving Spouse were the Participant.

For purposes of this Section 6.03(a)(ii), Section 6.03(a)(iv), and Section 6.03(d), distributions are considered to begin on the Participant's Required Beginning Date (or, if Section 6.03(a)(ii)(D) applies, the date distributions are required to begin to the surviving Spouse under Section 6.03(a)(ii)(A). If annuity payments irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving Spouse before the date distributions are required to begin to the surviving Spouse under Section 6.03(a)(ii)(A), the date distributions are considered to begin is the date distributions actually commence.

(iii) <u>Form of Distribution</u>. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first Distribution Calendar Year distributions will be made in accordance with subsections (b), (c), and (d) of this Section 6.03. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the Treasury regulations. Any part of the Participant's interest which is in the form of an individual account described in Section 414(k) of the Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Code and the Treasury regulations that apply to individual accounts.

(iv) Notwithstanding Section 6.03(a)(ii), if a Participant dies before distributions begin and there is a Designated Beneficiary, distribution to the Designated Beneficiary is not required to begin by the date specified in Section 6.03(a)(ii), provided that the Participant's entire interest is distributed to the Designated Beneficiary by December 31 of the calendar year containing the fifth anniversary of the Participant's death. If the Participant's surviving Spouse is the Participant's sole Designated Beneficiary and the surviving Spouse dies after the Participant but before distributions to either the Participant or the surviving Spouse begin, this provision shall apply as if the surviving Spouse were the Participant. This Section 6.03(a)(iv) shall apply only to distributions that are required or elected to be paid in the form of a single lump sum, provided that a Designated Beneficiary's election of payment in a single lump sum in accordance with this Section 6.03(a)(iv), if applicable, must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under Section 6.03(a)(ii), or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, surviving Spouse's) death.

(b) Determination of Amount to be Distributed Each Year

(i) General Annuity Requirements. If the Participant's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:

(A) the annuity distributions will be paid in periodic payments made at intervals not longer than one year;

(B) the distribution period will be over a life (or lives) or over a period certain not longer than the period described in Section 6.03(c) and (d);

(C) once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;

(D) payments will either be nonincreasing or increase only as follows:

(1) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;

(2) to the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the Beneficiary whose life was being used to determine the distribution period described in Section 6.03(c) dies or is no longer the Participant's Beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(p);

(3) to provide cash refunds of employee contributions upon the Participant's death; or

(4) to pay increased benefits that result from a Plan amendment.

(ii) Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the Participant's Required Beginning Date (or, if the Participant dies before distributions begin, the date distributions are required to begin under Section 6.03(a)(ii)(A) or (B)) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Participant's benefit accruals as of the last day of the first Distribution Calendar Year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's Required Beginning Date.

(iii) Additional Accruals After First Distribution Calendar Year. Any additional benefits accruing to the Participant in a calendar year after the first Distribution Calendar Year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(c) Requirements For Annuity Distributions That Commence During Participant's Lifetime

(i) Joint Life Annuities Where the Beneficiary Is Not the Participant's Spouse. If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a nonspouse beneficiary, annuity payments to be made on or after the Participant's Required Beginning Date to the Designated Beneficiary after the Participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table set forth in Q&A-2 of Section 1.401(a)(9)-6 of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a nonspouse Beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the Designated Beneficiary after the expiration of the period certain.

(ii) Period Certain Annuities. Unless the Participant's Spouse is the sole Designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the Annuity Starting Date. If the Annuity Starting Date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the Participant as of the Participant's birthday in the year that contains the Annuity Starting Date. If the Participant's Spouse is the Participant's sole Designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this Section 6.03(c)(ii), or the joint life and last survivor expectancy of the Participant and the Participant's Spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the calendar year that contains the Annuity Starting Date.

(d) Requirements For Minimum Distributions Where Participant Dies Before Date Distributions Begin

(i) Participant Survived by Designated Beneficiary. Except as provided in Section 6.03(a)(iv), if the Participant dies before the date distribution of his or her interest begins and there is a Designated Beneficiary, the Participant's entire interest will be distributed, beginning no later than the time described in Section 6.03(a)(ii)(A) or (B), over the life (or life expectancy) of the Designated Beneficiary or over a period certain not exceeding:

(A) unless the Annuity Starting Date is before the first Distribution Calendar Year, the Life Expectancy of the Designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or

(B) if the Annuity Starting Date is before the first Distribution Calendar Year, the Life Expectancy of the Designated Beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the Annuity Starting Date.

(ii) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the entire benefit, if any, payable under the Plan with respect to the Participant will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(iii) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the Participant dies before the date distribution of his or her interest begins, the Participant's surviving Spouse is the Participant's sole Designated Beneficiary, and the surviving Spouse dies before distributions to the surviving Spouse begin, this Section 6.5 will apply as if the surviving Spouse were the Participant, except that the time by which distributions must begin will be determined without regard to Section 6.03(a)(ii)(A).

(e) Definitions

(i) Designated Beneficiary. The individual who is designated as the Beneficiary under Section 1.06 of the Plan (or any other applicable Section of the Plan) and who is the designated beneficiary under Section 401(a)(9) of the Internal Revenue Code and Section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.

(ii) Distribution Calendar Year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Section 6.03(a)(ii).

(iii) Life Expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.

(iv) Required Beginning Date. The April 1 of the calendar year following the calendar year in which the Participant attains age seventy and one-half (70½); provided, however, that a Participant who attains age seventy and one-half (70½) on or after January 1, 2002 may elect, in accordance with procedures established by the Committee, to have such Participant's Required Beginning Date be the April 1 following the calendar year in which such Participant retires.

6.04 Notice to Participants

(a) No less than thirty (30) days and no more than one hundred eighty (180) days prior to the Annuity Starting Date, the Committee shall furnish any Participant who has a Spouse, by mail or personal delivery, with a written explanation of (i) the terms and conditions of the Qualified Joint and Survivor Annuity provided in Section 6.01, (ii) the Participant's right to make, and the effect of, an election to waive the Qualified Joint and Survivor Annuity form of benefit, (iii) the rights of the Participant's Spouse under Section 6.02(b) to consent to a waiver of the Qualified Joint and Survivor Annuity form, and (iv) the right to make, and the effect of, a revocation of an election to waive payment in the form of a Qualified

Joint and Survivor Annuity. Within thirty (30) days following receipt by the Committee of a Participant's written request, the Participant shall be furnished an additional written explanation, in terms of dollar amounts, of the financial effect of an election not to receive the Qualified Joint and Survivor Annuity. The Committee shall not be required to comply with more than one such request.

(b) The Committee shall provide each Participant with the general information required pursuant to Income Tax Regulation 1.401(a)-11(c)(3) in addition to the information concerning spousal consent required under Section 6.04(a) above at least thirty (30) days prior to the Participant's Annuity Starting Date and not earlier than one hundred eighty (180) days prior to the Participant's Annuity Starting Date. In addition, the Committee shall provide a general description of the eligibility conditions and other material features of the optional forms of benefit available under Section 6.02 and sufficient additional information to explain the relative values of such optional forms of benefit, including the extent to which such optional forms of benefit are subsidized relative to the normal form of benefit payment under Section 6.01 or the interest rates used to calculate the optional forms. Effective January 1, 2007, the Committee shall provide each Participant with a description of the implications of the failure to defer the commencement of benefits to a later date.

(c) Notwithstanding (a) and (b) above, distribution may commence as of an Annuity Starting Date which is less than 30 days after the notice required under those sections is given, provided that:

(i) the notice clearly informs the Participant that he has the right to a notice period of at least thirty (30) days after receiving the notice in which to consider his decision, as applicable, of whether or not to elect a distribution, whether or not to elect distribution in the normal form of payment, and whether or not to elect a direct rollover;

(ii) after receiving the notice, the Participant affirmatively consents to a distribution commencing as of an Annuity Starting Date that is less than 30 days after the notice date and, if applicable, elects an optional form of payment or direct rollover;

(iii) if the Participant affirmatively waives the notice period described above in Section 6.04(c)(i), such Participant shall be permitted to revoke his election and no payment shall commence until the later of his Annuity Starting Date or seven days following the day he received the notice; and

(iv) the notice is provided before the Annuity Starting Date, unless notice is provided after such date pursuant to administrative procedures adopted by the Committee (and uniformly applied to similarly situated Participants), subject to such conditions as may be promulgated by regulations or other provisions of the Code.

6.05 Small Payments

(a) For distributions with Annuity Starting Dates on or after January 1, 2002, but prior to March 28, 2005:

(i) If the Actuarial Equivalent of the Participant's vested Accrued Benefit does not exceed $5,000, then the Committee shall pay the present value of the Participant's vested Accrued Benefit in a lump sum payment to the Participant in lieu of any other benefits under this Plan. In accordance with procedures established by the Committee, this Section 6.05 shall also be applied to distribute to a Participant who terminated employment prior to January 1, 2002 and has not commenced receiving his/her vested Accrued Benefit, the Actuarial Equivalent value of his/her vested Accrued Benefit if such Actuarial Equivalent value as of an Annuity Starting Date after January 1, 2002 is not greater than $5,000.

(ii) Except as otherwise permitted by law, if the Actuarial Equivalent of the Participant's vested Accrued Benefit is in excess of $5,000 (or exceeded $5,000 at the time of any prior Annuity Starting Date for such benefit), the Participant and the Participant's Spouse (or where either the Participant or the Spouse has died, the survivor) must consent to any distribution made prior to the Participant's Normal Retirement Age.

(b) For distributions with Annuity Starting Dates on or after March 28, 2005:

(i) If the Actuarial Equivalent of the Participant's vested Accrued Benefit does not exceed $1,000, then the Committee shall pay the present value of the Participant's vested Accrued Benefit in a lump sum payment to the Participant in lieu of any other benefits under this Plan.

(ii) The Committee shall cause the Plan to pay the present value of a Participant's vested Accrued Benefit as a direct rollover to an individual retirement plan designated by the System if: (A) the amount so payable exceeds $1,000, but does not exceed $5,000; and (B) the Participant does not elect a direct rollover or a distribution with respect to such amount pursuant to Section 6.07 of the Plan.

(iii) If the Actuarial Equivalent of the vested Accrued Benefit payable to a Participant's surviving Spouse or former Spouse entitled to benefits under a qualified domestic relations order (as defined in Section 414(p) of the Code) does not exceed $5,000, then the Committee shall pay the present value of such vested Accrued Benefit in a lump sum payment to the Spouse or former Spouse in lieu of any other benefits under this Plan.

(iv) Except as otherwise permitted by law, if the Actuarial Equivalent of the Participant's vested Accrued Benefit (or benefit payable to a surviving or former Spouse) exceeds $5,000 (or exceeded $5,000 at the time of any prior Annuity Starting Date for such benefit), the Participant or the Spouse (as applicable) must consent to any distribution made prior to the Participant's Normal Retirement Age (subject to any additional consent requirements set forth in this Article 6 of the Plan).

6.06 Annuity Contract Nontransferable

Any annuity contract distributed herefrom must be nontransferable.

6.07 Rollovers

This Section 6.07 applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section 6.07, a distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

The following definitions shall apply for purposes of this Section 6.07:

(a) Eligible rollover distribution: An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

(b) Eligible retirement plan: An eligible retirement plan is any of the following arrangements that accepts the distributee's eligible rollover distribution:

(i) an individual retirement account described in Section 408(a) of the Code;

(ii) an individual retirement annuity described in Section 408(b) of the Code;

(iii) an annuity plan described in Section 403(a) of the Code;

(iv) a qualified trust described in Section 401(a) of the Code;

(v) an annuity contract described in Section 403(b) of the Code;

(vi) an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan; and

(vii) effective for distributions after December 31, 2007, a Roth IRA (as defined in Section 408A of the Code), but, if the eligible rollover distribution is made prior to January 1, 2010, only if the distributee meets the conditions applicable to making a qualified rollover distribution to a Roth IRA that are set forth in Section 408(c)(3)(B) of the Code.

The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving Spouse, or to a Spouse or former Spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code.

Effective for distributions made after December 31, 2009, the term distributee also includes a non-Spouse Beneficiary to the extent provided in the following paragraph.

In the case of a non-Spouse Beneficiary, an eligible retirement plan shall include only an individual retirement account or annuity described in Section 408(a) or 408(b) of the Code, or a Roth individual retirement account described in Section 408A(b) of the Code, that is an inherited retirement account or annuity under Section 408 of the Code. Such eligible retirement plan may receive only direct trustee-to-trustee transfers from the Plan with respect to a non-Spouse Beneficiary.

ARTICLE 7

DEATH BENEFITS

7.01 Applicability

If a Participant who has a vested Accrued Benefit dies before commencement of the payment of such vested Accrued Benefits have commenced, a death benefit shall be payable to the Participant's Spouse as provided in this Article 7, subject to the provisions of Section 6.05. If the Participant dies after payment of the Participant's vested Accrued Benefit has commenced, any death benefit shall be determined and payable according to the form of payment applicable under Article 6.

7.02 Death of an Active Participant After Eligibility for Early Retirement

If an active Participant dies after attaining age fifty-five (55) and completing at least five (5) years of Vesting Service, a death benefit shall be payable to his Spouse.

The amount of the death benefit payable to the Spouse shall be equal to fifty percent (50%) of the Participant's Accrued Benefit as of his date of death.

The Spouse may elect in writing to have the death benefit commence on the first day of the month coinciding with or next following the Participant's date of death or on the first day of any month thereafter which precedes what otherwise would be the Participant's Normal Retirement Age. If the Spouse does not make such election, the benefit shall commence on what otherwise would be the Participant's Normal Retirement Age. Such benefit shall continue on the first day of each month thereafter for the Spouse's lifetime.

7.03 Death After Eligibility for Normal Retirement

If an active Participant dies after attaining his Normal Retirement Age or if a Participant who has retired at his Normal Retirement Age or Delayed Retirement Date dies prior to the commencement of his normal or delayed retirement benefit, a death benefit shall be payable to his Spouse.

The amount of the death benefit payable to the Spouse shall be equal to fifty percent (50%) of the benefit the Participant would have been entitled to under the applicable provisions of Article 5 as of the Participant's date of death.

The benefit payable to the Spouse shall commence on the first day of the month coinciding with or next following the Participant's date of death and shall continue on the first day of each month thereafter for the Spouse's lifetime.

7.04 Death of a Vested Participant

If an active Participant who has satisfied the requirements for full vesting pursuant to Section 4.02 but who has not attained age fifty-five (55) dies, if a terminated Participant who had satisfied the requirements for full vesting pursuant to Section 4.02 at his date of termination of Service dies, or if a Totally and Permanently Disabled Participant dies prior to commencement of his disability retirement benefit, a death benefit shall be payable to his Spouse.

The amount of the benefit payable to the Spouse shall be equal to fifty percent (50%) of the Participant's vested Accrued Benefit as of the date of his death. The amount so determined shall be reduced by four percent (4%) per year between the Participant's Annuity Starting Date and his Normal Retirement Date and based on the Actuarial Equivalent factors set forth in Section 1.02(a) to reflect the period by which the Annuity Starting Date precedes what otherwise would be the Participant's Early Retirement Age.

The Spouse may elect in writing to have the death benefit commence on the first day of the month coinciding with or next following the date of the Participant's death or on the first day of any month thereafter which precedes what otherwise would be the Participant's Normal Retirement Age. If the Spouse does not make such an election, the benefit shall commence on what otherwise would be the Participant's Normal Retirement Age. Such benefit shall continue on the first day of each month thereafter for the Spouse's lifetime.

7.05 Adjustment for Delayed Payment

When payments to a Participant's Spouse commence under this Article 7 later than the earliest date the Participant could have commenced payment if he had terminated on the date of death, the Plan must make reasonable actuarial adjustments to reflect the early or delayed payment based on factors set forth in Section 1.02(a).

ARTICLE 8

ADMINISTRATION

8.01 Plan Administrator

The Plan shall be administered by the Committee as agent of the Employer. The Committee shall consist of three (3) or more persons designated by the System and the System shall designate one of said persons as Chairman of the Committee and another person, who may or may not be a member of the Committee, as Administrative Secretary of the Committee. Members of the Committee and its officers and agents may participate in the benefits under this Plan if otherwise eligible to do so. The members of the Committee shall serve at the pleasure of the System and the System shall appoint successors to fill any vacancies in the Committee.

8.02 Committee's Authority and Powers

The Committee shall have the exclusive discretionary authority and power to determine eligibility for benefits and to construe the terms and provisions of the Plan, determine questions of fact and law arising under the Plan, direct disbursements pursuant to the Plan, and exercise all other powers specified herein or which may be implied from the provisions hereof. The Committee may adopt such rules for the conduct of the administration of the Plan as it may deem appropriate.

8.03 Delegation of Duties

The Committee may delegate such of its duties and may engage such experts and other persons as it deems appropriate in connection with administering the Plan.

8.04 Compensation

No member of the Committee shall receive any Compensation for his services as such.

8.05 Exercise of Discretion

Any person with any discretionary power in the administration of the Plan shall exercise such discretion in a nondiscriminatory manner and shall discharge his duties with respect to the Plan in a manner consistent with the provisions of the Plan.

8.06 Fiduciary Liability

In administering the Plan, neither the Committee nor any member of the Committee nor any person to whom the Committee delegates any duty or power in connection with administering the Plan shall be liable, except in the case of his own willful misconduct, for:

(a) any action or failure to act,

(b) the payment of any amount under the Plan,

(c) any mistake of judgment, or

(d) any neglect, omission or wrongdoing of any other member of the Committee.

No member of the Committee shall be personally liable under any contract, agreement, bond, or other instrument made or executed by him or on his behalf as a member of the Committee.

8.07 Indemnification by System

To the extent not compensated by insurance or otherwise, the System shall indemnify and hold harmless each member of the Committee, and each partner and Employee of the System designated by the Committee to carry out any fiduciary responsibility with respect to the Plan, from any and all claims, losses, damages, expenses (including counsel fees approved by the System) and liabilities (including any amount paid in settlement with the approval of the System), arising from any act or omission of such member, or partner or Employee, except where the same is judicially determined or is determined by the System to be due to willful misconduct of such member or Employee. No assets of the Plan may be used for any such indemnification.

8.08 Plan Participation by Fiduciaries

No person who is a fiduciary with respect to the Plan shall be precluded from becoming a Participant upon meeting the requirements for eligibility.

ARTICLE 9

AMENDMENT AND TERMINATION OF PLAN

9.01 Amendment

The System may at any time and from time to time amend the Plan by written instrument provided that:

(a) no amendment that affects the rights and obligations of the Trustee shall be effective without the written consent of the Trustee, unless such amendment is necessary for the qualification of the Plan under Section 401(a) of the Code or to avoid actual or potential liability of the System with respect to the Plan, including, without limitation, liability to make future contributions; and

(b) no amendment shall cause the Trust Fund to be used other than for the exclusive benefit of Participants and their Beneficiaries.

9.02 System's Right to Terminate Plan

The System intends to maintain the Plan as a permanent tax-qualified retirement plan. Nevertheless, the System reserves the right to terminate the Plan (in whole or in part) at any time and from time to time, for any reason whatsoever.

9.03 Consequences of Termination

(a) If the Plan is terminated in whole or in part, or if System Contributions are completely discontinued, each Participant affected by such termination or discontinuance shall be fully vested in his Accrued Benefit as of the date of such termination or discontinuance of System Contributions. The Committee shall determine the date and manner of distribution of the Accrued Benefits of all affected Participants.

(b) The Committee shall give prompt notice to each Participant (or, if deceased, his Beneficiary) affected by the Plan's complete or partial termination, or the discontinuance of System Contributions.

(c) The balance, if any, of the assets held by the Trust Fund after all liabilities have been extinguished, shall revert to the System, but only after the satisfaction of liabilities with respect to the Participants and pensions under the Plan.

9.04 Early Termination Restrictions

In the event of Plan termination, the benefit of any Highly Compensated Employee or any former Highly Compensated Employee shall be limited to a benefit that is nondiscriminatory under Section 401(a)(4) of the Code.

ARTICLE 10

MERGER OF PLAN AND TRANSFER OF ASSETS OR LIABILITIES

10.01 Merger or Transfer

The Plan shall not be merged or consolidated with, nor shall any Plan assets or liabilities be transferred to, any other plan, unless each Participant (if the other plan then terminated) would receive a benefit that is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation or transfer (if the Plan had then terminated).

10.02 Transfer from Trust

At a Participant's request and pursuant to uniform rules prescribed by the Committee, the Committee may instruct the Trustee to transfer the Participant's Account to another qualified plan described in Section 401(a) of the Code in which the Participant is participating at the time of such transfer.

10.03 Transfer to Trust and Transfer Account

(a) At a Participant's request, the Committee shall instruct the Trustee to accept a transfer of assets from another qualified plan described in Section 401(a) of the Code which assets are attributable to the Participant's interest in such other plan. The transferred amount shall be maintained in the Trust Fund on behalf of the Participant as a separate account under the Plan, designated the "Transfer Account".

(b) Any portion of the Transfer Account (whether the whole, the lesser amount or none) may be commingled with other assets of the Trust Fund for investment. In any event, the balance in the Transfer Account shall be adjusted to reflect its proportionate share of the Trust Fund's earnings, gains, losses and expenses.

(c) Unless the Participant has elected otherwise in the form and manner prescribed by the Committee, payment of the Transfer Account shall be made at the same time and in the same form as the Accrued Benefit and shall be in addition to the Accrued Benefit.

(d) A Participant's interest in his Transfer Account shall be at all times and in all events fully vested and nonforfeitable.

ARTICLE 11

SPECIAL PROVISIONS FOR NON-KEY EMPLOYEES

11.01 Effective Date

If the Plan is or becomes top-heavy in any Plan Year beginning after December 31, 1983, the provisions of this Section will supersede any conflicting provisions in the Plan.

11.02 Determination of Top-Heavy and Super Top-Heavy Status

This Plan is top-heavy if any of the following conditions exists:

(a) If the top-heavy ratio for this Plan exceeds sixty percent (60%) and this Plan is not part of any required aggregation group or permissive aggregation group of plans.

(b) If this Plan is a part of a required aggregation group of plans but not part of a permissive aggregation group and the top-heavy ratio for the group of plans exceeds sixty percent (60%).

(c) If this Plan is a part of a required aggregation group and part of a permissive aggregation group of plans and the top-heavy ratio for the permissive aggregation group exceeds sixty percent (60%).

Top-heavy ratio:

(i) If the System maintains one or more defined benefit plans and the System has not maintained any defined contribution plan which during the five (5) year period ending on the determination date(s) has or has had accrued benefits, the top-heavy ratio for this Plan alone or for the required or permissive aggregation group as appropriate is a fraction, the numerator of which is the sum of the present value of retirement benefits of all Key Employees as of the determination date(s) (including any part of any retirement benefits distributed in the five (5) year period ending on the determination date(s), and the denominator of which is the sum of the present value of retirement benefits (including any part of any retirement benefits distributed in the five (5) year period ending on the determination date(s)), both computed in accordance with Section 416 of the Code and the regulations thereunder. Both the numerator and denominator of the top-heavy ratio are increased to reflect any contribution not actually made as of the determination date, but which is required to be taken into account on that date under Section 416 of the Code and regulations thereunder.

(ii) If the System maintains one or more defined contribution plans and the System maintains or has maintained one or more defined benefit plans which during the five (5) year period ending on the determination date(s) has or has had any retirement benefits, the top-heavy ratio for any required or permissive aggregation group as appropriate is a fraction, the numerator of which is the sum of retirement benefits under the aggregated defined contribution plan or plans for all Key Employees, determined in accordance with subsection (i) above, and the present value of accrued benefits under the aggregated defined benefit plan or plans for all Key Employees as of the determination date(s), and the denominator of which is the sum of the retirement benefits under the aggregated defined contribution plan or plans for all Participants, determined in accordance with subsection (i) above, and the present value of retirement benefits under the defined benefit plan or plans for all Participants as of the determination date(s), all determined in accordance with Section 416 of the Code and the regulations thereunder. The retirement benefits under a defined benefit plan in both the numerator and denominator of the top-heavy ratio are increased for any distribution of an accrued benefit made in the five (5) year period ending on the determination date.

(d) For purposes of subsections (i) and (ii) above the value of account balances and the present value of retirement benefits will be determined as of the most recent valuation date that falls within or ends with the twelve (12) month period ending on the determination date, except as provided in Section 416 of the Code and the regulations thereunder for the first and second plans years of a defined benefit plan. The account balances and retirement benefits of a Participant (1) who is not a Key Employee but who was a Key Employee in a prior year, or (2) who has not performed service for any Employer maintaining the Plan at any time during the five (5) year period ending on the determination date will be disregarded. The calculation of the top-heavy ratio, and the extent to which distributions, rollovers, and transfers are taken into account will be made in accordance with Section 416 of the Code and the regulations thereunder. When aggregating plans the value of account balances and retirement benefits will be calculated with reference to the determination dates that fall within the same calendar year.

(1) Distributions during year ending on the determination date. The present values of accrued benefits and the amounts of account balances of an Employee as of the determination date shall be increased by the distributions made with respect to the Employee under the Plan and any plan aggregated with the Plan under Section 416(g)(2) of the Code during the 1-year period ending on the determination date. The preceding sentence shall also apply to distributions under a terminated plan which, had it not been terminated, would have been aggregated with the Plan under Section 416(g)(2)(A)(i) of the Code. In the case of a distribution made for a reason other than severance from employment, death, or disability, this provision shall be applied by substituting “5-year period” for “1-year period.”

(2) Employees not performing services during year ending on the determination date. The accrued benefits and accounts of any individual

who has not performed services for the Employer during the 1-year period ending on the determination date shall not be taken into account.

The retirement benefit to a Participant other than a Key Employee shall be determined under subsection (i) the method, if any, that uniformly applies for accrual purposes under all defined benefit plans maintained by the System, or subsection (ii) if there is no such method, as if such benefit accrued not more rapidly than the slowest accrual rate permitted under the fractional rule of Section 411(b)(1)(c) of the Code.

Permissive aggregation group: The required aggregation group of plans plus other plan or plans of the System which, when considered as a group with the required aggregation group, would continue to satisfy the requirements of Section 401(a)(4) and 410(b) of the Code.

Required aggregation group: (1) Each qualified plan of the System in which at least one Key Employee participates or participated at any time during the determination period (regardless of whether the Plan has terminated), and (2) any other qualified plan of the System which enables a plan described in (1) to meet the requirements of Sections 401(a)(4) or 410(b) of the Code.

Determination date: For any Plan Year subsequent to the first Plan Year, the last day of the preceding Plan Year. For the first Plan Year of the Plan, the last day of that year.

This Plan shall be a Super Top Heavy Plan for any Plan Year commencing after December 31, 1983, in which, as of the Determination Date, (1) the present value of retirement benefits of Key Employees and (2) the sum of the Aggregate Accounts of Key Employees under this Plan and all plans of an Aggregation Group, exceeds ninety percent (90%) of the present value of retirement benefits and the Aggregate Account of all Key and Non-Key Employees under this Plan and all plans of an Aggregation Group.

11.03 Key Employee

Any Employee or former Employee (including any deceased Employee) who at any time during the Plan Year that includes the determination date was an officer of the Employer having annual compensation greater than $130,000 (as adjusted under Section 416(i)(1) of the Code for Plan Years beginning after December 31, 2002), a 5-percent owner of the Employer or a 1-percent owner of the Employer having annual compensation of more than $150,000. For this purpose, annual compensation means compensation within the meaning of Section 415(c)(3) of the Code.

The determination of who is a Key Employee will be made in accordance with Section 416(i)(1) of the Code and the regulations thereunder. A Non-Key Employee means any Employee or former Employee (and his Beneficiaries) who is not a Key Employee.

11.04 Minimum Benefit

(a) Notwithstanding any other provision in this Plan to the contrary, except as otherwise provided in subsections (c), (d) and (e), a Participant who is not a Key

Employee and has completed one thousand (1,000) Hours of Service will accrue a benefit (to be provided solely by System contributions and expressed as a Life Annuity commencing at Normal Retirement Age) of not less than two percent (2%) of his or her highest average Compensation for the five (5) consecutive years for which the Participant had the highest Compensation. The aggregate Compensation for the years during such five (5) year period in which the Participant was credited with a Year of Service will be divided by the number of years in order to determine average Annual Compensation. The minimum accrual is determined without regard to any Social Security contribution. The minimum accrual applies even though under other plan provisions the Participant would not otherwise be entitled to receive an accrual, or would have received a lesser accrual for the year because (i) the Non-Key Employee fails to make mandatory contributions to the Plan, (ii) the Non-Key Employee's Compensation is less than a stated amount, (iii) the Non-Key Employee is not employed on the last day of the accrual computation period, or (iv) the Plan is integrated with Social Security.

(b) For purposes of computing the minimum retirement benefit, Compensation shall have the same meaning as in Section 5.10(c) of this Plan.

(c) No additional benefit accruals shall be provided pursuant to (a) above to the extent that the total accruals on behalf of the Participant attributable to Employer contributions will provide a benefit expressed as a Life Annuity commencing as Normal Retirement Age that equals or exceeds twenty percent (20%) of the Participant's highest average Compensation for the five (5) consecutive years for which the Participant had the highest Compensation.

(d) The provision in subsection (a) above shall not apply to any Participant to the extent the Participant is covered under any other plan or plans of the Employer.

(e) All accruals of employer derived benefits, whether or not attributable to years for which the Plan is Top-Heavy, may be used in computing whether the minimum accrual requirements of subsection (c) above are satisfied.

(f) For purposes of satisfying the minimum benefit requirements of Section 416(c)(1) of the Code and the Plan, in determining years of service with the Employer, any service with the Employer shall be disregarded to the extent that such service occurs during a Plan Year when the Plan benefits (within the meaning of Section 410(b) of the Code) no Key Employee or former Key Employee.

11.05 Minimum Vesting

For any Plan Year in which this Plan is top-heavy, the following vesting schedule shall automatically apply to this Plan. The vesting schedule applies to all benefits within the meaning of Section 411(a)(7) of the Code except those attributable to Employee contributions, including benefits accrued before the effective date of Section 416 and benefits accrued before the Plan became top-heavy. Further, no reduction in vested benefits may occur in the event the Plan's status as top-heavy changes for any Plan Year.

However, this Section does not apply to the retirement benefits of any Employee who does not have an Hour of Service after the Plan has initially become top-heavy and such Employee's retirement benefits attributable to System Contributions and forfeitures will be determined without regard to this Section.

Years of Vesting Service	Nonforfeitable Percentage of Account
Less than 2	0%
2	20%
3	40%
4	60%
5 or more	100%

ARTICLE 12

GENERAL PROVISIONS

12.01 Trust Fund Sole Source of Payments for Plan

The Trust Fund shall be the sole source for the payment of all Participant's Accounts, and the Plan's liability to make payment to any Participant or his Beneficiary shall be limited to the extent that the balance in such Participant's Account is sufficient to make such payment. In no event shall assets of the Employer be applied for the payment of Plan benefits.

12.02 Exclusive Benefit

The Plan is established for the exclusive benefit of the Participants and their Beneficiaries, and the Plan shall be administered in a manner consistent with the provisions of Section 401(a) of the Code.

12.03 Recapture of Contributions

Except as specifically provided in Section 3.04, under no circumstances shall any funds contributed to the Trust Fund or any assets of the Trust Fund ever revert to, or be used by, the Employer.

12.04 Nonalienation

Except as is permitted under Section 401(a)(13) of the Code in the case of a qualified domestic relations order as defined in Section 414(p) of the Code, no Participant or Beneficiary shall have the right to alienate or assign his benefits under the Plan, and no Plan benefits shall be subject to attachment, execution, garnishment, or other legal or equitable process. If a Participant or his Beneficiary attempts to alienate or assign his benefits under the Plan, or if his property or estate should be subject to attachment, execution, garnishment or other legal or equitable process, the Committee may direct the Trustee to distribute the Participant's (or Beneficiary's) benefits under the Plan to members of his family, or may use or hold such benefits for his benefit or for the benefit of members of his family as the Committee deems appropriate under the circumstances.

12.05 Claims Procedure

(a) All claims for benefits under the Plan by a Participant or his Beneficiary with respect to benefits not received by such person shall be made in writing to the Committee, which shall designate one of its members to review such claims. If the reviewing member believes that a claim should be denied, he shall notify the claimant in writing of the denial within ninety (90) days after his receipt of the claim, unless special circumstances require an extension of time for processing the claim. Such notice shall:

(i) set forth the specific reasons for the denial, making reference to the pertinent provisions of the Plan or the Plan documents on which the denial is based;

(ii) describe any additional material or information that should be received before the claim may be acted upon favorably, and explain why such material or information, if any, is needed;

(iii) inform the person making the claim of his right pursuant to this Section to request review of the decision by the Committee;

(iv) provide a description of the Plan's claims review procedures and the time limitations applicable to such procedures; and

(v) advise the claimant of the right to sue in federal court.

(b) Any such person who believes that he has submitted all available and relevant information may appeal the denial of a claim to the Committee by submitting a written request for review to the Committee within sixty (60) days after the date on which such denial is received. Such period may be extended by the Committee for good cause. The person making the request for review may examine pertinent Plan documents. The request for review may discuss any issues relevant to the claim. The Committee shall decide whether or not to grant the claim within sixty (60) days after receipt of the request for review, but this period may be extended by the Committee for up to an additional sixty (60) days in special circumstances. If such an extension of time for review is required because of special circumstances, written notice of the extension shall be furnished to the claimant prior to the commencement of the extension. The Committee's decision shall be in writing, shall include the information described above in (a). In addition the notice shall inform the person requesting an appeal of his right to receive, free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits. For purposes of this Section, a document, record or other information shall be considered "relevant" to a claimant's claim if such document, record or other information: (i) was relied upon in making the benefit determination; (ii) was submitted, considered, or generated in the course of making the benefit determination, without regard to whether such document, record, or other information was relied upon in making the benefit determination; or (iii) demonstrates compliance with the administrative processes and safeguards required in making the benefit determination.

(c) If a claimant shall fail to file a timely request for appeal according to the procedures herein outlined in paragraph (b) above, such claimant shall have no rights or review and shall have no right to bring action in any court, and the denial of the claim shall become final and binding on all persons for all purposes. No action shall be commenced by a claimant seeking judicial review of an adverse determination of an appeal later than one year after the claimant had exhausted his or her administrative remedies pursuant to this Section.

12.06 Location of Participant or Beneficiary Unknown

In the event that all, or any portion, of the distribution payable to a Participant or his Beneficiary hereunder shall, at the expiration of five (5) years after it shall become payable, remain unpaid solely by reason of the inability of the Committee, after sending a registered letter, return receipt requested, to the last known address, and after further diligent effort, to ascertain the whereabouts of such Participant or his Beneficiary, the amount so distributable shall be forfeited and shall be used to reduce the cost of the Plan. In the event a Participant or Beneficiary is located subsequent to his benefit being forfeited, such benefit shall be restored.

12.07 Applicable Law

Except as otherwise expressly required by the Code, the Plan shall be governed by the laws of the State of New Jersey where it was entered into and where it shall be enforced.

12.08 Rules of Construction

Whenever the context so admits, the use of the masculine gender shall be deemed to include the feminine and vice versa; either gender shall be deemed to include the neuter and vice versa; and the use of the singular shall be deemed to include the plural and vice versa.

IN WITNESS WHEREOF, the System has caused this instrument to be executed by an officer duly authorized on this _____ day of _______________, 2010.

ATTEST: SAINT PETER'S HEALTHCARE SYSTEM

___________________________________ By ________________________________

Kathleen Killion, Secretary President

APPENDIX I

PARTICIPATING PHYSICIAN-EMPLOYEES

The following physician-employees shall participate in the Plan:

Richard Cytryn

Marek Galazka

David Jacob

Peter Lee

Rositta Michael

Bhavi Patel

Scott Puza

Linda Shaw

Andrew Smith

Robert Tolan

Anne Marie Van Hoven

Sutharsanam Veerappan

Ravi Agarwal

Roxanne Kendall

Kathryn Talerico

APPENDIX II

PARTICIPATING EMPLOYERS

(As of March 1, 2010)

Saint Peter's Healthcare System (Parent)

Saint Peter's University Hospital

New Brunswick Cardiac Cath Lab, LLC

Margaret McLaughlin McCarrick Care Center, Inc.

Saint Peter's Foundation

EXHIBIT I

UNITED STATES CONFERENCE OF
CATHOLIC BISHOPS

Socially Responsible Investment Guidelines

November 12, 2003

Principles for USCCB Investments

Introduction

The United States Conference of Catholic Bishops ("USCCB", "Conference") is called to exercise faithful, competent and socially responsible stewardship in how it manages its financial resources. As a Catholic organization, the Conference draws the values, directions and criteria which guide its financial choices from the Gospel, universal church teaching and Conference statements. In order to function effectively and to carry out its mission, the Conference depends on a reasonable return on its investments and is required to operate in a fiscally sound, responsible and accountable manner. The combination of religious mandate and fiscal responsibilities suggests the need for a clear and comprehensive set of policies to guide the Conference's investments and other activities related to corporate responsibility.

1. **Background**
   The Catholic bishops of the United States have addressed this in the pastoral letter *Economic Justice for All*. The following excerpts from the pastoral letter emphasize three basic themes:

   1. *Church as Shareholder and Investor*
      "Individual Christians who are shareholders and those responsible within church institutions that own stocks in U.S. corporations must see to it that the invested funds are used responsibly. Although it is a moral and legal fiduciary responsibility of the trustees to ensure an adequate return on investment for the support of the work of the church, their stewardship embraces broader moral concerns. As part owners, they must cooperate in shaping the policies of those companies through dialogue with management, through votes at corporate meetings, through the introduction of resolutions and through participation in investment decisions. We praise the efforts of dioceses and other religious and ecumenical bodies that work together toward these goals. We also praise efforts to develop alternative investment policies, especially those which support

enterprises that promote economic development in depressed communities and which help the church respond to local and regional needs. When the decision to divest seems unavoidable, it should be done after prudent examination and with a clear explanation of the motives." (*Economic Justice for All*, 354)

2. *Shareholder Responsibility*
"Most shareholders today exercise relatively little power in corporate governance. Although shareholders can and should vote on the selection of corporate directors and on investment questions and other policy matters, it appears that return on investment is the governing criterion in the relation between them and management. We do not believe that this is an adequate rationale for shareholder decisions. The question of how to relate the rights and responsibilities of shareholders to those of other people and communities affected by corporate decisions is complex and insufficiently understood. We therefore urge serious, long-term research and experimentation in this area. More effective ways of dealing with these questions are essential to enable firms to serve the common good." (*Economic Justice for All*, 306)

3. *Church as Economic Actor*
"Although all members of the Church are economic actors every day of their individual lives, they also play an economic role united together as Church. On the parish and diocesan level, through its agencies and institutions, the Church employs many people; it has investments; it has extensive properties for worship and mission. All the moral principles that govern the just operation of any economic endeavor apply to the Church and its agencies and institutions; indeed the Church should be exemplary." ("Economic Justice for All," 347) Many dioceses and religious communities have also been seeking to apply these directions through their own policies on corporate responsibility. The USCCB Committee on Budget and Finance has sought a review and updating of these guidelines based on universal Church teachings and USCCB statements and policies. More than a decade ago the Bishops' Conference adopted and began to implement Socially Responsible Investment Guidelines (adopted at Nov.1991 General Meeting and presented in *Origins*, Nov. 28, 1991, Vol. 21. No. 25). The Committee on Budget and Finance and the related Conference staff have carried out these policies, but more comprehensive and clear corporate responsibility guidelines are needed. Until now, the Conference corporate responsibility policies have consisted primarily of exclusions, choosing not to invest in companies that comprise about ten percent (10%) of the S&P 500. Through this current review, the Conference seeks to put in place policies that are broader, more explicit, active, flexible and effective in applying the teaching of the Church to the realities of the market.

2. **Principles of Stewardship**

This current effort to fashion such guidelines is guided by two fundamental and interdependent principles: **Principle 1: The Conference should exercise responsible financial stewardship over its economic resources.** In practical fiscal terms, this means obtaining a reasonable rate of return on its investments. For example, the Conference now expects its managers to perform at least at the level of the market. In some areas the Conference has an actual fiduciary role (e.g., pensions). This requires caution in terms of risks taken with Conference resources. **Principle 2: The Conference should exercise ethical and social stewardship in its investment policy.** Socially responsible investment involves investment strategies based on Catholic moral principles. These strategies are based on the moral demands posed by the virtues of prudence and justice. They recognize the reality that socially beneficial activities and socially undesirable or even immoral activities are often inextricably linked in the products produced and the policies followed by individual corporations. Given the realities of mergers, buyouts and conglomeration, it is increasingly likely that investments will be in companies whose policies or products make the holding of their stock a "mixed investment" from a moral and social point of view. Nevertheless, by prudently applying traditional Catholic moral teaching, and employing traditional principles on cooperation and toleration, as well as the duty to avoid scandal, the Conference can reflect moral and social teaching in investments.

3. **Strategies**
These two major principles work together to encourage the Conference to identify investment opportunities that meet both our financial needs and our social criteria. These principles are carried out through strategies that seek: 1) to avoid participation in harmful activities, 2) to use the Conference's role as stockholder for social stewardship, and 3) to promote the common good. Briefly, these three approaches may be described as follows:

    1. *Do no harm (avoid evil):*
    This strategy involves two possible courses of action: 1) refusal to invest in companies whose products and/or policies are counter to the values of Catholic moral teaching or statements adopted by the Conference of bishops; 2) divesting from such companies. The decision to divest, or to refuse to invest, would be based on the principle of cooperation and the avoidance of scandal. It would have to be done prudently, with care taken to minimize the financial impact and possible other negative consequences. In some cases, Conference policy may not absolutely require divestment, but significant Conference investments in these areas might cause confusion or scandal (e.g., heavy investment in conventional military weapons producers, gambling stocks, etc.). In these cases, prudence would be the guiding principle.

    2. *Active Corporate Participation.*
    Given the clear teaching of *Economic Justice for All*, it seems appropriate for the Conference to adopt a strategy of active corporate participation with regard to its stock holdings. Under this approach the Conference will seek to exercise its normal shareholder

responsibilities, especially casting informed votes on proxies and shareholders' resolutions in accord with Conference policies. It should be noted that failure to vote in such situations, or assigning proxies to management, is effectively counted as a vote for current management and the status quo. In the future the Conference should vote its proxies and use its opportunities as a shareholder to support policies in accord with its values and oppose those in conflict with them, within the limitations discussed below. This strategy involves actively using the Conference's position as shareholder to influence the corporate culture and to shape corporate policies and decisions. These activities could include dialogue with corporate leadership, initiating or supporting shareholder resolutions, and working with various religious and other groups who are working for corporate responsibility, writing letters to corporate executives and board members to advocate specific steps or to support or raise objections to a corporation's activities or policies. This approach could also enable the Conference to deal effectively with the reality of "mixed investments." One way to be a socially responsible investor is to set limits for corporations engaged in questionable or objectionable activities, to hold a minimal position in those companies that fall under the threshold, and then to use one's position as shareholder to work actively to influence or redirect the activities or policies of the corporation toward activities and policies which are socially beneficial and serve the common good. Investments of this type may be tolerated, after careful application of the principle of cooperation and the duty to avoid scandal, so long as the Conference engages in active participation and there is a reasonable hope of success for corporate change.

3. *Positive Strategies ("Promote the Common Good")*
. These strategies involve at least two possible courses of action: 1) supporting policies and initiatives in companies owned by the Conference that promote the values of Catholic moral and social teaching or positions advocated by Conference statements while earning a reasonable rate of return; 2) investments that promote community development, which, in some cases, may result in a lower rate of return, but which nevertheless are chosen because they give expression to the Church's preferential option for the poor or produce some truly significant social good. In the first case, the Conference can support companies and financial institutions which, in addition to their fiscal merits and investment advantages, have strong records in such areas as labor relations, affirmative action, affordable housing, (for example, market-rate certificates of deposit in institutions with special programs for low cost housing, or common stocks of companies that produce socially superior products and perform well in the market, etc.). In the second case, the Conference already has positive experience with community development investments through the Catholic Campaign for Human Development ("CCHD") Given the purpose of the funds which the Conference holds, and, in

some cases, its fiduciary responsibilities, opportunities for investing in community development initiatives with lower rates of return will probably be limited to CCHD's efforts or other special initiatives.

4. **Financial Impact**
The experience of the Conference has been that there has not been a negative impact on the financial return of the Conference's investments since these Socially Responsible Investment Guidelines have been in place. When the guidelines were put into place and in our review, the Conference consulted with advisors and groups who have extensive experience in managing funds under these kinds of policies. Each of them presented evidence that their restricted funds had performed better than or at the level of the market as a whole. Theoretically, a corporate responsibility program that precluded investment in a significant segment of the market would reduce the options available to the portfolio management and could negatively impact performance. Since the market is so large, every investor selects some stocks and avoids others, using a variety of financial and other evaluative financial criteria. The addition of the ethical criteria is an extension of this process. Some argue that further limiting investor options reduces flexibility, can distort market choices and could negatively impact financial return. Others argue that the market is so large and varied that ethical criteria do not unduly inhibit investor choice, and there are ample options available to a capable and skilled advisor. They also argue that there are many well-run and profitable companies that practice corporate responsibility. In fact, they suggest that in today's environment of increased regulation and social concern, those companies with good records in these areas often perform better than their counterparts. It is not possible to predict future results from past experience; therefore the financial impact of these policies needs to be continuously monitored.

5. **Conference Directions**
In carrying out these strategies the Conference will be required to strengthen its capacity in several areas:

    1. *Corporate Awareness*
    : The Conference will have to build on its current efforts and monitor more closely how Catholic teaching and Conference policy are advanced and undermined in the marketplace and by corporate actions. It will need to make use of the growing resources that regularly monitor corporate responsibility issues and stay in touch with networks of others who share similar concerns. In addition, the Conference ought to subscribe to the publications of groups that offer research, advice, and assistance in the area of corporate responsibility.

    2. *Investment Guidance*
    : The Conference will have to continue to work closely with its investment advisors, to clearly articulate its goals and policies in this area and assist them in carrying them out. A tool that has proven useful for others is a set of instructions for voting proxies on issues of

concern to the client. The Conference needs investment advisors who have shown themselves to be sympathetic, skillful and successful in carrying out an effective investment program within these kinds of constraints.

3. *Prudence/Common Sense*
: Our work with investment advisors and others interested in corporate responsibility will require both prudence and common sense in carrying out these policies. The basic direction is set by Conference policies. The strategies employed and their scale, timing and pace will depend on the considered judgments of the Committee on Budget and Finance, USCCB staff and advisors.

4. *Limitations*
: We seek to implement these guidelines without new investments in staff. In carrying them out, they may need to be phased in over time. It will be necessary to focus our efforts on a few areas at a time rather than trying to implement in a sweeping way a comprehensive set of policies. Clearly, this task will require additional attention from the Committee on Budget and Finance and its related staff, as well as other Conference staff with expertise in related areas (e.g., Doctrine, Pro-Life, Social Development and World Peace, etc.).

6. **Summary**
In seeking to carry out these continuing principles and directions, the Conference has both limitations and opportunities. Its corporate responsibility policies need to reflect both the financial and fiduciary responsibilities of the Conference, and the mandate to apply our traditional social teaching in the world of investments. The Conference cannot preach to others what it does not practice itself. The Committee on Budget and Finance seeks to pursue these policies in good faith, recognizing the limitations of staff and other committee commitments. The Committee seeks to pursue these policies not in any spirit of confrontation or conflict, but in a sincere desire to work for a more just society and more peaceful world through the careful stewardship of the limited resources of the Conference. In this modest, but hopefully useful effort, the Committee on Budget and Finance seeks both to protect the financial resources of the Conference and to exercise its responsibilities as an investor to advance in a small way the values of the faith. While recognizing the complexity and challenge of this exercise of faithful stewardship, the Committee is convinced that the Conference cannot fulfill its responsibilities without a clear commitment to socially responsible investing.

USCCB Investment Policies

Introduction

The USCCB investment policies cover the following areas: protecting human life; promoting human dignity; reducing arms production; pursuing economic justice; protecting the environment, and encouraging corporate responsibility.

Each policy recommendation is presented according to the following format:

1. One or more statements of Catholic teaching or Conference policy on the topic drawn from a pastoral letter or other documents adopted by the bishops
2. A general statement of policy or policies to guide the investment activities of the Conference
3. In certain areas, a series of options that are based on the principles as noted beginning on page 1

1. **Protecting Human Life**
   " Life in time, in fact, is the fundamental condition, the initial stage and an integral part of the entire unified process of human existence. It is a process which, unexpectedly and undeservedly, is enlightened by the promise and renewed by the gift of divine life, which will reach its full realization in eternity (cf. 1 Jn 3:1-2). At the same time, it is precisely this supernatural calling, which highlights the relative character of each individual's earthly life. After all, life on earth is not an "ultimate" but a "penultimate" reality; even so, it remains a sacred reality entrusted to us, to be preserved with a sense of responsibility and brought to perfection in love and in the gift of ourselves to God and to our brothers and sisters." ***(Pope John Paul II, The Gospel of Life (Evangelium vitae)*, no. 2; 1995.** "Human life is sacred because from its beginning it involves 'the creative action of God', and it remains forever in a special relationship with the Creator, who is its sole end. God alone is the Lord of life from its beginning until its end: no one can, in any circumstance, claim for himself the right to destroy directly an innocent human being." ***(Congregation for the Doctrine of the Faith, Donum vitae, no. 5 and Pope John XXIII's encyclical, Mater et magistra)***

   1. **Abortion**
      "...we proclaim that human life is a precious gift from God; that each person who receives this gift has responsibilities toward God, self, and others; and that society, through its laws and social institutions, must protect and nurture human life at every stage of its existence. These beliefs flow from ordinary reason and from our faith's constant witness that 'life must be protected with the utmost care from the moment of conception' **(Pastoral Constitution on the Church in the Modern World, no. 51)**--a teaching that has been a constant part of the Christian message since the apostolic age." **(U.S. Catholic Bishops, Pastoral Plan for Pro-Life Activities: A Campaign in Support of Life, pp 1-2, November 2001.)** "At this particular time, abortion has become the fundamental human rights issue for all men and women of good will. The duty to respect life in all its stages and especially in the womb is evident when one appreciates the unborn child's membership in our human family, and the grave consequences of denying moral or legal status to any class of human beings because of their age or condition of dependency..."

(Resolution on Abortion, November 7, 1989) Policy In view of the nature of abortion, the investment policy of the USCCB should remain as it is, namely, *absolute exclusion* of investment in companies whose activities include direct participation in or support of abortion. Direct participation in abortion may include, but not be limited to, companies involved in the manufacture of abortifacients and publicly held health-care companies that perform abortions when not absolutely required by federal or state law. *Additional Policy Recommendation* The Conference will consider supporting shareholder resolutions on abortion-related issues when deemed appropriate.

2. **Contraceptives**
"The Church...teaches that each and every marital act must of necessity retain its intrinsic relationship to the procreation of human life." **(Paul VI, Humanae vitae, n.11)** "In contraceptive intercourse the procreative or life-giving meaning of intercourse is deliberately separated from its love-giving meaning and rejected; the wrongness of such an act lies in the rejection of this value." **(*To Live in Christ Jesus: A Pastoral Reflection on the Moral Life*, NCCB, November 11, 1976, n. 46.) Policy** In view of the Church's clear teaching on the immorality of contraceptive intercourse, the USCCB will not invest in companies that manufacture contraceptives or derive a significant portion of its revenues from the sale of contraceptives, even if they do not manufacture them.

3. **Embryonic Stem Cell/Human Cloning**
"No objective, even though noble in itself, such as a foreseeable advantage to science, to other human beings or to society, can in any way justify experimentation on living human embryos or fetuses, whether viable or not, either inside or outside the mother's womb...To use human embryos or fetuses as the object of instrument of experimentation constitutes a crime against their dignity as human beings having a right to the same respect that is due to the child already born and to every human person." **(Congregation for the Doctrine of the Faith, Donum vitae, no. 4.)** "[The] evaluation of the morality of abortion is to be applied also to the recent forms of intervention on human embryos which, although carried out for purposes legitimate in themselves, inevitably involve the killing of those embryos. This is the case with experimentation on embryos..." **(Pope John Paul II, Evangelium vitae, no. 63.)** "...attempts or hypotheses for obtaining a human being without any connection with sexuality through 'twin fission,' cloning or parthenogenesis are to be considered contrary to the moral law, since they are in opposition to the dignity both of human procreation and of the conjugal union." **(Sacred Congregation for the Doctrine of the Faith, Donum vitae, no. 6)** "It is immoral to produce human embryos destined to be exploited as disposable 'biological material.'" **(Donum vitae, no. 5) Policy** The USCCB will not invest in companies that engage in scientific research on human fetuses or embryos that (1) results in the

end of pre-natal human life; (2) makes use of tissue derived from abortions or other life-ending activities; or (3) violates the dignity of a developing person. Specific activities covered by the policy will include:

1. Embryonic stem cell research (ESCR);
2. Fetal tissue research or stem cell research derived from embryos; and
3. Human cloning.

Because this field of research is dynamic, new forms of research, or products and services derived from such research, will be evaluated on a case-by-case basis.

2. **Promoting Human Dignity**
   1. **Human Rights**
      "Promotion of the full complement of human rights and religious liberty has been and remains a central priority for our conference...the maintenance of peace and the progress of authentic democracy in the world will require enhancing the priority in US foreign policy of human rights, especially of the poor, women and vulnerable children, and improving international arrangements for their enforcement." ***(The Harvest of Justice Sown in Peace, 1993)*** "In each of these countries, foreign corporations-American, European, Asian, and others reap large profits from diamonds and oil while too often demonstrating little concern for the negative impact their activities may have on peace stability, human rights, and the environment. As part of this exchange for natural resources, individuals, multinational corporations, and foreign governments have provided arms to African governments and non-governmental entities resulting in further instability and deeper human suffering." **(*A Call to Solidarity with Africa*, p. 17)** "Catholics managing U.S. and multinational corporations bear a special responsibility in the exercise of their professional obligations, particularly where the activities of their corporations might exacerbate conflict, corruption, human rights abuses, and environmental degradation in Africa. They could play a central role in helping to promote prosperous and just economics in Africa." **(*A Call to Solidarity with Africa*, p. 30) Policy** USCCB will actively promote and support shareholder resolutions directed towards protecting and promoting human rights. For example, USCCB could join efforts to influence corporations that are engaged in extractive industries or are operating in countries with significant human rights concerns. *Additional Policy Recommendations* USCCB will use selected shareholder resolutions and other means to encourage companies to provide sufficient wages, working conditions and other social benefits that enable their employees and families to met basic human needs. USCCB will seek means to encourage

efforts by companies to promote a respect for fundamental human rights, especially in those countries in which these companies operate that have documented practices that deny or violate the human rights of their citizens.

2. **Racial Discrimination**
"Discrimination based on the accidental fact of race or color, and as such injurious to human rights regardless of personal qualities or achievements, cannot be reconciled with the truth that God has created all men with equal rights and equal dignity." **(Discrimination and Christian Conscience, n. 11.)** "Racism is a sin: a sin that divides the human family, blots out the image of God among specific members of that family, and violates the fundamental human dignity of those called to be children of the same Father." **(Brothers and Sisters To Us, n. 9.)** "Discrimination in job opportunities or income levels on the basis of race, sex, or other arbitrary standards can never be justified." **(Economic Justice For All, n. 73.) Policy** USCCB will divest from those companies whose policies are found to be discriminatory against people of varied ethnic and racial backgrounds that have been historically disadvantaged.. *Additional Policy Recommendations* USCCB will actively promote and support shareholder resolutions directed towards equal opportunities for minorities. USCCB as a shareholder will actively work for the inclusion of minorities on corporate boards.

3. **Gender Discrimination**
"Since women are becoming ever more conscious of their human dignity, they will not tolerate being treated as mere material instruments, but demand rights befitting a human person both in domestic and public life." **(Pope John XXIII, *Pacem in terris*, n. 41)** "Forms of social or cultural discrimination in basic personal rights on the grounds of sex, race, color, social conditions, language or religion must be curbed and eradicated as incompatible with God's design." **(*Gaudium et spes*, n. 29.)** "We also urge that women should have their own share of responsibility and participation in the community life of society and likewise of the Church." **(1971 Synod of Bishops, *Justice in the World*, III/4.)** "The concrete and historical situation of women...is weighed down by the inheritance of sin . . . . This inheritance is expressed in habitual discrimination against women in favor of men." **(*Mulieris Dignitatem*, n. 14)** "Vigorous action should be undertaken to remove barriers to full and equal employment for women" **(*Economic Justice for All*, n. 199.) Policy** The USCCB will divest from those companies whose policies are found to be discriminatory against women. *Additional Policy Recommendations* The USCCB will direct its investment advisors to invest in companies that actively promote corporate policies on equal pay and promotion opportunities for women, and accommodation of legitimate family needs. The USCCB will exercise its responsibility as shareholder to promote the active participation of women in the life of the company,

particularly in terms of policy and decision-making, and inclusion in corporate leadership positions.

4. **Access to Pharmaceuticals (e.g. HIV/AIDS)**
"Most [Africans] lack access to health services or safe drinking water. Malaria, tuberculosis, HIV/AIDS, and other communicable diseases threaten to wipe out as much as one-quarter of the populations of some African countries over the next twenty years." **(*A Call to Solidarity with Africa*, p. 13)** We also urge the international community and major pharmaceutical companies to respond more effectively to the needs of AIDS patients in poor countries "so that these men and women, tired in body and soul, may have access to the medicines they need." **(*A Call to Solidarity with Africa*, p. 21)** **Policy** USCCB will encourage companies to undertake or participate in programs designed to make life-sustaining drugs available to those in low-income communities and countries at reduced, affordable prices, consistent with our Catholic values. *Additional Policy Recommendations* USCCB will actively encourage and support shareholder resolutions directed towards making life-sustaining drugs more available and affordable to low-income communities and nations.

5. **Curbing Pornography**
"Pornography itself, which denies the dignity which God gives each human being. This kind of 'entertainment'...blocks the moral and emotional development of those who are lured into its use...At this level we are dealing with what is usually referred to in legal terms as obscenity and indecency." " *Soft-core* pornography (sometimes described as *erotic* rather than *obscene*) which is readily available in several forms. Some R-rated movies [which] are only marginally less offensive than X-rated films." "Material which, while not usually identified as either *hard core* or *soft core*, is disturbing because it seems to pervasively present, offering portrayals of sex in a frivolous and titillating manner." **(*Renewing the Mind of the Media*, pg. 109)**

   Policy The USCCB will not invest in a company whose purpose is to appeal to a prurient interest in sex or to incite sexual excitement. In addition, we will take every means to avoid participation in investments related to the same. Additional Policy Recommendation The USCCB will promote and support initiatives, including in some cases, shareholder resolutions, to promote responsible and family-oriented program content development by media companies.

3. **Reducing Arms Production**
   1. **Production and Sale of Weapons**
   "While extravagant sums are being spent for the furnishing of ever new weapons, an adequate remedy cannot be provided for the multiple miseries afflicting the whole modern world. Disagreements between nations are not really and radically healed. On the contrary,

other parts of the world are infected with them . . . . Therefore, it must be said again: The arms race is an utterly treacherous trap for humanity, and one which injures the poor to an intolerable degree." **(*Gaudium et Spes*, n. 81)** "The serious distortion of national economic priorities produced by massive national spending on defense must be remedied. Clear-sighted consideration of the role of government and the economy shows that the government and the economy are already closely intertwined through military research and defense contracts. Defense-related industries make up a major part of the U.S. economy and have intimate links with both the military and civilian government; they often depart from the competitive model of free-market capitalism. Moreover, the dedication of so much of the national budget to military purposes has been disastrous for the poor and vulnerable members of our own and other nations. The nation's spending priorities need to be revised in the interests of both justice and peace." **(*Economic Justice for All*, n. 320)** "We do not perceive any situation in which the deliberate initiation of nuclear warfare on however restricted a scale can be morally justified." **(*The Challenge of Peace*, n. 150) Policy** The Conference, through its investments as well as its advocacy, seeks to discourage any nuclear and conventional arms race and to limit the distortions in the U.S. and global economy resulting from disproportionate military spending. The Conference will, therefore, avoid investment in firms primarily engaged in military weapons production or the development of weapons inconsistent with Catholic teaching on war (e.g., biological and chemical weapons, arms designed or regarded as first-strike nuclear weapons, indiscriminate weapons of mass destruction, etc.) *Additional Policy Recommendation* The Conference will support shareholder actions to limit weapons production, to limit foreign sales of weapons and to convert corporate capacity to non-military uses.

2. **Antipersonnel Landmines**
"Government controls do not absolve those involved in the arms industry of moral responsibility for their decisions to sell arms. They have a moral obligation not only to ensure compliance with export controls, but also to avoid sales that will probably be used for illegitimate purposes or that will threaten stability and peace." We would like to add our voice to the appeals of Pope John Paul II and the growing movement to control and eventually ban antipersonnel landmines. The Holy Father has issued "a vigorous appeal for the definitive cessation of the manufacture and use of those arms called 'anti-personnel'..." ***(Sowing the Weapons of War)* Policy** USCCB will not invest in companies that are directly involved in the manufacture, sale, or use of anti-personnel landmines.

4. **Pursuing Economic Justice**
   1. **Labor Standards/Sweatshops**

"If the dignity of work is to be protected, then the basic rights of workers must be respected--the right to productive work, to decent and fair wages, to organize and join unions, to private property and to economic initiative." **(*Sharing Catholic Social Teaching*, p. 5)** "The attainment of the worker's rights cannot however be doomed to be merely a result of economic systems which on a larger or smaller scale are guided chiefly by the criterion of maximum profit. On the contrary, it is respect for the objective rights of the worker--every kind of worker: manual, or intellectual, industrial or agricultural, etc.--that must constitute the adequate and fundamental criterion for shaping the whole economy, both on the level of the individual society and state and within the whole of the world economic polity and of the systems of international relationships that derive from it." **(*Laborem Exercens*, #17)** **Policy** USCCB will actively promote and support shareholder resolutions directed towards avoiding the use of sweatshops in the manufacture of goods. *Additional Policy Recommendations* USCCB will promote and support shareholder resolutions to promote generous wage and benefit policies and adequate worker safety guidelines.

2. **Affordable Housing / Banking**
"We are particularly concerned about the abundant evidence of 'redlining' or disinvestment. . . . Where it exists it must be condemned; discrimination based on geography is as destructive as other forms of discrimination. We must insure fair and equal access to available credit. We urge banks and savings and loan associations to meet their responsibilities in central city areas. We recommend financial institutions which have chosen to intensify programs of investment in these neighborhoods. . . . We also urge individual depositors and those responsible for Church funds to encourage a responsible and sensitive lending policy on the part of the financial institutions which they patronize." **(*The Right to a Decent Home: A Pastoral Response to the Crisis in Housing*, November 20, 1975, n. 32.)** **Policy** The Conference will not deposit funds in a financial institution that receives less than a "satisfactory" rating from federal regulatory agencies under the Community Reinvestment Act. *Additional Policy Recommendations* The Conference, through private correspondence and appropriate shareholder action, will encourage the financial institutions where it deposits its resources to undertake programs and implement policies to secure an "outstanding" rating under the act. The Conference will communicate, where appropriate, to its financial institutions our support for their positive performance under the Community Reinvestment Act.

5. **Protecting the Environment**
"Our tradition calls us to protect the life and dignity of the human person, and it is increasingly clear that this task cannot be separated from the care and defense of all creation...We must seek a society where economic life and environmental

commitment work together to protect and to enhance life on this planet." "The ecological problem is intimately connected to justice for the poor...the poor suffer most directly from environmental decline..." "Environmental progress cannot come at the expense of workers and their rights." "We ask business leaders and representatives of workers to make the protection of our common environment a central concern in their activities and to collaborate for the common good and the protection of the earth." **(*Renewing the Earth*, 1991) Policy** USCCB investment policy will actively promote and support shareholder resolutions which encourage corporations to act "to preserve the planet's ecological heritage, addressing the rampant poverty in the poorest nations, redirecting development in terms of quality rather than quantity in the industrial world, [and] creating environmentally sensitive technologies." **(*Renewing the Earth*, 1991)** *Additional Policy Recommendations* USCCB investment policy will encourage policies and business that "undertake reasonable and effective initiatives for energy conservation and the development of alternate renewable and clean energy resources...[and offering] incentives to corporations to reduce greenhouse gas emissions and assistance to workers affected by those policies." **(*Global Climate Change*, 2001)**

6. **Encouraging Corporate Responsibility**
"The private sector must be not only an engine of growth and productivity, but also a reflection of our values and priorities, a contributor to the common good. Examples of greed and misconduct must be replaced with models of corporate responsibility." **(*A Place at the Table*, 2002)** "Ethical responsibility is not just avoiding evil, but doing right, especially for the weak and vulnerable. Decisions about the use of capital have moral implications: Are companies creating and preserving quality jobs at living wages? Are they building up community through the goods and services they provide? Do policies and decisions reflect respect for human life and dignity, promote peace, and preserve God's creation? While economic returns are important, they should not take precedence over the rights of workers or protection of the environment." **(*Everyday Christianity*, p. 6) Policy** USCCB will encourage companies to report on social, environmental, as well as financial performance. *Additional Policy Recommendations* USCCB will actively promote and support shareholder resolutions directed towards adoption of corporate social responsibility guidelines within companies.

EXHIBIT J

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

AUG 14 2013

Received
AUG 19 2013
Chief Financial Officer

U.I.L.: 414.08-00

Mr. Garrick J. Stoldt, Chief Financial Officer
Saint Peter's Healthcare System, Inc.
254 Easton Avenue
New Brunswick, NJ 08901

Legend:

Organization A	=	Saint Peter's Healthcare System, Inc.
Organization B	=	Diocese of Metuchen
Organization C	=	Catholic Health New Jersey, Inc.
Church R	=	Roman Catholic Church
Hospital P	=	Saint Peter's University Hospital
State J	=	New Jersey
Directory S	=	Official Catholic Directory
Plan X	=	Saint Peter's Healthcare System Retirement Plan
Plan Y	=	Saint Peter's University Hospital Retirement Plan

Dear Mr. Stoldt:

This letter is in response to your request dated October 5, 2006, as supplemented by correspondence dated July 24, 2007, November 22, 2011, January 24, 2012, February 7, 2012, February 17, 2012, May 23, 2012, April 9, 2013 and May 22, 2013, submitted on your behalf by your authorized representatives regarding the church plan status of Plan X within the meaning of section 414(e) of the Internal Revenue Code (Code).

The following facts and representations have been submitted under penalties of perjury on your behalf:

Hospital P was created by Organization B of State J to meet the charitable needs of people by providing health and human services to people in need. Organization B is a religious community organized within Church R. Hospital P was originally incorporated on March 20, 1908, pursuant to Articles of Incorporation (Articles) that have been amended from time to time. The Articles provided that the sole member of Hospital P was Organization C, a non-profit corporation. Hospital P is exempt from Federal income taxation under section 501(a) as an organization described under section 501(c)(3) of the Code, and is listed in Directory S, the official directory of Church R.

Under Article III of Hospital P's Bylaws, the powers of Hospital P generally were exercised by the Board of Trustees (Board). The Board consisted of from five to thirty trustees, including the congregational leader of Organization B and two trustees who were the designated representatives of Organization B. The exact number of trustees was fixed by Organization C and with the exception of the congregational leader of Organization B, the two representatives of Organization B, and the President of Hospital P, all trustees were subject to certain term limitations. Trustees were required to agree to conduct the activities and business of Hospital P under the philosophy of, and ethical and religious directives for, Church R health facilities as adopted by the national clerical leadership of Church R and implemented by Organization B. In addition, the congregational leader of Organization B had the right to veto any trustee otherwise approved by Organization C.

In June, 2010, Hospital P participated in a reorganization, which resulted in the creation of a new parent corporation known as Organization A. Organization A is a nonprofit State J corporation exempt from Federal income taxation under section 501(a) of the Code by virtue of being an organization described in section 501(c)(3) of the Code. Article III of Organization A's restated Bylaws provides that the sole member of Organization A is the congregational leader of Organization B. The Board of Governors (Governors) has the authority to manage Organization A, but the congregational leader of Organization B has the sole authority and discretion to appoint and remove all Governors of Organization A, as well as the trustees of any subsidiaries, and the executive director of any subsidiary of Organization A. The congregational leader of Organization B also has the sole authority to veto any action by Organization A or it's Governors, and to exercise any powers designated to Organization A with respect to any subsidiary.

Effective January 1, 1964, Hospital P established Plan Y, a retirement savings plan, for the benefit of its employees and the employees of its subsidiaries. In June, 2010, Organization A assumed the sponsorship of Plan Y and renamed it Plan X. Plan X is a qualified plan as described in section 401(a) of the Code.

Organization A has not made an election under section 410(d) of the Code with respect to Plan X.

Plan X is administered by a Retirement Plan Committee (Committee), whose members are appointed by the congregational leader of Organization B. In the past, the Committee was controlled by the Board which was controlled by Church R, currently the Committee is controlled by the congregational leader of Organization B. The Committee serves as the Plan X administrator, and exercises the sole authority to construe and to interpret the provisions of Plan X, determine eligibility for benefits thereunder and otherwise manage the operations of Plan X.

In accordance with Revenue Procedure 2011-44, 2011-39 I.R.B. 446, Notice to Employees with reference to Plan X was originally provided on November 21, 2011 and was reissued on April 29, 2013 with a minor correction. This notice explained to participants of Plan X the consequences of church plan status.

Based on the foregoing, you request a ruling that Plan X is a church plan under the provisions of section 414(e) of the Code effective as of January 1, 1974.

Section 414(e) was added to the Code by section 1015 of ERISA. Section 1017(e) of ERISA provided that section 414(e) of the Code applied as of the date of ERISA's enactment. However, section 414(e) of the Code was subsequently amended by section 407(b) of the Multiemployer Pension Plan Amendments Act of 1980, Pub. Law 96-364, to provide that section 414(e) of the Code was effective as of January 1, 1974.

Section 414(e)(1) of the Code generally defines a church plan as a plan established and maintained for its employees (or their beneficiaries) by a church or a convention or association of churches which is exempt from taxation under section 501 of the Code.

Section 414(e)(2) of the Code provides, in part, that the term "church plan" does not include a plan that is established and maintained primarily for the benefit of employees (or their beneficiaries) of such church or convention or association of churches who are employed in connection with one or more unrelated trades or businesses (within the meaning of section 513 of the Code); or if less than substantially all of the individuals included in the plan are individuals described in section 414(e)(1) of the Code or section 414(e)(3)(B) of the Code (or their beneficiaries).

Section 414(e)(3)(A) of the Code provides that a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches includes a plan maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

Section 414(e)(3)(B) of the Code defines "employee" of a church or a convention or association of churches to include a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry, regardless of the source of his or her compensation, and an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 of the Code, and which is controlled by or associated with a church or a convention or association of churches.

Section 414(e)(3)(C) of the Code provides that a church or a convention or association of churches which is exempt from tax under section 501 of the Code shall be deemed the employer of any individual included as an employee under subparagraph (B).

Section 414(e)(3)(D) of the Code provides that an organization, whether a civil law corporation or otherwise, is associated with a church or a convention or association of churches if the organization shares common religious bonds and convictions with that church or convention or association of churches.

Revenue Procedure 2011-44, 2011-39 I.R.B. 446 supplements the procedures for requesting a letter ruling under section 414(e) of the Code relating to church plans. The revenue procedure: (1) requires that plan participants and other interested persons receive a notice in connection with a letter ruling request under section 414(e) of the Code for a qualified plan; (2) requires that a copy of the notice be submitted to the Internal Revenue Service (IRS) as part of the ruling request; and (3) provides procedures for the IRS to receive and consider comments relating to the ruling request from interested persons.

In order for an organization that is not itself a church or convention or association of churches to have a qualified church plan, it must establish that its employees are employees or deemed employees of a church or convention or association of churches under section 414(e)(3)(B) of the Code by virtue of the organization's control by or affiliation with a church or convention or association of churches. Employees of any organization maintaining a plan are considered to be church employees if the organization: (1) is exempt from tax under section 501 of the Code; and, (2) is controlled by or associated with a church or convention or association of churches. In addition, in order to be a church plan, the plan must be administered or funded (or both) by an organization described in section 414(e)(3)(A) of the Code. To be described in section 414(e)(3)(A) of the Code, an organization must have as its principal purpose the administration or funding of the plan and must also be controlled by or associated with a church or convention or association of churches.

In this case, Organization A, and its predecessor Hospital P, are organizations described in section 501(c)(3) of the Code which are exempt from tax under section 501(a) of the Code. Organization A is listed in Directory S which is the official directory of Church R. The sole member of Organization A is the congregational leader of Organization B. Organization B is a religious community which carries out the functions of Church R and is listed in Directory S. Therefore, Organization A, is indirectly controlled by Church R through its relationship with Organization B.

In view of the common religious bonds between Church R and Organization A, and the indirect control of Organization A by Church R through Organization B, we conclude that Organization A, the successor to Hospital P, is associated with a church or a convention or association of churches within the meaning of section 414(e)(3)(D) of the Code, that the employees of Organization A meet the definition of employee under section 414(e)(3)(B) of the Code, and that they are deemed to be employees of a church or a convention or association of churches by virtue of being employees of an organization which is exempt from tax under section 501 of the Code and which is controlled by or associated with a church or a convention or association of churches.

Plan X is administered by the Committee whose members are appointed by the congregational leader of Organization B. In the past, the Board controlled the Committee, but currently the congregational leader of Organization B controls the Committee. Therefore the Committee is associated with and under the control of Organization B, and is indirectly associated with and under the control of Church R. Further, as represented above, the sole purpose of the Committee is the administration of Plan X for the provision of retirement benefits for the employees of Organization A. As a result, the Committee constitutes an organization described in section 414(e)(3)(A) of the Code.

Based on the foregoing facts and representations, we conclude that Plan X is a church plan within the meaning of section 414(e) of the Code, and has been a church plan within the meaning of section 414(e) of the Code retroactive to January 1, 1974. In addition, we conclude that Plan X has not been maintained primarily for the benefit of employees who are employed in connection with one or more unrelated trades or business as defined in section 513 of the Code.

This letter expresses no opinion as to whether Plan X satisfies the requirements for qualification under section 401(a) of the Code.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

A copy of this letter is being sent to your authorized representatives pursuant to a Power of Attorney on file in this office.

If you have any questions regarding this letter, please contact Wilbert G. Laird, ID Number 1000221531, at (202) 283-9630. Please address all correspondence to SE:T:EP:RA:T3.

Sincerely yours,

Laura B. Warshawsky, Manager
Employee Plans Technical Group 3

Enclosures:
Deleted copy of letter ruling
Notice 437

cc: Mr. Wayne R. Kamenitz
Ernst & Young, LLP
99 Wood Avenue South
Iselin, NJ 08830

Catherine L. Creech, Esq.
Ernst & Young, LLP
1101 New York Ave, NW
Washington, DC 20005

EXHIBIT K

Consolidated Financial Statements and Supplementary Information

Saint Peter's Healthcare System, Inc.
Years Ended December 31, 2017 and 2016
With Report of Independent Auditors

Ernst & Young LLP

Building a better
working world

Saint Peter's Healthcare System, Inc.

Consolidated Financial Statements and Supplementary Information

Years Ended December 31, 2017 and 2016

Contents

Building a better working world

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Report of Independent Auditors

The Board of Governors
Saint Peter's Healthcare System, Inc.

We have audited the accompanying consolidated financial statements of Saint Peter's Healthcare System, Inc., which comprise the consolidated balance sheets as of December 31, 2017 and 2016, and the related consolidated statements of operations and changes in net assets and cash flows for the years then ended, and the related notes to the consolidated financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in conformity with U.S. generally accepted accounting principles; this includes the design, implementation and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free of material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We did not audit the financial statements of Risk Assurance Company of Saint Peter's University Hospital (RAC), a wholly-owned subsidiary, which statements reflect total assets of $24,259,000 and $27,334,000 as of December 31, 2017 and 2016, respectively. Those statements were audited by other auditors whose report has been furnished to us, and our opinion, insofar as it relates to the amounts included for RAC, is based solely on the report of the other auditors. We conducted our audits in accordance with auditing standards generally accepted in the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

Building a better working world

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, based on our audits and the report of the other auditors, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Saint Peter's Healthcare System, Inc. at December 31, 2017 and 2016, and the consolidated results of its operations and changes in net assets and its cash flows for the years then ended in conformity with U.S. generally accepted accounting principles.

Supplementary Information

Our audits were conducted for the purpose of forming an opinion on the consolidated financial statements as a whole. The accompanying consolidating balance sheet and consolidating statement of operations and changes in net assets as of and for the year ended December 31, 2017, are presented for purposes of additional analysis and are not a required part of the consolidated financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the consolidated financial statements. The information has been subjected to the auditing procedures applied in the audits of the consolidated financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the consolidated financial statements or to the consolidated financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States. In our opinion, based on our audits and the report of other auditors, the information is fairly stated in all material respects in relation to the consolidated financial statements as a whole.

Ernst + Young LLP

May 11, 2018

Saint Peter's Healthcare System, Inc.

Consolidated Balance Sheets

(In Thousands)

	December 31 2017	December 31 2016
Assets		
Current assets:		
Cash and cash equivalents	**$ 15,824**	$ 20,737
Patient accounts receivable, less allowance for doubtful accounts of $23,887 and $22,734 in 2017 and 2016, respectively	**54,759**	61,281
Assets whose use is limited, current portion	**101,949**	99,301
Supplies	**6,060**	4,701
Estimated third-party payor settlements, current portion	**1,150**	1,608
Other current assets	**14,024**	17,316
Total current assets	**193,766**	204,944
Assets whose use is limited, less current portion	**37,485**	40,599
Property, plant, equipment, and construction, net	**200,151**	193,236
Estimated third-party payor settlements, less current portion	**44**	640
Investments in joint ventures and other assets	**5,708**	7,205
	$ 437,154	$ 446,624
Liabilities and net assets		
Current liabilities:		
Current portion of long-term debt and lines of credit	**$ 18,292**	$ 10,186
Accounts payable	**30,295**	27,724
Accrued expenses and other liabilities	**37,347**	36,208
Accrued interest	**4,183**	4,314
Estimated third-party payor settlements, current portion	**2,778**	4,268
Total current liabilities	**92,895**	82,700
Long-term debt, less current portion	**148,382**	154,475
Estimated third-party payor settlements, less current portion	**2,251**	1,734
Accrued pension liability	**135,449**	134,637
Other liabilities	**22,845**	23,439
Total liabilities	**401,822**	396,985
Commitments and contingencies		
Net assets:		
Unrestricted	**27,760**	39,777
Temporarily restricted	**7,222**	9,512
Permanently restricted	**350**	350
Total net assets	**35,332**	49,639
	$ 437,154	$ 446,624

See accompanying notes.

Saint Peter's Healthcare System, Inc.

Consolidated Statements of Operations and Changes in Net Assets
(In Thousands)

	Year Ended December 31 2017	2016
Revenue, gains, and other support:		
Net patient service revenue	**$ 460,101**	$ 466,727
Provision for bad debts	**(15,327)**	(16,385)
Net patient service revenue less provision for bad debts	**444,774**	450,342
Other operating revenue	**30,627**	30,244
Net assets released from restriction	**3,165**	2,499
Total revenue, gains, and other support	**478,566**	483,085
Expenses:		
Salaries and wages	**233,883**	221,729
Resident and physician fees	**16,451**	16,222
Employee benefits	**53,791**	61,121
Supplies and other	**148,652**	144,929
Interest	**9,627**	9,782
Depreciation and amortization	**22,438**	24,219
Total expenses	**484,842**	478,002
(Loss) income from operations	**(6,276)**	5,083
Severance costs	**(5,377)**	–
Abandonment of equipment	**(6,981)**	–
Information technology settlement	**7,300**	–
Equity in net earnings of joint ventures	**1,061**	913
Pharmacy school pledge	**–**	881
(Deficiency) excess of revenue over expenses	**(10,273)**	6,877
Net change in unrealized gains and losses on investments	**3,263**	2,467
Change in pension liability to be recognized in future periods	**(10,602)**	(2,132)
Donated equipment and other	**6,201**	1,776
(Decrease) increase in unrestricted net assets before discontinued operations	**(11,411)**	8,988
(Loss) gain discontinued skilled nursing facility	**(606)**	11,393
(Decrease) increase in unrestricted net assets	**(12,017)**	20,381

Continued on next page.

Saint Peter's Healthcare System, Inc.

Consolidated Statements of Operations and Changes in Net Assets (continued)
(In Thousands)

	Year Ended December 31	
	2017	**2016**
(Decrease) increase in unrestricted net assets	**$ (12,017)**	$ 20,381
Temporarily restricted:		
Restricted gifts and contributions	**875**	4,453
Net assets released from restriction	**(3,165)**	(2,499)
(Decrease) increase in temporarily restricted net assets	**(2,290)**	1,954
(Decrease) increase in net assets	**(14,307)**	22,335
Net assets at beginning of year	**49,639**	27,304
Net assets at end of year	**$ 35,332**	$ 49,639

See accompanying notes.

Saint Peter's Healthcare System, Inc.

Consolidated Statements of Cash Flows

(In Thousands)

	Year Ended December 31 2017	2016
Operating activities		
(Decrease) increase in net assets	**$ (14,307)**	$ 22,335
Adjustments to reconcile (decrease) increase in net assets to net cash provided by operating activities:		
Depreciation and amortization	**22,438**	24,219
Net change in unrealized gains and losses on investments	**(3,263)**	(2,467)
Equity in net earnings of joint ventures	**(1,061)**	(913)
Donated equipment	**(6,201)**	(1,776)
Gain on disposal of discontinued skilled nursing facility	**(1,200)**	(11,710)
Changes in operating assets and liabilities:		
Patient accounts receivable, net	**6,522**	(3,853)
Supplies and other assets	**3,410**	(3,178)
Accounts payable, accrued expenses, and other liabilities	**2,985**	4,337
Estimated third-party payor settlements, net	**81**	1,112
Accrued pension liability	**812**	(5,309)
Net cash provided by operating activities	**10,216**	22,797
Investing activities		
Cash received from joint ventures	**1,081**	937
Net sales (purchases) of assets whose use is limited	**3,729**	(641)
Purchases of property, plant, equipment, and construction, net	**(22,867)**	(21,135)
Proceeds from disposal of discontinued skilled nursing facility, excluding amount held in escrow	**1,200**	10,800
Net cash used in investing activities	**(16,857)**	(10,039)
Financing activities		
Draws on line of credit	**9,225**	–
Repayments of line of credit	**(1,550)**	–
Proceeds from issuance of long-term debt	**4,778**	1,281
Payments on long-term debt and capital lease obligations	**(10,725)**	(8,617)
Net cash provided by (used in) financing activities	**1,728**	(7,336)
Net (decrease) increase in cash and cash equivalents	**(4,913)**	5,422
Cash and cash equivalents, beginning of year	**20,737**	15,315
Cash and cash equivalents, end of year	**$ 15,824**	$ 20,737
Supplemental disclosure of non-cash investing and financing activities and cash flow information		
Assets deposited in escrow related to disposal	**$ –**	$ 1,200
Assets acquired under capitalized lease obligations	**$ 58**	$ –
Cash paid for interest, net of amounts capitalized	**$ 9,758**	$ 9,909

See accompanying notes.

Saint Peter's Healthcare System, Inc.

Notes to Consolidated Financial Statements
(Dollars in Thousands)

December 31, 2017

1. Organization and Summary of Significant Accounting Policies

Organization

Saint Peter's Healthcare System, Inc. (the System) is a nonprofit corporation. The Diocese of Metuchen of the State of New Jersey (the Diocese) is the sponsor of the System and, as provided in the System's bylaws, certain powers are reserved to the Bishop of the Diocese. The System's consolidated financial statements include the following entities: Saint Peter's University Hospital (the Hospital), an acute care 478 licensed bed teaching hospital located in New Brunswick, New Jersey; Saint Peter's Health & Management Services Corporation (Management Services); Saint Peter's Foundation (the Foundation); Margaret McLaughlin McCarrick Care Center (the Care Center); Saint Peter's Properties Corporation (Properties); Risk Assurance Company of Saint Peter's University Hospital (RAC); Saint Peter's Solar Energy Solutions, Inc. (Solar Energy Solutions); Sports Physical Therapy Institute of New Brunswick, Inc. (Sports Physical Therapy); Saint Peter's Faculty Foundation PC (SPFF); Gianna Physician Practice of New York, P.C. (Gianna NY PC); Saint Peter's Healthcare System Physician Associates, P.C. (Physician Associates PC); The National Gianna Center for Women's Health and Fertility, Inc. (National Gianna); Saint Peter's Advanced Care, P.C. (Advanced Care); Saint Peter's Specialty Physicians, P.C. (Specialty Physicians); and Park Avenue Collections Corporation (Park Avenue) (Park Avenue had no operations during 2017 or 2016). SPFF and Sports Physical Therapy were dissolved in 2016.

All intercompany balances and transactions have been eliminated in consolidation. Although these entities have been consolidated for financial statement reporting purposes, there may be limitations on the use of an entity's funds by another member of the group resulting from the charitable nature of some of the entities or other factors.

On February 1, 2016, the System sold certain assets and the operations of the Care Center to an unrelated entity for approximately $12,000. Activities pertaining to the Care Center are reported within discontinued operations.

Other unconsolidated entities, for which the System records its interest or investment, include CARES Surgicenter, LLC (CARES); New Brunswick Cardiac Cath Lab, LLC (Cardiac Cath); New Brunswick CK Leasing, LLC (Cyber Knife joint venture); New Brunswick Affiliated Hospitals (NBAH), and Sovereign Oncology of New Brunswick, LLC (a radiation oncology joint venture). On April 6, 2016, the System signed an agreement for approximately $1,000 to obtain a 10% ownership and voting interest in Holy Redeemer Healthcare System's New Jersey (Holy

1. Organization and Summary of Significant Accounting Policies (continued)

Redeemer) homecare operation. The System accounts for its investments in CARES, Cardiac Cath, and the radiation oncology joint ventures on the equity method of accounting (see Note 5), because the System does not control the operations of the investees. The System accounts for its investments in Cyber Knife, Holy Redeemer and NBAH on the cost basis of accounting. The investment in NBAH is fully reserved.

Significant Accounting Policy

A summary of the significant accounting policies follows:

Use of Estimates: The preparation of financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes, such as estimated uncollectibles for accounts receivable for services to patients, estimated settlements with third-party payors, medical malpractice insurance liabilities and pension benefit liabilities, and disclosures of contingent assets and liabilities at the date of the financial statements. Estimates also affect the amounts of revenue and expenses reported during the period. There is at least a reasonable possibility that certain estimates will change by material amounts in the near term. Actual results could differ from those estimates and assumptions.

Cash and Cash Equivalents: The System considers all highly liquid investments with a maturity of three months or less at date of purchase, other than amounts held in the assets whose use is limited investment portfolio, to be cash equivalents. The carrying amount of cash and cash equivalents reported on the consolidated balance sheets approximates fair value. The System does not hold any money market funds with significant liquidity restrictions that would be required to be excluded from cash equivalents.

Receivables for Patient Care: Patient accounts receivable for which the System receives payment under cost reimbursement, prospective payment formulae, or negotiated rates, which cover the majority of patient services, are stated at the estimated net amounts receivable from payors, which are generally less than the established billing rates of the System.

1. Organization and Summary of Significant Accounting Policies (continued)

The amount of the allowance for doubtful accounts is based on management's assessment of historical and expected collections, business economic conditions, trends in health care coverage, and other collection indicators. Additions to the allowance for doubtful accounts result from the provision for bad debts. Accounts written off as uncollectible are deducted from the allowance for doubtful accounts.

Assets Whose Use is Limited: Assets whose use is limited represent assets whose use is restricted for specific purposes through internal designation, by donors or under terms of bond indenture agreements or trust agreements, as well as investments held by RAC (see Note 4). Assets whose use is limited investments consist of marketable securities and alternative investments. Marketable securities are recorded at fair value as determined by reference to quoted market prices. Alternative investments consist of interests in funds of funds investments structured as limited partnerships and commingled funds. Alternative investment interests are reported based upon net asset values derived from the application of the equity method of accounting. Board designated assets are available for current use subject to approval by the System's Board.

All assets whose use is limited investments are classified as other than trading securities. Unrealized gains and losses on assets whose use is limited, except for those unrealized losses which are deemed to be other than temporary impairments, are excluded from the (deficiency) excess of revenue over expenses on the accompanying consolidated statements of operations and changes in net assets. Investment income and realized gains and losses on unrestricted net assets are recorded as other operating revenue. Investment income derived from temporarily restricted investments is also recorded as other operating revenue unless the income or gain or loss is restricted by donor or law.

Supplies: Supplies are carried at the lower of cost or net realizable value determined using the first-in, first-out method, or market method. Supplies are used in the provision of patient care and are not held for sale.

Deferred Financing Costs: Deferred financing costs were incurred to obtain financing for various construction and renovation projects. Amortization of these costs is provided on the effective interest method extending over the remaining term of the applicable indebtedness.

1. Organization and Summary of Significant Accounting Policies (continued)

Property, Plant, Equipment, and Construction: Property, plant, equipment, and construction that were purchased by the System are carried at cost. Assets acquired under capitalized leases are recorded at the present value of the lease payments at the inception of the lease. Donated assets are recorded at fair market value at the date of donation. Annual provisions for depreciation and amortization of property, plant, and equipment are computed using the straight-line method over the lesser of the estimated useful lives of the assets or the term of the related lease for equipment held under capital lease obligations.

Impairment of Long-Lived Assets and Long-Lived Assets to Be Disposed of: The System reviews long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to future net cash flows expected to be generated by the asset. If the carrying amount of an asset exceeds its estimated future cash flows, an impairment charge is recognized in the amount by which the carrying amount of the asset exceeds the fair value of the asset. Assets to be disposed of are reported at the lower of the carrying amount or fair value less costs to sell.

Classification of Net Assets: The System separately accounts for and reports donor-restricted and unrestricted net assets. Unrestricted net assets are not externally restricted for identified purposes by donors or grantors. Resources arising from the results of operations or assets set aside by the System's Board are not considered to be donor restricted. Temporarily restricted net assets are those whose use is temporarily limited by the donor.

Permanently restricted net assets have been restricted by donors to be maintained in perpetuity. The System follows the requirements of the Uniform Prudent Management of Institutional Funds Act (UPMIFA) as it relates to its permanently restricted contributions and net assets, as enacted by the State of New Jersey in 2009. The System annually expends the income distributed from the related assets according to donor stipulations.

Net Patient Service Revenue: Net patient service revenue is reported at the estimated net realizable amounts from patients, third-party payors, and others for services rendered and includes estimated retroactive adjustments due to ongoing and future audits, reviews, and investigations. Retroactive adjustments are considered in the recognition of revenue on an estimated basis in the period the related services are rendered, and such amounts are adjusted in future periods as adjustments become known or as years are no longer subject to such audits, reviews, and investigations (see Note 3).

1. Organization and Summary of Significant Accounting Policies (continued)

(Deficiency) Excess of Revenue Over Expenses: The consolidated statements of operations and changes in net assets include (deficiency) excess of revenue over expenses as the performance indicator. Changes in unrestricted net assets which are excluded from the (deficiency) excess of revenue over expenses include the net change in unrealized gains and losses on investments, unless the unrealized losses are deemed to be other than temporary, donated equipment and other, the change in pension liability to be recognized in future periods, and the (loss) gain from discontinued operations. Transactions deemed by management to be ongoing, major, or central to the provision of health care services are reported within (loss) income from operations.

Discontinued Operations: During November 2015, the Board of Governors, with no disapproval from the Vatican, approved the sale of the Care Center to an unrelated entity. The sale was approved by the New Jersey Attorney General in December 2015 and finalized on February 1, 2016. Proceeds from the sale were received in 2016 for approximately $12,000 less approximately $1,200 held temporarily as an escrow reserve. The escrow was released in July 2017. This transaction met the criteria to be reported as a discontinued operation initially in 2016. A gain on sale of approximately $11,700 is reported in discontinued operations in 2016. A loss on sale of approximately $564 is reported within discontinued operations in 2017. The System reported the loss from the operations of the discontinued skilled nursing facility of $42 and $317 for the years ended December 31, 2017 and 2016, respectively, on the accompanying consolidated statements of operations and changes in net assets, consisting of operating expenses in 2017 and 2016, net of operating revenue of $649 in 2016.

Income Taxes: The System parent entity, the Hospital, the Care Center, Management Services, the Foundation, and National Gianna are not-for-profit corporations as described in Section 501(c)(3) of the Internal Revenue Code (the Code) and are exempt from federal income taxes on related income pursuant to Section 501(a) of the Code. Properties is a not-for-profit corporation as described in Section 501(c)(2) of the Code and is also exempt from federal income taxes pursuant to Section 501(a) of the Code. These entities are also exempt from state and local taxes. RAC is not subject to taxes on income or gains under the Cayman Islands tax concessions law.

1. Organization and Summary of Significant Accounting Policies (continued)

Solar Energy Solutions, Gianna NY PC, Physician Associates PC, Advanced Care, Specialty Physicians, and Park Avenue are for-profit entities and, as such, are subject to federal, state, and local income taxes. Gianna NY PC and Physician Associates PC are in the process of filing for tax exemption. The provision for income taxes is not material to the System's consolidated results of operations and is included in supplies and other expenses on the consolidated statements of operations and changes in net assets. Solar Energy Solutions, Advance Care, and Specialty Physicians had federal and state net operating loss carryforwards of approximately $29,000 and $22,000 at December 31, 2017 and 2016, respectively, which begin to expire in 2023 for federal purposes and 2018 for state purposes.

As a result of the recent federal income tax reform enacted into law under the Tax Cuts and Jobs Act of 2017, certain provisions will impact tax-exempt organizations, including revisions to taxes on unrelated business activities, excise taxes on compensation of certain employees, and various other provisions, as well as taxable entities. The regulations necessary to implement the law are expected to be promulgated throughout 2018 and the ultimate outcome of these regulations and the impact to the System cannot be determined presently.

Related-Party Transactions: The entities comprising the System provide various inter-entity services to their affiliated entities and the System parent company. The services consist of certain financial planning, information systems and telecommunications, general accounting, and other services. Charges for such services are based on the approximate cost to provide the services and are allocated between the entities based on an agreed-upon method which reflects the approximate level of usage by each entity. Such inter-entity charges and all intercompany balances between the entities comprising the System eliminate in consolidation.

At December 31, 2014, the System had an unsecured loan with a related party which totaled approximately $446. This loan was replaced with a substitute note effective January 1, 2015, which allowed for a loan discharge over a three-year. The loan was fully discharged in 2017.

The System entered into an agreement to become a major academic and clinical affiliate of Rutgers University through its Rutgers Biomedical and Health Sciences division. The agreement became effective July 1, 2014. In connection with the affiliation, the System pledged $1,000 to the pharmacy school and recorded the pledge in 2015. In 2016, the academic and clinical affiliation was modified, effective June 30, 2018. Additionally, the unpaid balance of the pledge was rescinded in 2016.

1. Organization and Summary of Significant Accounting Policies (continued)

Recent Accounting Pronouncements: In May 2014, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) 2014-09, *Revenue from Contracts with Customers*. The core principle of ASU 2014-09 is that an entity should recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. The guidance in ASU 2014-09 supersedes the FASB's current revenue recognition requirements and most industry-specific guidance. The FASB subsequently issued ASU 2015-14, *Revenue from Contracts with Customers*, which deferred the effective dates of ASU 2014-09. Based on ASU 2015-14, the provisions of ASU 2014-09 became effective for the System for annual reporting periods beginning after December 15, 2017. The System adopted ASU 2014-09 effective for its consolidated financial statements as of and for the quarter ended March 31, 2018. The System adopted ASU 2014-09 following the modified retrospective method. As a result of implementing ASU 2014-09, certain patient activity where collection is uncertain previously reported through December 31, 2017 as net patient service revenue and the provision for bad debts in the System's consolidated statements of operations no longer meets the criteria for revenue recognition and, accordingly, the provision for bad debts after the adoption date is significantly reduced with a corresponding reduction to net patient service revenue. Such patient activity is now classified as an implicit price concession. Additionally, the provision for bad debts for the quarter ended March 31, 2018 is now presented as an expense item rather than a reduction to net patient service revenue. Other aspects of the System's implementation of ASU 2014-09 impacting net patient service revenue, which include judgments regarding collection analyses and estimates of variable consideration and the addition of certain qualitative and quantitative disclosures. The adoption of ASU 2014-09 in relation to other revenue activity, as applicable; however, other revenue is less significant to the System's consolidated statements of operations and changes in net assets.

1. Organization and Summary of Significant Accounting Policies (continued)

In January 2016, the FASB issued ASU 2016-01, *Financial Instruments – Overall*. ASU 2016-01 will require business-oriented health care not-for-profit entities to measure equity investments that do not result in consolidation and are not accounted for under the equity method at fair value and recognize any changes in fair value in the performance indicator unless the investments qualify for a new practicality exception. The practicality exception is available for equity investments without a readily determinable fair value, for which measurement would be based on cost less impairment and adjusted for observable price changes. Subsequent to the adoption of ASU 2016-01, the System will no longer be able to recognize unrealized holding gains and losses on equity securities currently classified as other-than-trading outside of the performance indicator. This ASU does not impact the accounting for investments in debt securities. The guidance is effective for annual periods beginning after December 15, 2018. Early adoption is permitted for annual periods beginning after December 15, 2017. The System has not completed the process of evaluating the impact of ASU 2016-01 on its consolidated financial statements.

In February 2016, the FASB issued ASU 2016-02, *Leases*, which will require a lessee to report most leases on its balance sheet but recognize expenses on its income statement in a manner similar to current accounting. The guidance also eliminates current real estate-specific provisions. The provisions of ASU 2016-02 are effective for the System for annual periods beginning after December 15, 2018, and interim periods within those years. Early adoption is permitted. The System has not completed the process of evaluating the impact of ASU 2016-02 on its consolidated financial statements.

In August 2016, the FASB issued ASU 2016-14, *Not-for-Profit Financial Statement Presentation,* which eliminates the requirement for not-for-profits (NFPs) to classify net assets as unrestricted, temporarily restricted and permanently restricted. Instead, NFPs will be required to classify net assets as net assets with donor restrictions or without donor restrictions. Entities that use the direct method of presenting operating cash flows will no longer be required to provide a reconciliation of the change in net assets to operating cash flows. The guidance also modifies required disclosures and reporting related to net assets, investment expenses and qualitative information regarding liquidity. NFPs will also be required to report all expenses by both functional and natural classification in one location. The provisions of ASU 2016-14 are effective for the System for annual periods beginning after December 15, 2017. Early adoption is permitted. The System has not completed the process of evaluating the impact of ASU 2016-14 on its consolidated financial statements.

1. Organization and Summary of Significant Accounting Policies (continued)

In August 2016, the FASB issued ASU 2016-15, *Statement of Cash Flows – Classification of Certain Cash Receipts and Cash Payments*, which addresses the following eight specific cash flow issues in order to limit diversity in practice: debt prepayment or debt extinguishment costs; settlement of zero-coupon debt instruments or other debt instruments with coupon interest rates that are insignificant in relation to the effective interest rate of the borrowing; contingent consideration payments made after a business combination; proceeds from the settlement of insurance claims; proceeds from the settlement of corporate-owned life insurance policies, including bank-owned life insurance policies; distributions received from equity method investees; beneficial interests in securitization transactions; and separately identifiable cash flows and application of the predominance principle. The provisions of ASU 2016-15 are effective for the System for annual periods beginning after December 15, 2018 and interim periods thereafter. Early adoption is permitted. The System has not completed the process of evaluating the impact of ASU 2016-15 on its consolidated financial statements.

In November 2016, the FASB issued ASU 2016-18, *Statement of Cash Flows – Restricted Cash*, which requires that the statement of cash flows explain the change during the period in the total of cash, cash equivalents, and amounts generally described as restricted cash or restricted cash equivalents. Therefore, amounts generally described as restricted cash and restricted cash equivalents should be included with cash and cash equivalents when reconciling the beginning-of-period and end-of-period total amounts shown on the statement of cash flows. The provisions of ASU 2016-18 are effective for the System for annual periods beginning after December 15, 2018 and interim periods thereafter. Early adoption is permitted. The System has not completed the process of evaluating the impact of ASU 2016-18 on its consolidated financial statements.

In March 2017, the FASB issued ASU 2017-07, *Compensation—Retirement Benefits: Improving the Presentation of Net Periodic Pension Cost and Net Periodic Postretirement Benefit Cost*. ASU 2017-07 addresses how employers that sponsor defined benefit pension and/or other postretirement benefit plans present the net periodic benefit cost in the income statement. Employers will be required to present the service cost component of net periodic benefit cost in the same income statement line item as other employee compensation costs arising from services rendered during the period. Employers will present the other components of the net periodic benefit cost separately from the line item that includes the service cost and outside of any subtotal of operating income, if one is presented. The standard is effective for the System for annual periods beginning after December 15, 2018, and interim periods within

1. Organization and Summary of Significant Accounting Policies (continued)

annual periods beginning after December 15, 2019. The System intends to early adopt ASU 2017-07 effective for its consolidated financial statements as of and for the quarter ended March 31, 2018. Adoption of ASU 2017-07 will require the System to present the components of net periodic benefit cost related to its defined benefit plan other than service cost, if any, (aggregate of approximately $4,157 for 2017) as a separate line item excluded from the subtotal for operating (loss) income on the consolidated statements of operations. Net periodic benefit cost is reported currently within employee benefits expense on the consolidated statements of operations.

Reclassifications: Certain reclassifications have been made to the 2016 amounts previously reported in order to conform to the current year presentation. These reclassifications had no impact on the previously reported net assets.

2. Charity Care and Community Benefits

The System provides care to patients who meet certain criteria defined by the New Jersey Department of Health (DOH) without charge or at amounts less than established rates. Because the System does not pursue collection of amounts determined to qualify as charity care, they are not reported as revenue. The System's records identify and monitor the level of charity care it provides and include the amount of charges forgone for services and supplies furnished. DOH allows retroactive application for charity care up to two years from the date of service.

In accordance with its mission and philosophy, the System commits substantial resources to sponsor a broad range of services to both the indigent as well as the broader community.

Community benefits provided to the indigent include the cost of providing services to persons who cannot afford health care due to inadequate resources and/or who are uninsured or underinsured. This type of community benefit includes the costs of: traditional charity care; unpaid costs of care provided to beneficiaries of Medicaid and other indigent public programs; services such as free clinics and meal programs for which a patient is not billed or for which a nominal fee has been assessed; and cash and in-kind donations of equipment, supplies, or staff time volunteered on behalf of the community.

(Dollars in Thousands)

2. Charity Care and Community Benefits (continued)

Community benefits provided to the broader community include the costs of providing services to other populations who may not qualify as indigent but may need special services and support. This type of community benefit includes the costs of: services such as health promotion and education, health clinics, and screenings, all of which are not billed or can be operated only on a deficit basis; unpaid portions of training health professionals such as medical residents, nursing students, and students in allied health professions; and the unpaid portions of testing medical equipment and controlled studies of therapeutic protocols.

A summary of the estimated cost of community benefits provided to both the indigent and the broader community follows:

	Year Ended December 31 2017	2016
Community benefits provided to the indigent:		
Charity care provided	**$ 19,987**	$ 16,443
Unpaid cost of public programs, Medicaid, and other indigent care programs	**7,896**	10,085
Community benefits provided to the broader community:		
Non-billed services for the community	**4,606**	5,560
Education and research provided for the community	**5,513**	6,075
Estimated cost of community benefits	**$ 38,002**	$ 38,163

The costs of charity care and other community benefit activities are derived from both estimated and actual data. The estimated cost of charity care includes the direct and indirect cost of providing such services and is estimated utilizing the Hospital's ratio of cost to gross charges, which is then multiplied by the gross uncompensated charges associated with providing care to charity patients.

The estimated cost of community benefit was 8.3% and 8.4% of total Hospital operating expenses in 2017 and 2016, respectively.

The System receives payments from the New Jersey Health Care Subsidy Funds for charity care, and such amounts totaled approximately $3,477 and $5,618 for the years ended December 31, 2017 and 2016, respectively.

(Dollars in Thousands)

3. Net Patient Service Revenue

Accounts Receivable and Net Patient Service Revenue

The System recognizes accounts receivable and patient service revenue associated with services provided to patients who have third-party payor coverage on the basis of contractual rates for the services rendered (see description of third-party payor payment programs below). For uninsured patients that do not qualify for charity care, the System recognizes revenue on the basis of discounted rates under the System's self-pay patient policy. Under the policy for self-pay patients, a patient who has no insurance and is ineligible for any government assistance program has his or her bill reduced to the amount which would be billed to a commercially insured patient. The impact of this policy on the consolidated financial statements is lower net patient service revenue, as the discount is considered a revenue allowance, and a lower provision for bad debt.

Patient service revenue for the years ended December 31, 2017 and 2016, net of contractual allowances and discounts (but before the provision for bad debts), recognized in the period from these major payor sources based on primary insurance designation, is as follows:

	2017	2016
Third-party payors	**$ 451,193**	$ 459,793
Self-pay	**8,908**	6,934
Total payors	**$ 460,101**	$ 466,727

Deductibles and copayments under third-party payment programs within the third-party payor amounts above are the patients' responsibility and the System considers these amounts in its determination of the provision for bad debts based on collection experience.

Accounts receivable are also reduced by an allowance for doubtful accounts. In evaluating the collectibility of accounts receivable, the System analyzes its past history and identifies trends for each of its major payor sources of revenue to estimate the appropriate allowance for doubtful accounts and provision for bad debts. Management regularly reviews data about these major payor sources of revenue in evaluating the sufficiency of the allowance for doubtful accounts.

3. Net Patient Service Revenue (continued)

For receivables associated with services provided to patients who have third-party coverage, the System analyzes contractually due amounts and provides an allowance for doubtful accounts and a provision for bad debts, if necessary (for example, for payors who are known to be having financial difficulties that make the realization of amounts due unlikely). For receivables associated with self-pay patients, which includes both patients without insurance and patients with deductible and copayment balances due for which third-party coverage exists for part of the bill, the System records a significant provision for bad debts in the period of service on the basis of its past experience, which indicates that some patients are unable or unwilling to pay the portion of their bill for which they are financially responsible. The difference between discounted rates and the amounts actually collected after all reasonable collection efforts have been exhausted is reported in the allowance for doubtful accounts.

The System's allowance for doubtful accounts totaled $23,887 and $22,734 at December 31, 2017 and 2016, respectively. The allowance for doubtful accounts for self-pay patients was approximately 93% and 96% of self-pay accounts receivable as of December 31, 2017 and 2016, respectively. Overall, the total of self-pay discounts and write-offs did not change significantly for the years ended December 31, 2017 and 2016. The System has not experienced significant changes in write-off trends and has not changed its charity care policy in the years ended December 31, 2017 or 2016.

Third-Party Payment Programs

The System has agreements with third-party payors that provide for payment for services rendered at amounts different from its established rates. A summary of the payment arrangements with major third-party payors follows:

> *Medicare:* Hospitals are paid for most Medicare inpatient and outpatient services under the national prospective payment system and other methodologies of the Medicare program for certain other services. Federal regulations provide for certain adjustments to current and prior years' payment rates, based on industry-wide and hospital-specific data. Medicare cost reports of the System have been audited and settled for years through 2014 at December 31, 2017.

3. Net Patient Service Revenue (continued)

Medicaid: Inpatient acute care services rendered to Medicaid program beneficiaries are paid at prospectively determined rates per discharge. Outpatient services rendered to Medicaid program beneficiaries are reimbursed under cost-based and fee schedule methodologies. The System is reimbursed for outpatient services at a tentative rate with final settlement determined after submission of annual cost reports and audits thereof by the Medicaid fiscal intermediary. The Medicaid cost reports of the System for years through 2015 have been audited and settled.

Other Third-Party Payors: The System also has entered into payment agreements with certain commercial insurance carriers and managed care organizations. The basis for payment to the System under these agreements includes prospectively determined rates per discharge or days of hospitalization and discounts from established charges.

The System has appealed certain items in audited cost reports. The outcome of these appeals is uncertain and, therefore, potential revenue associated with these appeals is not included within the accompanying consolidated statements of operations and changes in net assets.

Revenue from Medicare, Medicaid and their corresponding managed care programs accounted for approximately 33% and 32% of the System's net patient service revenue for the years ended December 31, 2017 and 2016, respectively. There are various proposals at the federal and state levels that could, among other things, significantly reduce payment rates or modify payment methods. The ultimate outcome of these proposals and other market changes, including the potential effects of or revisions to health care reform that has been enacted by the federal government, cannot presently be determined. Future changes in the Medicare and Medicaid programs and any reduction of funding could have an adverse impact on the System.

Laws and regulations governing the Medicare and Medicaid programs are extremely complex and subject to interpretation. As a result, there is at least a reasonable possibility that recorded estimates will change by a material amount in the near term. The System believes that it is in compliance with all applicable laws and regulations and is not aware of any pending or threatened investigations involving allegations of potential wrongdoing that could have a material adverse effect on the accompanying consolidated financial statements. Non-compliance with such laws and regulations could result in fines, penalties, and exclusion from such programs.

(Dollars in Thousands)

3. Net Patient Service Revenue (continued)

State and Other Funding

The New Jersey Health Care Subsidy Funds were established for various purposes, including the distribution of charity care payments to hospitals statewide. Effective January 1, 2014, the State of New Jersey replaced the Hospital Relief Subsidy Fund with the Delivery System Reform Incentive Payment Pool (the Pool). The Pool is available to certain hospitals that are able to establish performance improvement activities in one of eight specified clinical improvement areas. Amounts received from the Pool are subject to the satisfaction of certain performance criteria, with adjustments to the Pool allocations processed prospectively. The following state and other funding amounts have been included in the System's net patient service revenue:

	Year Ended December 31	
	2017	**2016**
State:		
Delivery System Reform Incentive Payments	**$ 5,229**	$ 4,707
Charity Care *(Note 2)*	**3,477**	5,618
Graduate Medical Education	**5,761**	4,883
Federal:		
Graduate Medical Education	**3,525**	3,341
	$ 17,992	$ 18,549

The System expects to receive approximately $1,261 in Charity Care subsidies for distributions scheduled through June 30, 2018. Charity Care subsidies subsequent to June 30, 2018 are presently unknown.

In addition to direct Graduate Medical Education funding received from the federal and state Medicare and Medicaid programs, the System also receives a portion of its rate for indirect medical education costs.

(Dollars in Thousands)

4. Assets Whose Use is Limited

Assets whose use is limited, primarily at fair value, are maintained for the following purposes (see Note 12 for the composition by asset type):

	December 31 2017	December 31 2016
Assets held as designated by Board of Trustees of the Care Center	**$ –**	$ 1,200
Assets held as designated by Board of Trustees of the Hospital	**89,724**	86,333
Assets held as designated by donors	**5,458**	5,055
Assets held under bond indenture	**22,163**	22,070
Assets held by RAC *(Note 10)*	**22,089**	25,242
Total assets whose use is limited	**139,434**	139,900
Less current portion	**101,949**	99,301
Non-current portion	**$ 37,485**	$ 40,599

The System's holdings of alternative investments and commingled funds within assets whose use is limited totaled approximately $9,324 and $6,997 at December 31, 2017 and 2016, respectively. These investments are measured based on the equity method of accounting as described in Note 1.

Assets held by a trustee under bond indenture agreements are maintained for the following purposes:

	December 31 2017	December 31 2016
Debt service interest fund	**$ 4,243**	$ 4,318
Debt service principal fund	**2,524**	2,395
Debt service reserve fund	**15,396**	15,357
	$ 22,163	$ 22,070

(Dollars in Thousands)

4. Assets Whose Use is Limited (continued)

Investment income, included in other operating revenue, consists of the following:

	Year Ended December 31 2017	2016
Interest and dividend income	**$ 3,001**	$ 2,250
Realized gains and losses	**433**	(1,537)
Total investment income reported in other operating revenue *(Note 15)*	**$ 3,434**	$ 713

The System's gross unrealized losses and fair value of individual securities, aggregated by investment category, which have been in a continuous unrealized loss position less than 12 months and greater than 12 months at December 31, 2017 and 2016, are as follows:

	Less than 12 Months		12 Months or Longer		Total	
	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses
December 31, 2017						
U.S. government obligations (16 securities)	**$ 6,603**	**$ (57)**	**$ 7,331**	**$ (50)**	**$ 13,934**	**$ (107)**
Corporate bonds/fixed income (44 securities)	**11,689**	**(69)**	**3,819**	**(25)**	**15,508**	**(94)**
Mortgage and asset-backed securities (92 securities)	**29,730**	**(247)**	**25,276**	**(365)**	**55,006**	**(612)**
Mutual funds – equities (1 securities)	**396**	**(6)**	**–**	**–**	**396**	**(6)**
Total	**$ 48,418**	**$ (379)**	**$ 36,426**	**$ (440)**	**$ 84,844**	**$ (819)**
December 31, 2016						
U.S. government obligations (34 securities)	$ 10,259	$ (90)	$ 3,836	$ (5)	$ 14,095	$ (95)
Corporate bonds/fixed income (80 securities)	6,549	(36)	7,792	(25)	14,341	(61)
Mortgage and asset-backed securities (124 securities)	19,924	(181)	8,968	(77)	28,892	(258)
Mutual funds – equities (16 securities)	2,094	(122)	2,498	(141)	4,592	(263)
Total	$ 38,826	$ (429)	$ 23,094	$ (248)	$ 61,920	$ (677)

At December 31, 2017 and 2016, management determined that the unrealized losses were temporary based on the extent and length of time the securities' fair value was below cost.

(Dollars in Thousands)

5. Other Assets

Included within investment in joint ventures and other assets on the accompanying consolidated balance sheets are the System's joint venture investments, including CARES and Cardiac Cath which are equity method investments (aggregate balance of approximately $1,700 and $1,800 at December 31, 2017 and 2016, respectively). CARES leases and operates an ambulatory surgery center located in a building owned by the Hospital. Cardiac Cath leases a portion of the CARES building to operate a low-risk outpatient cardiac catheterization laboratory. In 2017 and 2016, the System collected distributions from these joint ventures of approximately $1,081 and $800, respectively, and recorded gains of $1,061 and $900, respectively. In January 2014, the System sold 25% of its equity interest in CARES for a fair market value of $677. The amount is payable over five years at an interest rate of 3.576% per annum plus London Interbank Offered Rate with a balance of $145 at December 31, 2017.

The following is a condensed summary of financial information of CARES and Cardiac Cath:

	CARES		Cardiac Cath	
	December 31		December 31	
	2017	**2016**	**2017**	**2016**
Total assets	**$ 3,339**	$ 3,478	**$ 2,287**	$ 2,417
Total liabilities	**727**	963	**721**	843
Total equity	**2,612**	2,515	**1,566**	1,574

(Dollars in Thousands)

6. Property, Plant, Equipment, and Construction

Property, plant, equipment, and construction consist of the following:

	December 31 2017	December 31 2016
Land	**$ 8,663**	$ 9,076
Buildings, building service equipment, and improvements	**315,853**	307,278
Fixed equipment	**9,115**	9,114
Major movable equipment	**238,897**	235,058
	572,528	560,526
Less accumulated depreciation and amortization	**382,723**	390,283
	189,805	170,243
Construction-in-progress	**10,346**	22,993
	$ 200,151	$ 193,236

The System capitalized $146 of interest costs, net of earnings, for the year ended December 31, 2016 (none in 2017).

Depreciation expense was $22,211 and $23,986 in 2017 and 2016, respectively. Useful lives of depreciable assets range from 3 to 40 years.

During 2017, the System finalized the implementation of an integrated electronic medical record and patient billing system. A significant portion of the software costs associated with this implementation were provided by the vendor at no charge in order to replace a previous medical record system from the same vendor that will no longer be supported. As a result, the System recognized a gain of $7,300 for the upgraded software provided at no charge and an impairment loss of $6,981 for the abandonment of the net book value of the previously installed system.

During 2017, the System received grants related to certain energy upgrade projects. Approximately $4,190 and $1,500 related to the energy resilient project (see Note 7) and a lighting efficiency project, respectively, were recognized within donated equipment and other in the accompanying statements of operations and changes in net assets.

(Dollars in Thousands)

7. Long-Term Debt and Line of Credit

Long-term debt and line of credit consist of the following:

	December 31 2017	December 31 2016
New Jersey Health Care Facilities Financing Authority (NJHCFFA) Series 2011 Revenue and Refunding Bonds, which bear interest at rates between 5.00% and 6.25% due in varying maturities through July 1, 2035 (a)	**$ 82,845**	$ 86,710
NJHCFFA Series 2007 Revenue Bonds, which bear interest at rates between 5.25% and 5.75% due in varying maturities through July 1, 2037 (a)	**61,235**	62,155
Other loans (b)	**13,372**	12,886
Line of credit advances (c)	**7,675**	–
Mortgages payable with interest between 3.25% and 5.25% payable in monthly installments of principal and interest through December 1, 2031	**2,530**	3,214
Capital lease obligations, with interest rates ranging from 1.95% to 6.00% and payments through 2021	**1,425**	2,331
	169,082	167,296
Less unamortized original issue discount	**609**	650
Less unamortized deferred financing costs	**1,799**	1,985
Less current portion	**18,292**	10,186
	$ 148,382	$ 154,475

(a) In August 2011, the Hospital and the Care Center, collectively the Saint Peter's University Hospital Obligated Group (the Obligated Group), closed on the Series 2011 Revenue and Refunding Bonds (the Series 2011 Bonds) in the amount of $100,640 issued by the NJHCFFA on behalf of the Obligated Group. The proceeds of the Series 2011 Bonds were used for (i) the current refunding of all of the outstanding Series F Revenue Bonds, Series 2000A Revenue Bonds, and Series 2000B Bonds; (ii) the payment or reimbursement of the costs of certain capital expenditures relating to the renovation of portions of the Hospital's facilities and the acquisition and installation of various equipment to be used by the Hospital at its facilities (approximately $5,500); (iii) the funding of the Debt Service Reserve Fund relating to the Series 2011 Bonds; and (iv) the payment of the costs of issuance of the Series 2011 Bonds.

7. Long-Term Debt and Line of Credit (continued)

In December 2007, the Obligated Group closed on the Series 2007 Revenue Bonds (the Series 2007 Bonds) with the NJHCFFA in the amount of $65,175, the proceeds of which were used to (i) refund a portion of the outstanding principal amount of the St. Peter's Medical Center Issue, Series F; (ii) pay or reimburse the costs of the construction and renovation of certain portions of the Hospital's facilities and the acquisition of various capital equipment; (iii) pay capitalized interest on a portion of the Series 2007 Bonds; (iv) fund the Debt Service Reserve Fund related to the Series 2007 Bonds; and (v) pay or reimburse the costs of issuance of the Series 2007 Bonds.

The Series 2011 and Series 2007 Bonds were issued in the name of the Obligated Group. Each of the Series 2011 and Series 2007 Bonds is collateralized by a pledge of the revenue of the Obligated Group and the assets held under bond indenture pursuant to the Master Trust Indenture (the Indenture). Under the terms of the Indenture, the Obligated Group is required to maintain a Debt Service Reserve Fund in an amount equal to one year's principal and interest for the Series 2011 and Series 2007. At December 31, 2017 and 2016, the Obligated Group was in compliance with this requirement.

Under the terms of the Indenture and other agreements with the NJHCFFA, the Obligated Group is required to maintain certain financial ratios and be in compliance with other restrictive covenants as described in the respective agreements. At December 31, 2017 and 2016, the Obligated Group was in compliance with such financial covenants.

Subsequent to February 1, 2016, the Obligated Group consists of the Hospital only and the mortgage on the Care Center was released. Residual assets held by the Care Center which existed at that date were transferred to the Hospital in 2017 upon final disposition and, accordingly, are included in the Obligated Group.

(b) At December 31, 2017 and 2016, the System has a loan to a utility company totaling $3,991 and $4,324, respectively, related to amounts borrowed for the installation of solar panels by Solar Energy Solutions. The loan is being repaid by tax credits that are purchased by the utility company. The tax credits are created when solar energy is produced.

7. Long-Term Debt and Line of Credit (continued)

The System is in the process of completing an $8,500 energy resilient project through the New Jersey Economic Development Authority (EDA). Using grant funding received from the U.S. Department of Housing and Urban Development, the EDA has set aside $4,400 towards the cost of this project which will be provided to the System in form of a grant combined with a loan from the EDA of $3,100 paid over 20 years at a 2% interest rate. The loan was approved by the EDA in 2017. The project will also be funded by a $1,000 loan payable over 10 years to a utility company. The System had drawn down approximately $897 and $563 of the $1,000 loan as of December 31, 2017 and 2016, respectively.

During 2015, the System entered into an agreement for an equipment loan from a financial institution for approximately $4,900 maturing in December 2020 with an interest rate of approximately 4.01% for the installation of information technology for an electronic health record and a new patient accounting system. The balance outstanding on this loan was approximately $2,623 and $3,433 at December 31, 2017 and 2016, respectively.

The System has other loans with financial institutions maturing in 2019 with interest rates ranging from approximately 3.50% to 4.50% to finance the construction of the interventional radiology and catheterization suites and the replacement of the System's power plant totaling $5,861 and $4,565 at December 31, 2017 and 2016, respectively.

(c) The System obtained a $10,000 line of credit with a bank in April 2015 which replaced a previous $5,000 line of credit. At December 31, 2017, $7,675 was outstanding on the line (none at December 31, 2016). The line is due on demand and expires in September 2019. Interest on the line is a variable rate based on LIBOR plus 3%.

(Dollars in Thousands)

7. Long-Term Debt and Line of Credit (continued)

Scheduled principal payments on long-term debt and capital lease obligations, net of interest, for the next five years and thereafter are as follows:

	Series 2011 and 2007 Bonds	Other Loans	Line of Credit	Capital Lease Obligations	Total
2018	$ 5,030	$ 5,243	$ 7,675	$ 344	$ 18,292
2019	5,280	3,452	–	360	9,092
2020	5,550	1,749	–	376	7,675
2021	5,830	890	–	345	7,065
2022	6,245	646	–	–	6,891
Thereafter	116,145	3,922	–	–	120,067
	$ 144,080	$ 15,902	$ 7,675	$ 1,425	$ 169,082

8. Retirement Plans

The System sponsors a non-contributory defined benefit retirement plan (the Plan) covering all eligible employees of affiliated organizations of the System. Plan benefits are based on years of service and employee compensation as defined in the plan document of affiliated organizations of the System.

The Plan was amended such that effective July 1, 2010, any employee hired after June 30, 2010, is not eligible to participate in the Plan. Additionally, active participation in the Plan is frozen for any employee who terminated employment before July 1, 2010, and is rehired after such date, and active participation in the Plan is frozen for any employee who terminated employment on or after July 1, 2010, unless he/she is rehired before the first anniversary of their termination. The System maintains a defined contribution plan for employees hired as of and subsequent to July 1, 2010. All existing eligible employees as of June 30, 2010 will remain as participants in the defined benefit plan and participate in the defined contribution plan. In February 2012, the System announced to participants of the Plan a plan freeze effective December 31, 2012.

The defined contribution plan established in 2011 provides for annual contributions for eligible employees of between 1% and 3% of pay based on the employee's years of service. Eligible employees begin to accrue benefits six months from their date of hire. The System funds the defined contribution expense on a current basis. Such expense was approximately $8,790 and

(Dollars in Thousands)

8. Retirement Plans (continued)

$8,908 in 2017 and 2016, respectively. Additionally, a defined contribution plan was established in 2014 for Physician Associates PC eligible employees with contribution expense of approximately $244 and $215 in 2017 and 2016, respectively.

The System recognizes on its consolidated balance sheets an asset for a defined benefit postretirement plan's overfunded status or a liability for a plan's underfunded status, measures the defined benefit postretirement plan's assets and obligations that determine its funded status as of the end of the System's fiscal year, and recognizes changes in the funded status of a defined benefit postretirement plan in changes in unrestricted net assets in the year in which the changes occur. Amounts that are recognized as a component of changes in unrestricted net assets will be subsequently recognized as net periodic pension cost in future periods.

The underfunded status of the Plan as recognized on the System's consolidated balance sheets is as follows:

	December 31	
	2017	**2016**
Change in benefit obligation:		
Benefit obligation at beginning of year	**$ 304,965**	$ 296,959
Interest cost	**13,104**	13,709
Benefits paid	**(8,578)**	(8,012)
Actuarial loss	**29,610**	2,315
Benefit obligation at end of year	**339,101**	304,971
Change in plan assets:		
Fair value of plan assets at beginning of year	**170,334**	157,013
Actual return on plan assets	**25,075**	8,386
Employer contributions	**13,946**	13,460
Refund of PBGC premiums	**3,130**	–
Benefits paid	**(8,578)**	(8,012)
Administrative expenses and other	**(255)**	(513)
Fair value of plan assets at end of year	**203,652**	170,334
Accrued pension liability	**$ (135,449)**	$ (134,637)

(Dollars in Thousands)

8. Retirement Plans (continued)

The projected benefit obligation, accumulated benefit obligation, and fair value of plan assets are as follows:

	December 31	
	2017	**2016**
Projected benefit obligation	**$ 339,101**	$ 304,971
Accumulated benefit obligation	**339,101**	304,971
Fair value of plan assets	**203,652**	170,334

The actuarial loss of $29,610 in 2017 primarily relates to a reduction in the discount rate assumption. The actuarial loss of $2,315 in 2016 primarily relates to a reduction in the discount rate assumption (actuarial loss of approximately $14,500), offset by changes to certain demographic actuarial assumptions used to measure the benefit obligation at December 31, 2016 (actuarial gain of approximately $12,200).

During 2017, the System received a refund of previously paid Pension Benefit Guaranty Corporation premiums related to the period 1998 to 2011. The premiums refund totaled $3,130 and was contributed to the Plan.

The unrecognized actuarial loss included in other changes in unrestricted net assets at December 31, 2017 and 2016 is approximately $128,100 and $117,490, respectively, of which $3,229 is expected to be recognized in net periodic pension cost during the year ending December 31, 2018. The change in the pension liability to be recognized in future periods as reported on the accompanying consolidated statements of operations and changes in net assets totaled $10,609 in 2017 and represents the change in these amounts from December 31, 2016 to 2017.

The following table provides the components of net periodic pension cost:

	Year Ended December 31	
	2017	**2016**
Interest cost	**$ 13,104**	$ 13,709
Expected return on plan assets	**(12,690)**	(11,190)
Recognized actuarial loss and administrative expenses	**3,743**	3,492
Net periodic pension cost	**$ 4,157**	$ 6,011

(Dollars in Thousands)

8. Retirement Plans (continued)

The following assumptions were used in determining the benefit obligations and net periodic pension costs:

	December 31	
	2017	**2016**
Weighted average assumptions used to determine benefit obligations at December 31:		
Discount rate	**3.78%**	4.36%
Weighted average assumptions used to determine net periodic benefit cost for the year ended December 31:		
Discount rate	**4.36%**	4.69%
Expected long-term rate of return on plan assets	**7.25%**	7.25%

To develop the expected long-term rate of return on assets assumption, the System considered the historical returns and the future expectations for returns for each asset class, as well as the target asset allocation of the pension portfolio. This resulted in the selection of the 7.25% expected long-term rate of return on assets assumption at December 31, 2017 and 2016, respectively.

The Plan's investment policy is designed to achieve return on assets to match or exceed the actuarial required rate of return. The asset allocation guidelines and permissible ranges by asset category are as follows:

	Target	**Permissible Range**
Equities	42%	33% – 47%
Fixed income	15%	12% – 17%
Global asset allocation	10%	8% – 14%
Equity alternatives	16%	12% – 20%
Fixed-income alternatives	17%	12% – 22%

(Dollars in Thousands)

8. Retirement Plans (continued)

The Plan's asset allocations by asset category are as follows:

	December 31	
	2017	**2016**
Equity Funds	**45%**	40%
Fixed Income	**13**	13
Global allocation	**10**	12
Equity alternatives	**15**	13
Fixed-income alternatives	**17**	22
	100%	100%

Assets invested in the Plan are carried at fair value. Debt and equity securities with readily determinable values are carried at fair value as determined based on independent published sources. Alternative investments (non-traditional, not readily marketable holdings) include hedge funds. Alternative investment interests generally are structured such that the Plan holds a limited partnership interest or an interest in an investment management company. The Plan's ownership structure does not provide for control over the related investees and the Plan's financial risk is limited to the carrying amount reported for each investee. Fair value for alternative investments is determined by the Plan for each investment using net asset value as a practical expedient, as permitted by generally accepted accounting principles, rather than using another valuation method to independently estimate fair value.

Refer to Note 12 for the composition at fair value of the defined benefit pension plan assets at December 31, 2017 and 2016.

The System received a favorable ruling from the Internal Revenue Service (IRS) dated August 14, 2013, to operate the Plan as a church plan, which exempts the System from the requirements of the Employee Retirement Income Security Act of 1974 (ERISA) and its funding requirements. In 2013, the System was sued by participants claiming the Plan did not qualify as a church plan. Management defended the lawsuit and in June 2017, the U.S. Supreme Court in a unanimous decision upheld that the Plan is a church plan. Other issues related to this matter are still in litigation.

(Dollars in Thousands)

8. Retirement Plans (continued)

The accrued pension liability reported in the accompanying consolidated financial statements of $135,449 and $134,637 at December 31, 2017 and 2016, respectively, is actuarially determined in accordance with the accounting requirements for reporting in the financial statements of the plan sponsor, which differs from the determination of the accumulated plan benefits as reported in the Plan's financial statements.

During 2017 and 2016, the System contributed $13,946 and $13,460 to the Plan, respectively. The System plans to contribute $4,000 to the Plan in 2018.

The following benefit payments under the Plan are expected to be paid:

2018	$	10,785
2019		11,591
2020		12,488
2021		13,277
2022		14,124
2023–2027		82,325

9. Leases and Other Commitments and Contingencies

Rent expense under operating leases amounted to approximately $5,171 and $4,484 in 2017 and 2016, respectively, and is reported within supplies and other expense on the accompanying consolidated statements of operations and changes in net assets.

The future minimum rental payments required under the non-cancelable operating leases are as follows:

2018	$	3,699
2019		3,314
2020		2,844
2021		2,220
2022		1,472
Thereafter		5,738

9. Leases and Other Commitments and Contingencies (continued)

Various lawsuits and claims arising in the normal course of operations are pending or are on appeal against the System. While the outcome of these lawsuits cannot be determined at this time, management believes that any loss which may arise from the System's actions will not have a material adverse effect on the System's consolidated financial position or results of operations.

In relation to workers' compensation exposure, the System maintains a standby letter of credit in the amount of $775 to secure its self-insured workers' compensation program. There were no draws on the letter of credit in 2017 or 2016.

10. Medical Malpractice and General Liability Claims

As part of a structured and comprehensive risk management program, the System funds its risk of professional and general liability loss through RAC, a wholly-owned captive insurance company domiciled in the Cayman Islands.

RAC began accepting risk on January 1, 2004, and provides professional and general liability insurance protection for all entities within the System, including the Hospital, the Care Center, employed physicians and surgeons, the paramedical staff, and all affiliated corporations and divisions. Professional liability insurance is written as claims-made coverage while general liability is written on an occurrence basis. Prior to 2004, the Hospital purchased first-dollar primary and excess liability coverage in the commercial insurance market.

Currently, RAC issues policies with a maximum retention of $3,000 for each medical incident or occurrence ($2,000 through December 31, 2016). RAC further retains, under a first excess or buffer policy, another $2,000 for each medical incident with a $2,000 aggregate retention. In addition, RAC issues an excess liability policy which provides separate limits towers of $45,000 each. The first tower applies to professional liability claims; the second, to claims for all other liabilities. These excess limits are 100% reinsured by companies rated A or A+ by A.M. Best Company. The System has made, and will continue to make, adjustments to the structure, limits, and retentions of the captive program, as circumstances warrant.

10. Medical Malpractice and General Liability Claims (continued)

Reserves for loss and loss adjustment expense are set based on management's best estimate of liability and damages. At December 31, 2017 and 2016, undiscounted reserve amounts were $9,431 and $10,405, respectively, and are included within other liabilities on the accompanying consolidated balance sheets. These reserves are estimates of the ultimate value of loss and loss adjustment expenses for all claims made during respective policy years and are subject to changes in amounts of settlements, verdicts, frequency of claims, or other economic or legal factors. These undiscounted reserves are not offset by estimates of reinsurance claims. While management believes the reserves for losses and loss adjustment expenses are adequate, it also recognizes the variability inherent in the data used in estimating these liabilities and that the ultimate value of losses and loss adjustment expense may vary significantly from the estimated amounts included in the accompanying consolidated financial statements. These estimates are continually reviewed and are adjusted, as necessary. Estimated receivables for reinsurance recoveries recorded by RAC total $2,155 and $2,092 at December 31, 2017 and 2016, respectively, and are included within other current assets on the accompanying consolidated balance sheets.

In relation to claims insured through RAC, the Hospital recorded an estimated insurance recovery receivable and medical malpractice claim liability at December 31, 2017 and 2016, equal to RAC's liability estimates. Such amounts are recorded within other assets and other liabilities within the Hospital's balance sheets and eliminate in consolidation.

The System has estimated its liability for losses due to claims from medical incidents that have occurred subsequent to 2004 but have not yet been reported to be approximately $1,815 and $1,709 at December 31, 2017 and 2016, respectively, with such estimated liability discounted at a rate of 4% based on expected timing of future payments. These amounts are included within other liabilities on the accompanying consolidated balance sheets.

During 2017 and 2016, the Hospital received premium reduction credits from RAC totaling $5,000 and $4,000, respectively, that resulted from favorable loss experience. The premium reduction credits were recorded by the Hospital within other operating revenue on the Hospital's statements of operations and changes in net assets, and eliminate in consolidation.

(Dollars in Thousands)

11. Concentrations of Credit Risk

The System grants credit without collateral to its patients, most of whom are local residents and are insured under third-party payor agreements.

Concentration of gross accounts receivable from patients and third-party payors are as follows:

	December 31	
	2017	**2016**
Medicare and Medicaid	**14%**	16%
Blue Cross	**22**	20
Patients	**7**	5
Commercial	**3**	4
Managed care	**49**	48
Other third-party payors	**5**	7
	100%	100%

12. Fair Value Measurements

The System utilizes various methods of calculating the fair value of its financial assets. Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Fair value measurements are applied based on the unit of account from the System's perspective. The unit of account determines what is being measured by reference to the level at which the asset or liability is aggregated (or disaggregated). The fair value hierarchy is comprised of three levels based on the source of inputs as follows:

- Level 1 – inputs to the valuation methodology are quoted prices (unadjusted) for identical assets or liabilities in active markets.
- Level 2 – inputs to the valuation methodology include quoted prices for similar assets or liabilities in active markets, and inputs that are observable for the asset or liability, either directly or indirectly, for substantially the full term of the financial instrument.
- Level 3 – inputs to the valuation methodology are unobservable and significant to the fair value measurement.

(Dollars in Thousands)

12. Fair Value Measurements (continued)

A financial instrument's categorization within the valuation hierarchy is based upon the lowest level of input that is significant to the fair value measurement. In determining fair value, the System uses valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible and considers non-performance risk in its assessment of fair value.

The following table presents the financial instruments carried at fair value, excluding assets invested in the System's defined benefit plan, as of December 31, 2017 and 2016, by caption on the consolidated balance sheets based upon the fair value hierarchy defined above:

	Level 1	Level 2	Level 3	Total
December 31, 2017				
Cash and cash equivalents	$ 15,824	$ –	$ –	$ 15,824
Assets whose use is limited:				
Cash and cash equivalents	13,419	–	–	13,419
Fixed income:				
U.S. Treasury bills	8,249	–	–	8,249
Asset-backed securities	–	28,762	–	28,762
Corporate bonds	–	12,958	–	12,958
Mortgage-backed securities	15,906	12,713	–	28,619
Mutual funds:				
Fixed Income	2,667	–	–	2,667
Domestic	8,275	–	–	8,275
International	4,128	–	–	4,128
Real estate	631	–	–	631
Commodities	313	–	–	313
Assets held by RAC:				
Cash and cash equivalents	1,819	–	–	1,819
Fixed-asset fund	5,885	3,489	–	9,374
Domestic equities	2,187	8,709	–	10,896
Total assets whose use is limited	63,479	66,631	–	130,110
Total assets at fair value	$ 79,303	$ 66,631	$ –	$ 145,934

(Dollars in Thousands)

12. Fair Value Measurements (continued)

	Level 1	Level 2	Level 3	Total
December 31, 2016				
Cash and cash equivalents	$ 20,737	$ –	$ –	$ 20,737
Assets whose use is limited:				
Cash and cash equivalents	11,892	–	–	11,892
Fixed income:				
U.S. Treasury bills	9,285	–	–	9,285
Asset-backed securities	–	24,243	–	24,243
Corporate bonds	11,304	4,347	–	15,651
Mortgage-backed securities	–	32,528	–	32,528
Mutual funds:				
Domestic	17,234	–	–	17,234
International	3,143	–	–	3,143
Real estate	585	–	–	585
Commodities	97	–	–	97
Assets held by RAC:				
Cash and cash equivalents	1,239	–	–	1,239
Fixed-asset fund	–	13,356	–	13,356
Domestic equities	–	3,650	–	3,650
Total assets whose use is limited	54,779	78,124	–	132,903
Total assets at fair value	$ 75,516	$ 78,124	$ –	$ 153,640

(Dollars in Thousands)

12. Fair Value Measurements (continued)

The following table presents the financial instruments of the defined benefit plan (see Note 8) as of December 31, 2017 and 2016, by the valuation hierarchy defined above:

	Level 1	Level 2	Level 3	Total
December 31, 2017				
Cash and cash equivalents	**$ 1,064**	**$ –**	**$ –**	**$ 1,064**
Equity funds:				
Domestic	**40,267**	**–**	**–**	**40,267**
International	**23,652**	**–**	**–**	**23,652**
Fixed-income mutual fund	**81,814**	**–**	**–**	**81,814**
Global allocation	**$ 146,797**	**$ –**	**$ –**	**146,797**
Investments measured at net asset value:				
Equity alternatives				**56,855**
Total				**$ 203,652**
December 31, 2016				
Cash and cash equivalents	$ 1,798	$ –	$ –	$ 1,798
Equity funds:				
Domestic	37,132	–	–	37,132
International	24,379	–	–	24,379
Fixed-income mutual fund	79,078	–	–	79,078
	$ 142,387	$ –	$ –	142,387
Investments measured at net asset value:				
Equity alternatives				27,947
Total				$ 170,334

Fair value for Level 1 assets is based upon quoted market prices.

Level 2 assets maintained in the System's portfolio consist of certain fixed-income securities for which the fair value at each year-end is estimated based on quoted prices and other valuation considerations (e.g., credit quality and prevailing interest rates).

Equity alternative financial instruments maintained by the Plan represent the Plan's investment in funds of funds and are valued as described in Note 8. Financial information used to evaluate the alternative investments is provided by the investment manager or general partner and includes fair

(Dollars in Thousands)

12. Fair Value Measurements (continued)

value valuations (quoted market prices and values determined through other means) of underlying securities and other financial instruments held by the investee and estimates that require varying degrees of judgment. The alternative investments may indirectly expose the Plan to securities lending, short sales of securities, and trading in futures and forwards contracts, options, and other derivative products. Alternative investments often have liquidity restrictions under which capital may be divested only at specified times. At December 31, 2017 and 2016, there were no commitments or liquidity restrictions.

The System uses primarily quoted market prices and other valuation considerations in estimating fair value of its bonds payable. The fair value of other long-term debt is based upon discounted cash flow analyses. The fair value of the System's long-term debt, excluding capital lease obligations, at December 31, 2017 and 2016 is approximately $162,207 and $172,361, respectively. Fair value of long-term debt is classified as Level 2 of the valuation hierarchy.

13. Temporarily and Permanently Restricted Net Assets

Temporarily and permanently restricted net assets are available for the following purposes:

	December 31	
	2017	**2016**
Health care programs	**$ 1,512**	$ 993
Children's fund	**987**	2,351
Health education	**2,005**	2,193
Chapel refurbishment	**2,757**	1,567
Purchase of equipment	**311**	2,758
	$ 7,572	$ 9,862

Saint Peter's Healthcare System, Inc.

Notes to Consolidated Financial Statements (continued)
(Dollars in Thousands)

14. Functional Expenses

Operating expenses, including costs related to clinical system interruption, by function related to the provision of health care services are as follows:

	Year Ended December 31	
	2017	**2016**
Program expenses	**$ 327,950**	$ 319,079
General and administrative expenses	**156,892**	158,923
	$ 484,842	$ 478,002

15. Other Operating Revenue

Other operating revenue consists of the following:

	Year Ended December 31	
	2017	**2016**
Grant revenue	**$ 2,499**	$ 2,684
Rental income	**2,077**	2,039
Electronic health records	**790**	1,287
Investment income *(Note 4)*	**3,434**	713
Child Protection Center revenue	**1,842**	1,634
Retail pharmacy cost sharing	**3,529**	6,971
Nursing services	**1,711**	1,702
Food services	**2,179**	2,161
Physician services	**4,751**	4,237
Ambulance services	**679**	265
Solar energy credits	**964**	1,006
Adult day care	**709**	721
Outreach laboratory fees	**337**	387
Research studies	**730**	236
Other	**4,396**	4,201
	$ 30,627	$ 30,244

15. Other Operating Revenue (continued)

The American Recovery and Reinvestment Act of 2009 included provisions for implementing health information technology under the Health Information Technology for Economic and Clinical Health Act (HITECH). The provisions were designed to increase the use of electronic health record (EHR) technology and establish the requirements for a Medicare and Medicaid incentive payment program beginning in 2011 for eligible providers that adopt and meaningfully use certified EHR technology. Eligibility for annual Medicare incentive payments is dependent on providers demonstrating meaningful use of EHR technology in each period over a four-year period. Initial Medicaid incentive payments are available to providers that adopt, implement, or upgrade certified EHR technology. In subsequent years, providers must demonstrate meaningful use of such technology to qualify for additional Medicaid incentive payments. Hospitals that do not successfully demonstrate meaningful use of EHR technology are subject to payment penalties or downward adjustments to their Medicare payments beginning in federal fiscal year 2015.

The System uses a grant accounting model to recognize revenue for the Medicare and Medicaid EHR incentive payments. Under this accounting policy, EHR incentive payment revenue is recognized when the System is reasonably assured that the EHR meaningful use criteria for the required period of time were met and that the grant revenue will be received. EHR incentive payment revenue totaling $340 (Medicaid) and $438 (Medicare) for year ended December 31, 2017, and $425 (Medicaid) and $862 (Medicare) for year ended December 31, 2016, is included in other operating revenue on the accompanying consolidated statements of operations and changes in net assets. Income from Medicare incentive payments is subject to retrospective adjustment upon final settlement of the applicable cost report from which payments were calculated. Additionally, the System's attestation of compliance with the meaningful use criteria is subject to audit by the federal government.

16. Subsequent Events

Subsequent events have been evaluated through May 11, 2018 which is the date the accompanying consolidated financial statements were issued. The System terminated its participation in the Sovereign Oncology of New Brunswick, LLC joint venture effective January 31, 2018. No subsequent other events have occurred that require disclosure in or adjustment to the accompanying consolidated financial statements.

Supplementary Information

Saint Peter's Healthcare System, Inc.

Consolidating Balance Sheet
(In Thousands)

December 31, 2017

	Saint Peter's University Hospital & Subsidiaries			
	(Obligated Group) Saint Peter's University Hospital	RAC	Consolidating and Eliminating Entries	Total Saint Peter's University Hospital & Subs
Assets				
Current assets:				
Cash and cash equivalents	$ 13,391	$ –	$ –	$ 13,391
Patient accounts receivable, less allowance for doubtful accounts	54,759	–	–	54,759
Assets whose use is limited, current portion	96,491	–	–	96,491
Supplies	6,060	–	–	6,060
Estimated third-party payer settlements, current portion	1,150	–	–	1,150
Due from related parties, current portion	2,185	15	(15)	2,185
Other current assets	7,749	2,155	–	9,904
Total current assets	181,785	2,170	(15)	183,940
Assets whose use is limited, less current portion	15,396	22,089	–	37,485
Property, plant, equipment and construction, net	187,426	–	–	187,426
Estimated third-party payer settlements less current portion	44	–	–	44
Beneficial interest in Foundation	7,410	–	–	7,410
Due from related parties, noncurrent	2,143	–	–	2,143
Investments in joint ventures and other assets	18,168	–	(15,331)	2,837
	$ 412,372	$ 24,259	$ (15,346)	$ 421,285

	Saint Peter's Health & Management Services						
	Care Center	Properties	SP Solar Energy Solutions	SP Health & Mgmt Services	Gianna Phys Practice NY	Consolidating and Eliminating Entries	Total Saint Peter's Health & Management Services
Assets							
Current assets:							
Cash and cash equivalents	$ 41	$ 232	$ 33	$ –	$ 26	$ –	$ 332
Patient accounts receivable, less allowance for doubtful accounts	–	–	–	–	–	–	–
Assets whose use is limited, current portion	–	–	–	–	–	–	–
Supplies	–	–	–	–	–	–	–
Estimated third-party payer settlements, current portion	–	–	–	–	–	–	–
Due from related parties, current portion	–	–	–	–	369	–	369
Other current assets	–	5	5	145	38	–	193
Total current assets	41	237	38	145	433	–	894
Assets whose use is limited, less current portion	–	–	–	–	–	–	–
Property, plant, equipment and construction, net	–	2,612	7,915	–	–	–	10,527
Estimated third-party payer settlements less current portion	–	–	–	–	–	–	–
Beneficial interest in Foundation	–	–	–	–	–	–	–
Due from related parties, noncurrent	–	–	–	–	–	–	–
Investments in joint ventures and other assets	–	–	–	2,223	–	–	2,223
	$ 41	$ 2,849	$ 7,953	$ 2,368	$ 433	$ –	$ 13,644

	Saint Peter's Healthcare System, Inc.	Saint Peter's Foundation	National Gianna	SPHCS Physician Associates	Saint Peter's Advanced Care	Saint Peter's Specialty Physicians	Consolidating and Eliminating Entries	Total Saint Peter's Healthcare System
Assets								
Current assets:								
Cash and cash equivalents	$ 840	$ 423	$ 578	$ 236	$ 2	$ 22	$ –	$ 15,824
Patient accounts receivable, less allowance for doubtful accounts	–	–	–	–	–	–	–	54,759
Assets whose use is limited, current portion	–	5,165	293	–	–	–	–	101,949
Supplies	–	–	–	–	–	–	–	6,060
Estimated third-party payer settlements, current portion	–	–	–	–	–	–	–	1,150
Due from related parties, current portion	66,366	–	5	6,250	2,257	3,162	(80,594)	–
Other current assets	1,147	996	14	807	177	786	–	14,024
Total current assets	68,353	6,584	890	7,293	2,436	3,970	(80,594)	193,766
Assets whose use is limited, less current portion	–	–	–	–	–	–	–	37,485
Property, plant, equipment and construction, net	–	2	–	2,186	10	–	–	200,151
Estimated third-party payer settlements less current portion	–	–	–	–	–	–	–	44
Beneficial interest in Foundation	–	–	–	–	–	–	(7,410)	–
Due from related parties, noncurrent	–	–	–	–	–	–	(2,143)	–
Investments in joint ventures and other assets	–	1,148	–	–	–	–	(500)	5,708
	$ 68,353	$ 7,734	$ 890	$ 9,479	$ 2,446	$ 3,970	$ (90,647)	$ 437,154

Note: The consolidating schedules are presented for supplementary informational purposes. Due to the effects of intercompany transactions, which are eliminated in consolidation, the schedules are not intended to present the financial position or results of operations of the individual entities.

Saint Peter's Healthcare System, Inc.

Consolidating Balance Sheet (continued)
(In Thousands)

December 31, 2017

Saint Peter's University Hospital & Subsidiaries

	(Obligated Group) Saint Peter's University Hospital	RAC	Consolidating and Eliminating Entries	Total Saint Peter's University Hospital & Subs
Liabilities and net assets				
Current liabilities:				
Current portion of long-term debt and line of credit	$ 17,985	$ –	$ –	$ 17,985
Accounts payable	26,240	106	–	26,346
Accrued expenses and other liabilities	29,567	–	(15)	29,552
Accrued interest	4,183	–	–	4,183
Estimated third-party payer settlements, current portion	2,778	–	–	2,778
Due to related parties	9,060	–	–	9,060
Total current liabilities	89,813	106	(15)	89,904
Long-term debt, less current portion	144,698	–	–	144,698
Estimated third-party payer settlements, less current portion	2,251	–	–	2,251
Accrued pension liability	131,033	–	–	131,033
Other liabilities	22,574	9,702	(9,431)	22,845
Total liabilities	390,369	9,808	(9,446)	390,731
Net assets:				
Unrestricted	13,841	14,451	(5,900)	22,392
Temporarily restricted	8,062	–	–	8,062
Permanently restricted	100	–	–	100
Total net assets	22,003	14,451	(5,900)	30,554
	$ 412,372	$ 24,259	$ (15,346)	$ 421,285

Saint Peter's Health & Management Services

	Care Center	Properties	SP Solar Energy Solutions	SP Health & Mgmt Services	Gianna Phys Practice NY	Consolidating and Eliminating Entries	Total Saint Peter's Health & Management Services
Liabilities and net assets							
Current liabilities:							
Current portion of long-term debt and line of credit	$ –	$ –	$ 307	$ –	$ –	$ –	$ 307
Accounts payable	–	–	–	–	–	–	–
Accrued expenses and other liabilities	42	8	9	–	82	–	141
Accrued interest	–	–	–	–	–	–	–
Estimated third-party payer settlements, current portion	–	–	–	–	–	–	–
Due to related parties	–	1,450	2,461	629	3,199	–	7,739
Total current liabilities	42	1,458	2,777	629	3,281	–	8,187
Long-term debt, less current portion	–	–	3,684	–	–	–	3,684
Estimated third-party payer settlements, less current portion	–	–	–	–	–	–	–
Accrued pension liability	–	–	–	–	–	–	–
Other liabilities	–	–	–	–	–	–	–
Total liabilities	42	1,458	6,461	629	3,281	–	11,871
Net assets:							
Unrestricted	(1)	1,391	1,492	1,739	(2,848)	–	1,773
Temporarily restricted	–	–	–	–	–	–	–
Permanently restricted	–	–	–	–	–	–	–
Total net assets	(1)	1,391	1,492	1,739	(2,848)	–	1,773
	$ 41	$ 2,849	$ 7,953	$ 2,368	$ 433	$ –	$ 13,644

	Saint Peter's Healthcare System, Inc.	Saint Peter's Foundation	National Gianna	SPHCS Physician Associates	Saint Peter's Advanced Care	Saint Peter's Specialty Physicians	Consolidating and Eliminating Entries	Total Saint Peter's Healthcare System
Liabilities and net assets								
Current liabilities:								
Current portion of long-term debt and line of credit	$ –	$ –	$ –	$ –	$ –	$ –	$ –	$ 18,292
Accounts payable	2,940	–	–	1,009	–	–	–	30,295
Accrued expenses and other liabilities	5,202	271	–	1,507	18	656	–	37,347
Accrued interest	–	–	–	–	–	–	–	4,183
Estimated third-party payer settlements, current portion	–	–	–	–	–	–	–	2,778
Due to related parties	55,795	53	257	54,365	4,725	6,538	(138,532)	–
Total current liabilities	63,937	324	257	56,881	4,743	7,194	(138,532)	92,895
Long-term debt, less current portion	–	–	–	–	–	–	–	148,382
Estimated third-party payer settlements, less current portion	–	–	–	–	–	–	–	2,251
Accrued pension liability	4,416	–	–	–	–	–	–	135,449
Other liabilities	–	–	–	–	–	–	–	22,845
Total liabilities	68,353	324	257	56,881	4,743	7,194	(138,532)	401,822
Net assets:								
Unrestricted	–	1,427	(204)	(47,402)	(2,297)	(3,224)	55,295	27,760
Temporarily restricted	–	5,883	587	–	–	–	(7,310)	7,222
Permanently restricted	–	100	250	–	–	–	(100)	350
Total net assets	–	7,410	633	(47,402)	(2,297)	(3,224)	47,885	35,332
	$ 68,353	$ 7,734	$ 890	$ 9,479	$ 2,446	$ 3,970	$ (90,647)	$ 437,154

Note: The consolidating schedules are presented for supplementary informational purposes. Due to the effects of intercompany transactions, which are eliminated in consolidation, the schedules are not intended to present the financial position or results of operations of the individual entities.

Saint Peter's Healthcare System, Inc.

Consolidating Statement of Operations and Changes in Net Assets

(In Thousands)

Year Ended December 31, 2017

Saint Peter's University Hospital & Subsidiaries

	(Obligated Group) Saint Peter's University Hospital	RAC	Consolidating and Eliminating Entries	Total Saint Peter's University Hospital & Subs
Revenue, gains and other support:				
Net patient service revenue	$ 440,795	$ –	$ –	$ 440,795
Provision for bad debts	(14,234)	–	–	(14,234)
Net patient service revenue less provision for bad debts	426,561	–	–	426,561
Other operating revenue	30,566	4,345	(8,474)	26,437
Net assets released from restriction	163	–	–	163
Total revenue, gains and other support	457,290	4,345	(8,474)	453,161
Expenses:				
Salaries and wages	220,263	–	–	220,263
Resident and physician fees	10,292	–	–	10,292
Employee benefits	50,983	–	–	50,983
Supplies and other	146,906	3,052	(3,474)	146,484
Interest	9,101	–	–	9,101
Depreciation and amortization	21,732	–	–	21,732
Total expenses	459,277	3,052	(3,474)	458,855
(Loss) income from operations	(1,987)	1,293	(5,000)	(5,694)
Severance	(5,366)	–	–	(5,366)
Abandonment of equipment	(6,981)	–	–	(6,981)
Information technology settlement	7,300	–	–	7,300
RAC premium reduction credit	–	(5,000)	5,000	–
Equity in net earnings of joint ventures	1,228	–	–	1,228
(Deficiency) excess of revenue over expenses	(5,806)	(3,707)	–	(9,513)
Net change in unrealized gains and losses on investments	1,702	1,350	–	3,052
Change in pension liability to be recognized in future periods	(10,602)	–	–	(10,602)
Donated equipment and other	6,201	–	–	6,201
(Decrease) increase in unrestricted net assets before discontinued operations	(8,505)	(2,357)	–	(10,862)
Loss of discontinued skilled nursing facility	–	–	–	–
Equity transfer to affiliate	1,355	–	–	1,355
(Decrease) increase in unrestricted net assets	(7,150)	(2,357)	–	(9,507)
Temporarily restricted:				
Restricted gifts and contributions	57	–	–	57
Net change in beneficial interest in Foundation	(2,375)	–	–	(2,375)
Net assets released from restriction	(163)	–	–	(163)
(Decrease) increase in temporarily restricted net assets	(2,481)	–	–	(2,481)
(Decrease) increase in net assets	(9,631)	(2,357)	–	(11,988)
Net assets at beginning of year	31,634	16,808	(5,900)	42,542
Net assets at end of year	$ 22,003	$ 14,451	$ (5,900)	$ 30,554

Saint Peter's Health & Management Services

	Care Center	Properties	SP Solar Energy Solutions	SP Health & Mgmt Services	Gianna Phys Practice NY	Consolidating and Eliminating Entries	Total Saint Peter's Health & Management Services
Revenue, gains and other support:							
Net patient service revenue	$ –	$ –	$ –	$ –	$ 220	$ –	$ 220
Provision for bad debts	–	–	–	–	(9)	–	(9)
Net patient service revenue less provision for bad debts	–	–	–	–	211	–	211
Other operating revenue	–	41	965	8	365	–	1,379
Net assets released from restriction	–	–	–	–	–	–	–
Total revenue, gains and other support	–	41	965	8	576	–	1,590
Expenses:							
Salaries and wages	–	4	55	–	600	–	659
Resident and physician fees	–	–	–	–	13	–	13
Employee benefits	–	1	13	–	107	–	121
Supplies and other	–	41	176	–	191	–	408
Interest	–	–	526	–	–	–	526
Depreciation and amortization	–	44	408	–	–	–	452
Total expenses	–	90	1,178	–	911	–	2,179
(Loss) income from operations	–	(49)	(213)	8	(335)	–	(589)
Severance	–	(1)	(12)	–	(7)	–	(20)
Abandonment of equipment	–	–	–	–	–	–	–
Information technology settlement	–	–	–	–	–	–	–
RAC premium reduction credit	–	–	–	–	–	–	–
Equity in net earnings of joint ventures	–	–	–	1,060	–	–	1,060
(Deficiency) excess of revenue over expenses	–	(50)	(225)	1,068	(342)	–	451
Net change in unrealized gains and losses on investments	–	–	–	–	–	–	–
Change in pension liability to be recognized in future periods	–	–	–	–	–	–	–
Donated equipment and other	–	–	–	–	–	–	–
(Decrease) increase in unrestricted net assets before discontinued operations	–	(50)	(225)	1,068	(342)	–	451
Loss of discontinued skilled nursing facility	(606)	–	–	–	–	–	(606)
Equity transfer to affiliate	(790)	(563)	–	(1,229)	–	–	(2,582)
(Decrease) increase in unrestricted net assets	(1,396)	(613)	(225)	(161)	(342)	–	(2,737)
Temporarily restricted:							
Restricted gifts and contributions	–	–	–	–	–	–	–
Net change in beneficial interest in Foundation	–	–	–	–	–	–	–
Net assets released from restriction	–	–	–	–	–	–	–
(Decrease) increase in temporarily restricted net assets	–	–	–	–	–	–	–
(Decrease) increase in net assets	(1,396)	(613)	(225)	(161)	(342)	–	(2,737)
Net assets at beginning of year	1,395	2,004	1,717	1,900	(2,506)	–	4,510
Net assets at end of year	$ (1)	$ 1,391	$ 1,492	$ 1,739	$ (2,848)	$ –	$ 1,773

	Saint Peter's Healthcare System, Inc.	Saint Peter's Foundation	National Gianna	SPHCS Physician Associates	Saint Peter's Advanced Care	Saint Peter's Specialty Physicians	Consolidating and Eliminating Entries	Total Saint Peter's Healthcare System
Revenue, gains and other support:								
Net patient service revenue	$ –	$ –	$ –	$ 14,146	$ 587	$ 4,353	$ –	$ 460,101
Provision for bad debts	–	–	–	(641)	(143)	(300)	–	(15,327)
Net patient service revenue less provision for bad debts	–	–	–	13,505	444	4,053	–	444,774
Other operating revenue	50,509	968	–	1,016	970	–	(50,652)	30,627
Net assets released from restriction	–	2,905	97	–	–	–	–	3,165
Total revenue, gains and other support	50,509	3,873	97	14,521	1,414	4,053	(50,652)	478,566
Expenses:								
Salaries and wages	21,758	38	–	12,584	102	236	(21,757)	233,883
Resident and physician fees	48	–	–	2,249	900	2,949	–	16,451
Employee benefits	5,260	9	–	2,595	25	58	(5,260)	53,791
Supplies and other	19,090	3,817	423	7,605	1,198	2,322	(32,695)	148,652
Interest	–	–	–	–	–	–	–	9,627
Depreciation and amortization	–	1	–	218	35	–	–	22,438
Total expenses	46,156	3,865	423	25,251	2,260	5,565	(59,712)	484,842
(Loss) income from operations	4,353	8	(326)	(10,730)	(846)	(1,512)	9,060	(6,276)
Severance	(4,353)	(7)	–	(227)	(20)	(47)	4,663	(5,377)
Abandonment of equipment	–	–	–	–	–	–	–	(6,981)
Information technology settlement	–	–	–	–	–	–	–	7,300
RAC premium reduction credit	–	–	–	–	–	–	–	–
Equity in net earnings of joint ventures	–	–	–	–	–	–	(1,227)	1,061
(Deficiency) excess of revenue over expenses	–	1	(326)	(10,957)	(866)	(1,559)	12,496	(10,273)
Net change in unrealized gains and losses on investments	–	211	–	–	–	–	–	3,263
Change in pension liability to be recognized in future periods	–	–	–	–	–	–	–	(10,602)
Donated equipment and other	–	–	–	–	–	–	–	6,201
(Decrease) increase in unrestricted net assets before discontinued operations	–	212	(326)	(10,957)	(866)	(1,559)	12,496	(11,411)
Loss of discontinued skilled nursing facility	–	–	–	–	–	–	–	(606)
Equity transfer to affiliate	–	–	–	–	–	–	1,227	–
(Decrease) increase in unrestricted net assets	–	212	(326)	(10,957)	(866)	(1,559)	13,723	(12,017)
Temporarily restricted:								
Restricted gifts and contributions	–	318	500	–	–	–	–	875
Net change in beneficial interest in Foundation	–	–	–	–	–	–	2,375	–
Net assets released from restriction	–	(2,905)	(97)	–	–	–	–	(3,165)
(Decrease) increase in temporarily restricted net assets	–	(2,587)	403	–	–	–	2,375	(2,290)
(Decrease) increase in net assets	–	(2,375)	77	(10,957)	(866)	(1,559)	16,098	(14,307)
Net assets at beginning of year	–	9,785	556	(36,445)	(1,431)	(1,665)	31,787	49,639
Net assets at end of year	$ –	$ 7,410	$ 633	$ (47,402)	$ (2,297)	$ (3,224)	$ 47,885	$ 35,332

Note: The consolidating schedules are presented for supplementary informational purposes. Due to the effects of intercompany transactions, which are eliminated in consolidation, the schedules are not intended to present the financial position or results of operations of the individual entities.

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EXHIBIT L

Ethical and Religious Directives for Catholic Health Care Services

Sixth Edition

UNITED STATES CONFERENCE OF CATHOLIC BISHOPS

This sixth edition of the *Ethical and Religious Directives for Catholic Health Care Services* was developed by the Committee on Doctrine of the United States Conference of Catholic Bishops (USCCB) and approved by the USCCB at its June 2018 Plenary Assembly. This edition of the *Directives* replaces all previous editions, is recommended for implementation by the diocesan bishop, and is authorized for publication by the undersigned.

Msgr. J. Brian Bransfield, STD
General Secretary, USCCB

Digital Edition, June 2018

Contents

Preamble

Health care in the United States is marked by extraordinary change. Not only is there continuing change in clinical practice due to technological advances, but the health care system in the United States is being challenged by both institutional and social factors as well. At the same time, there are a number of developments within the Catholic Church affecting the ecclesial mission of health care. Among these are significant changes in religious orders and congregations, the increased involvement of lay men and women, a heightened awareness of the Church's social role in the world, and developments in moral theology since the Second Vatican Council. A contemporary understanding of the Catholic health care ministry must take into account the new challenges presented by transitions both in the Church and in American society.

Throughout the centuries, with the aid of other sciences, a body of moral principles has emerged that expresses the Church's teaching on medical and moral matters and has proven to be pertinent and applicable to the ever-changing circumstances of health care and its delivery. In response to today's challenges, these same moral principles of Catholic teaching provide the rationale and direction for this revision of the *Ethical and Religious Directives for Catholic Health Care Services.*

These Directives presuppose our statement *Health and Health Care* published in 1981.[1] There we presented the theological principles that guide the Church's vision of health care, called for all Catholics to share in the healing mission of the Church, expressed our full commitment to the health care ministry, and offered encouragement to all those who are involved in it. Now, with American health care facing even more dramatic changes, we reaffirm the Church's commitment to health care ministry and the distinctive Catholic identity of the Church's institutional health care services.[2] The purpose of these *Ethical and Religious Directives* then is twofold: first, to reaffirm the ethical standards of behavior in health care that flow from the Church's teaching about the dignity of the human person; second, to provide authoritative guidance on certain moral issues that face Catholic health care today.

The *Ethical and Religious Directives* are concerned primarily with institutionally based Catholic health care services. They address the sponsors, trustees, administrators, chaplains, physicians, health care personnel, and patients or residents of these institutions and services. Since they express the Church's moral teaching, these Directives also will be helpful to Catholic professionals engaged in health care services in other settings. The moral teachings that we profess here flow principally from the natural law, understood in the light of the revelation Christ has entrusted to his Church. From this source the Church has derived its understanding of the nature of the human person, of human acts, and of the goals that shape human activity.

The Directives have been refined through an extensive process of consultation with bishops, theologians, sponsors, administrators, physicians, and other health care providers. While providing standards and guidance, the Directives do not cover in detail all of the complex issues that confront Catholic health care today. Moreover, the Directives will be reviewed periodically by the United States Conference of Catholic Bishops (formerly the National Conference of Catholic Bishops), in the light of authoritative church teaching, in order to address new insights from theological and medical research or new requirements of public policy.

The Directives begin with a general introduction that presents a theological basis for the Catholic health care ministry. Each of the six parts that follow is divided into two sections. The first section is in expository form; it serves as an introduction and provides the context in which concrete issues can be discussed from the perspective of the Catholic faith. The second section is in prescriptive form; the directives promote and protect the truths of the Catholic faith as those truths are brought to bear on concrete issues in health care.

General Introduction

The Church has always sought to embody our Savior's concern for the sick. The gospel accounts of Jesus' ministry draw special attention to his acts of healing: he cleansed a man with leprosy (Mt 8:1-4; Mk 1:40-42); he gave sight to two people who were blind (Mt 20:29-34; Mk 10:46-52); he enabled one who was mute to speak (Lk 11:14); he cured a woman who was hemorrhaging (Mt 9:20-22; Mk 5:25-34); and he brought a young girl back to life (Mt 9:18, 23-25; Mk 5:35-42). Indeed, the Gospels are replete with examples of how the Lord cured every kind of ailment and disease (Mt 9:35). In the account of Matthew, Jesus' mission fulfilled the prophecy of Isaiah: "He took away our infirmities and bore our diseases" (Mt 8:17; cf. Is 53:4).

Jesus' healing mission went further than caring only for physical affliction. He touched people at the deepest level of their existence; he sought their physical, mental, and spiritual healing (Jn 6:35, 11:25-27). He "came so that they might have life and have it more abundantly" (Jn 10:10).

The mystery of Christ casts light on every facet of Catholic health care: to see Christian love as the animating principle of health care; to see healing and compassion as a continuation of Christ's mission; to see suffering as a participation in the redemptive power of Christ's passion, death, and resurrection; and to see death, transformed by the resurrection, as an opportunity for a final act of communion with Christ.

For the Christian, our encounter with suffering and death can take on a positive and distinctive meaning through the redemptive power of Jesus' suffering and death. As St. Paul says, we are "always carrying about in the body the dying of Jesus, so that the life of Jesus may also be manifested in our body" (2 Cor 4:10). This truth does not lessen the pain and fear, but gives confidence and grace for bearing suffering rather than being overwhelmed by it. Catholic health care ministry bears witness to the truth that, for those who are in Christ, suffering and death are the birth pangs of the new creation. "God himself will always be with them [as their God]. He will wipe every tear from their eyes, and there shall be no more death or mourning, wailing or pain, [for] the old order has passed away" (Rev 21:3-4).

In faithful imitation of Jesus Christ, the Church has served the sick, suffering, and dying in various ways throughout history. The zealous service of individuals and communities has provided shelter for the traveler; infirmaries for the sick; and homes for children, adults, and the elderly.[3] In the United States, the many religious communities as well as dioceses that sponsor and staff this country's Catholic health care institutions and services have established an effective Catholic presence in health care. Modeling their efforts on the gospel parable of the Good Samaritan, these communities of women and men have exemplified authentic neighborliness to those in need (Lk 10:25-37). The Church seeks to ensure that the service offered in the past will be continued into the future.

While many religious communities continue their commitment to the health care ministry, lay Catholics increasingly have stepped forward to collaborate in this ministry. Inspired by the example of Christ and mandated by the Second Vatican Council, lay faithful are invited to a broader and more intense field of ministries than in the past.[4] By virtue of their Baptism, lay faithful are called to participate actively in the Church's life and mission.[5] Their participation and leadership in the health care ministry, through new forms of sponsorship and governance of institutional Catholic health care, are essential for the Church to continue her ministry of healing and compassion. They are joined in the Church's health care mission by many men and women who are not Catholic.

Catholic health care expresses the healing ministry of Christ in a specific way within the local church. Here the diocesan bishop exercises responsibilities that are rooted in his office as pastor, teacher, and priest. As the center of unity in the diocese and coordinator of ministries in the local church, the diocesan bishop fosters the mission of Catholic health care in a way that promotes collaboration among health care leaders, providers, medical professionals, theologians, and other specialists. As pastor, the diocesan bishop is in a unique position to encourage the faithful to greater responsibility in the healing ministry of the Church. As teacher, the diocesan bishop ensures the moral and religious identity of the health care ministry in whatever setting it is carried out in the diocese. As priest, the diocesan bishop oversees the sacramental care of the sick. These responsibilities will require that Catholic health care providers and the diocesan bishop engage in ongoing communication on ethical and pastoral matters that require his attention.

In a time of new medical discoveries, rapid technological developments, and social change, what is new can either be an opportunity for genuine advancement in human culture, or it can lead to policies and actions that are contrary to the true dignity and vocation of the human person. In consultation with medical professionals, church leaders review these developments, judge them according to the principles of right reason and the ultimate standard of revealed truth, and offer authoritative teaching and guidance about the moral and pastoral responsibilities entailed by the Christian faith.[6] While the Church cannot furnish a ready answer to every moral dilemma, there are many questions about which she provides normative guidance and direction. In the absence of a determination by the magisterium, but never contrary to church teaching, the guidance of approved authors can offer appropriate guidance for ethical decision making.

Created in God's image and likeness, the human family shares in the dominion that Christ manifested in his healing ministry. This sharing involves a stewardship over all material creation (Gn 1:26) that should neither abuse nor squander nature's resources. Through science the human race comes to understand God's wonderful work; and through technology it must conserve, protect, and perfect nature in harmony with God's purposes. Health care professionals pursue a special vocation to share in carrying forth God's life-giving and healing work.

The dialogue between medical science and Christian faith has for its primary purpose the common good of all human persons. It presupposes that science and faith do not contradict each other. Both are grounded in respect for truth and freedom. As new knowledge and new technologies expand, each person must form a correct conscience based on the moral norms for proper health care.

PART ONE
The Social Responsibility of Catholic Health Care Services

Introduction

Their embrace of Christ's healing mission has led institutionally based Catholic health care services in the United States to become an integral part of the nation's health care system. Today, this complex health care system confronts a range of economic, technological, social, and moral challenges. The response of Catholic health care institutions and services to these challenges is guided by normative principles that inform the Church's healing ministry.

First, Catholic health care ministry is rooted in a commitment to promote and defend human dignity; this is the foundation of its concern to respect the sacredness of every human life from the moment of conception until death. The first right of the human person, the right to life, entails a right to the means for the proper development of life, such as adequate health care.[7]

Second, the biblical mandate to care for the poor requires us to express this in concrete action at all levels of Catholic health care. This mandate prompts us to work to ensure that our country's health care delivery system provides adequate health care for the poor. In Catholic institutions, particular attention should be given to the health care needs of the poor, the uninsured, and the underinsured.[8] Third, Catholic health care ministry seeks to contribute to the common good. The common good is realized when economic, political, and social conditions ensure protection for the fundamental rights of all individuals and enable all to fulfill their common purpose and reach their common goals.[9]

Fourth, Catholic health care ministry exercises responsible stewardship of available health care resources. A just health care system will be concerned both with promoting equity of care—to assure that the right of each person to basic health care is respected—and with promoting the good health of all in the community. The responsible stewardship of health care resources can be accomplished best in dialogue with people from all levels of society, in accordance with the principle of subsidiarity and with respect for the moral principles that guide institutions and persons.

Fifth, within a pluralistic society, Catholic health care services will encounter requests for medical procedures contrary to the moral teachings of the Church. Catholic health care does not offend the rights of individual conscience by refusing to provide or permit medical procedures that are judged morally wrong by the teaching authority of the Church.

Directives

1. A Catholic institutional health care service is a community that provides health care to those in need of it. This service must be animated by the Gospel of Jesus Christ and guided by the moral tradition of the Church.

2. Catholic health care should be marked by a spirit of mutual respect among caregivers that disposes them to deal with those it serves and their families with the compassion of Christ, sensitive to their vulnerability at a time of special need.

3. In accord with its mission, Catholic health care should distinguish itself by service to and advocacy for those people whose social condition puts them at the margins of our society and makes them particularly vulnerable to discrimination: the poor; the uninsured and the underinsured; children and the unborn; single parents; the elderly; those with incurable diseases and chemical dependencies; racial minorities; immigrants and refugees. In particular, the person with mental or physical disabilities, regardless of the cause or severity, must be treated as a unique person of incomparable worth, with the same right to life and to adequate health care as all other persons.

4. A Catholic health care institution, especially a teaching hospital, will promote medical research consistent with its mission of providing health care and with concern for the responsible stewardship of health care resources. Such medical research must adhere to Catholic moral principles.

5. Catholic health care services must adopt these Directives as policy, require adherence to them within the institution as a condition for medical privileges and employment, and provide appropriate instruction regarding the Directives for administration, medical and nursing staff, and other personnel.

6. A Catholic health care organization should be a responsible steward of the health care resources available to it. Collaboration with other health care providers, in ways that do not compromise Catholic social and moral teaching, can be an effective means of such stewardship.[10]

7. A Catholic health care institution must treat its employees respectfully and justly. This responsibility includes: equal employment opportunities for anyone qualified for the task, irrespective of a person's race, sex, age, national origin, or disability; a workplace that promotes employee participation; a work environment that ensures employee safety and well-being; just compensation and benefits; and recognition of the rights of employees to organize and bargain collectively without prejudice to the common good.

8. Catholic health care institutions have a unique relationship to both the Church and the wider community they serve. Because of the ecclesial nature of this relationship, the relevant requirements of canon law will be observed with regard to the foundation of a new Catholic health care institution; the substantial revision of the mission of an institution; and the sale, sponsorship transfer, or closure of an existing institution.

9. Employees of a Catholic health care institution must respect and uphold the religious mission of the institution and adhere to these Directives. They should maintain professional standards and promote the institution's commitment to human dignity and the common good.

PART TWO
The Pastoral and Spiritual Responsibility of Catholic Health Care

Introduction

The dignity of human life flows from creation in the image of God (Gn 1:26), from redemption by Jesus Christ (Eph 1:10; 1 Tm 2:4-6), and from our common destiny to share a life with God beyond all corruption (1 Cor 15:42-57). Catholic health care has the responsibility to treat those in need in a way that respects the human dignity and eternal destiny of all. The words of Christ have provided inspiration for Catholic health care: "I was ill and you cared for me" (Mt 25:36). The care provided assists those in need to experience their own dignity and value, especially when these are obscured by the burdens of illness or the anxiety of imminent death.

Since a Catholic health care institution is a community of healing and compassion, the care offered is not limited to the treatment of a disease or bodily ailment but embraces the physical, psychological, social, and spiritual dimensions of the human person. The medical expertise offered through Catholic health care is combined with other forms of care to promote health and relieve human suffering. For this reason, Catholic health care extends to the spiritual nature of the person. "Without health of the spirit, high technology focused strictly on the body offers limited hope for healing the whole person."[11] Directed to spiritual needs that are often appreciated more deeply during times of illness, pastoral care is an integral part of Catholic health care. Pastoral care encompasses the full range of spiritual services, including a listening presence; help in dealing with powerlessness, pain, and alienation; and assistance in recognizing and responding to God's will with greater joy and peace. It should be acknowledged, of course, that technological advances in medicine have reduced the length of hospital stays dramatically. It follows, therefore, that the pastoral care of patients, especially administration of the sacraments, will be provided more often than not at the parish level, both before and after one's hospitalization. For this reason, it is essential that there be very cordial and cooperative relationships between the personnel of pastoral care departments and the local clergy and ministers of care.

Priests, deacons, religious, and laity exercise diverse but complementary roles in this pastoral care. Since many areas of pastoral care call upon the creative response of these pastoral caregivers to the particular needs of patients or residents, the following directives address only a limited number of specific pastoral activities.

Directives

10. A Catholic health care organization should provide pastoral care to minister to the religious and spiritual needs of all those it serves. Pastoral care personnel—clergy, religious, and lay alike—should have appropriate professional preparation, including an understanding of these Directives.

11. Pastoral care personnel should work in close collaboration with local parishes and community clergy. Appropriate pastoral services and/or referrals should be available to all in keeping with their religious beliefs or affiliation.

12. For Catholic patients or residents, provision for the sacraments is an especially important part of Catholic health care ministry. Every effort should be made to have priests assigned to hospitals and health care institutions to celebrate the Eucharist and provide the sacraments to patients and staff.

13. Particular care should be taken to provide and to publicize opportunities for patients or residents to receive the sacrament of Penance.

14. Properly prepared lay Catholics can be appointed to serve as extraordinary ministers of Holy Communion, in accordance with canon law and the policies of the local diocese. They should assist pastoral care personnel—clergy, religious, and laity—by providing supportive visits, advising patients regarding the availability of priests for the sacrament of Penance, and distributing Holy Communion to the faithful who request it.

15. Responsive to a patient's desires and condition, all involved in pastoral care should facilitate the availability of priests to provide the sacrament of Anointing of the Sick, recognizing that through this sacrament Christ provides grace and support to those who are seriously ill or weakened by advanced age. Normally, the sacrament is celebrated when the sick person is fully conscious. It may be conferred upon the sick who have lost consciousness or the use of reason, if there is reason to believe that they would have asked for the sacrament while in control of their faculties.

16. All Catholics who are capable of receiving Communion should receive Viaticum when they are in danger of death, while still in full possession of their faculties.[12]

17. Except in cases of emergency (i.e., danger of death), any request for Baptism made by adults or for infants should be referred to the chaplain of the institution. Newly born infants in danger of death, including those miscarried, should be baptized if this is possible.[13] In case of emergency, if a priest or a deacon is not available, anyone can validly baptize.[14] In the case of emergency Baptism, the chaplain or the director of pastoral care is to be notified.

18. When a Catholic who has been baptized but not yet confirmed is in danger of death, any priest may confirm the person.[15]

19. A record of the conferral of Baptism or Confirmation should be sent to the parish in which the institution is located and posted in its baptism/confirmation registers.

20. Catholic discipline generally reserves the reception of the sacraments to Catholics. In accord with canon 844, §3, Catholic ministers may administer the sacraments of Eucharist, Penance, and Anointing of the Sick to members of the oriental churches that do not have

full communion with the Catholic Church, or of other churches that in the judgment of the Holy See are in the same condition as the oriental churches, if such persons ask for the sacraments on their own and are properly disposed.

With regard to other Christians not in full communion with the Catholic Church, when the danger of death or other grave necessity is present, the four conditions of canon 844, §4, also must be present, namely, they cannot approach a minister of their own community; they ask for the sacraments on their own; they manifest Catholic faith in these sacraments; and they are properly disposed. The diocesan bishop has the responsibility to oversee this pastoral practice.

21. The appointment of priests and deacons to the pastoral care staff of a Catholic institution must have the explicit approval or confirmation of the local bishop in collaboration with the administration of the institution. The appointment of the director of the pastoral care staff should be made in consultation with the diocesan bishop.

22. For the sake of appropriate ecumenical and interfaith relations, a diocesan policy should be developed with regard to the appointment of non-Catholic members to the pastoral care staff of a Catholic health care institution. The director of pastoral care at a Catholic institution should be a Catholic; any exception to this norm should be approved by the diocesan bishop.

PART THREE
The Professional-Patient Relationship

Introduction

A person in need of health care and the professional health care provider who accepts that person as a patient enter into a relationship that requires, among other things, mutual respect, trust, honesty, and appropriate confidentiality. The resulting free exchange of information must avoid manipulation, intimidation, or condescension. Such a relationship enables the patient to disclose personal information needed for effective care and permits the health care provider to use his or her professional competence most effectively to maintain or restore the patient's health. Neither the health care professional nor the patient acts independently of the other; both participate in the healing process.

Today, a patient often receives health care from a team of providers, especially in the setting of the modern acute-care hospital. But the resulting multiplication of relationships does not alter the personal character of the interaction between health care providers and the patient. The relationship of the person seeking health care and the professionals providing that care is an important part of the foundation on which diagnosis and care are provided. Diagnosis and care, therefore, entail a series of decisions with ethical as well as medical dimensions. The health care professional has the knowledge and experience to pursue the goals of healing, the maintenance of health, and the compassionate care of the dying, taking into account the patient's convictions and spiritual needs, and the moral responsibilities of all concerned. The person in need of health care depends on the skill of the health care provider to assist in preserving life and promoting health of body, mind, and spirit. The patient, in turn, has a responsibility to use these physical and mental resources in the service of moral and spiritual goals to the best of his or her ability.

When the health care professional and the patient use institutional Catholic health care, they also accept its public commitment to the Church's understanding of and witness to the dignity of the human person. The Church's moral teaching on health care nurtures a truly interpersonal professional-patient relationship. This professional-patient relationship is never separated, then, from the Catholic identity of the health care institution. The faith that inspires Catholic health care guides medical decisions in ways that fully respect the dignity of the person and the relationship with the health care professional.

Directives

23. The inherent dignity of the human person must be respected and protected regardless of the nature of the person's health problem or social status. The respect for human dignity extends to all persons who are served by Catholic health care.

24. In compliance with federal law, a Catholic health care institution will make available to patients information about their rights, under the laws of their state, to make an advance

directive for their medical treatment. The institution, however, will not honor an advance directive that is contrary to Catholic teaching. If the advance directive conflicts with Catholic teaching, an explanation should be provided as to why the directive cannot be honored.

25. Each person may identify in advance a representative to make health care decisions as his or her surrogate in the event that the person loses the capacity to make health care decisions. Decisions by the designated surrogate should be faithful to Catholic moral principles and to the person's intentions and values, or if the person's intentions are unknown, to the person's best interests. In the event that an advance directive is not executed, those who are in a position to know best the patient's wishes—usually family members and loved ones—should participate in the treatment decisions for the person who has lost the capacity to make health care decisions.

26. The free and informed consent of the person or the person's surrogate is required for medical treatments and procedures, except in an emergency situation when consent cannot be obtained and there is no indication that the patient would refuse consent to the treatment.

27. Free and informed consent requires that the person or the person's surrogate receive all reasonable information about the essential nature of the proposed treatment and its benefits; its risks, side-effects, consequences, and cost; and any reasonable and morally legitimate alternatives, including no treatment at all.

28. Each person or the person's surrogate should have access to medical and moral information and counseling so as to be able to form his or her conscience. The free and informed health care decision of the person or the person's surrogate is to be followed so long as it does not contradict Catholic principles.

29. All persons served by Catholic health care have the right and duty to protect and preserve their bodily and functional integrity.[16] The functional integrity of the person may be sacrificed to maintain the health or life of the person when no other morally permissible means is available.[17]

30. The transplantation of organs from living donors is morally permissible when such a donation will not sacrifice or seriously impair any essential bodily function and the anticipated benefit to the recipient is proportionate to the harm done to the donor. Furthermore, the freedom of the prospective donor must be respected, and economic advantages should not accrue to the donor.

31. No one should be the subject of medical or genetic experimentation, even if it is therapeutic, unless the person or surrogate first has given free and informed consent. In instances of nontherapeutic experimentation, the surrogate can give this consent only if the experiment entails no significant risk to the person's well-being. Moreover, the greater the

person's incompetency and vulnerability, the greater the reasons must be to perform any medical experimentation, especially nontherapeutic.

32. While every person is obliged to use ordinary means to preserve his or her health, no person should be obliged to submit to a health care procedure that the person has judged, with a free and informed conscience, not to provide a reasonable hope of benefit without imposing excessive risks and burdens on the patient or excessive expense to family or community.[18]

33. The well-being of the whole person must be taken into account in deciding about any therapeutic intervention or use of technology. Therapeutic procedures that are likely to cause harm or undesirable side-effects can be justified only by a proportionate benefit to the patient.

34. Health care providers are to respect each person's privacy and confidentiality regarding information related to the person's diagnosis, treatment, and care.

35. Health care professionals should be educated to recognize the symptoms of abuse and violence and are obliged to report cases of abuse to the proper authorities in accordance with local statutes.

36. Compassionate and understanding care should be given to a person who is the victim of sexual assault. Health care providers should cooperate with law enforcement officials and offer the person psychological and spiritual support as well as accurate medical information. A female who has been raped should be able to defend herself against a potential conception from the sexual assault. If, after appropriate testing, there is no evidence that conception has occurred already, she may be treated with medications that would prevent ovulation, sperm capacitation, or fertilization. It is not permissible, however, to initiate or to recommend treatments that have as their purpose or direct effect the removal, destruction, or interference with the implantation of a fertilized ovum.[19]

37. An ethics committee or some alternate form of ethical consultation should be available to assist by advising on particular ethical situations, by offering educational opportunities, and by reviewing and recommending policies. To these ends, there should be appropriate standards for medical ethical consultation within a particular diocese that will respect the diocesan bishop's pastoral responsibility as well as assist members of ethics committees to be familiar with Catholic medical ethics and, in particular, these Directives.

PART FOUR
Issues in Care for the Beginning of Life

Introduction

The Church's commitment to human dignity inspires an abiding concern for the sanctity of human life from its very beginning, and with the dignity of marriage and of the marriage act by which human life is transmitted. The Church cannot approve medical practices that undermine the biological, psychological, and moral bonds on which the strength of marriage and the family depends.

Catholic health care ministry witnesses to the sanctity of life "from the moment of conception until death."[20] The Church's defense of life encompasses the unborn and the care of women and their children during and after pregnancy. The Church's commitment to life is seen in its willingness to collaborate with others to alleviate the causes of the high infant mortality rate and to provide adequate health care to mothers and their children before and after birth.

The Church has the deepest respect for the family, for the marriage covenant, and for the love that binds a married couple together. This includes respect for the marriage act by which husband and wife express their love and cooperate with God in the creation of a new human being. The Second Vatican Council affirms:

> This love is an eminently human one. . . . It involves the good of the whole person. . . . The actions within marriage by which the couple are united intimately and chastely are noble and worthy ones. Expressed in a manner which is truly human, these actions signify and promote that mutual self-giving by which spouses enrich each other with a joyful and a thankful will.[21]
>
> Marriage and conjugal love are by their nature ordained toward the begetting and educating of children. Children are really the supreme gift of marriage and contribute very substantially to the welfare of their parents. . . . Parents should regard as their proper mission the task of transmitting human life and educating those to whom it has been transmitted. . . . They are thereby cooperators with the love of God the Creator, and are, so to speak, the interpreters of that love.[22]

For legitimate reasons of responsible parenthood, married couples may limit the number of their children by natural means. The Church cannot approve contraceptive interventions that "either in anticipation of the marital act, or in its accomplishment or in the development of its natural consequences, have the purpose, whether as an end or a means, to render procreation impossible."[23] Such interventions violate "the inseparable connection, willed by God . . . between the two meanings of the conjugal act: the unitive and procreative meaning."[24]

With the advance of the biological and medical sciences, society has at its disposal new technologies for responding to the problem of infertility. While we rejoice in the potential for good inherent in many of these technologies, we cannot assume that what is technically possible is always morally right. Reproductive technologies that substitute for the marriage act are not consistent with human dignity. Just as the marriage act is joined naturally to procreation, so procreation is joined naturally to the marriage act. As Pope John XXIII observed:

> The transmission of human life is entrusted by nature to a personal and conscious act and as such is subject to all the holy laws of God: the immutable and inviolable laws which must be recognized and observed. For this reason, one cannot use means and follow methods which could be licit in the transmission of the life of plants and animals.[25]

Because the moral law is rooted in the whole of human nature, human persons, through intelligent reflection on their own spiritual destiny, can discover and cooperate in the plan of the Creator.[26]

Directives

38. When the marital act of sexual intercourse is not able to attain its procreative purpose, assistance that does not separate the unitive and procreative ends of the act, and does not substitute for the marital act itself, may be used to help married couples conceive.[27]

39. Those techniques of assisted conception that respect the unitive and procreative meanings of sexual intercourse and do not involve the destruction of human embryos, or their deliberate generation in such numbers that it is clearly envisaged that all cannot implant and some are simply being used to maximize the chances of others implanting, may be used as therapies for infertility.

40. Heterologous fertilization (that is, any technique used to achieve conception by the use of gametes coming from at least one donor other than the spouses) is prohibited because it is contrary to the covenant of marriage, the unity of the spouses, and the dignity proper to parents and the child.[28]

41. Homologous artificial fertilization (that is, any technique used to achieve conception using the gametes of the two spouses joined in marriage) is prohibited when it separates procreation from the marital act in its unitive significance (e.g., any technique used to achieve extracorporeal conception).[29]

42. Because of the dignity of the child and of marriage, and because of the uniqueness of the mother-child relationship, participation in contracts or arrangements for surrogate motherhood is not permitted. Moreover, the commercialization of such surrogacy denigrates the dignity of women, especially the poor.[30]

43. A Catholic health care institution that provides treatment for infertility should offer not only technical assistance to infertile couples but also should help couples pursue other solutions (e.g., counseling, adoption).

44. A Catholic health care institution should provide prenatal, obstetric, and postnatal services for mothers and their children in a manner consonant with its mission.

45. Abortion (that is, the directly intended termination of pregnancy before viability or the directly intended destruction of a viable fetus) is never permitted. Every procedure whose sole immediate effect is the termination of pregnancy before viability is an abortion, which, in its moral context, includes the interval between conception and implantation of the embryo. Catholic health care institutions are not to provide abortion services, even based upon the principle of material cooperation. In this context, Catholic health care institutions need to be

concerned about the danger of scandal in any association with abortion providers.

46. Catholic health care providers should be ready to offer compassionate physical, psychological, moral, and spiritual care to those persons who have suffered from the trauma of abortion.

47. Operations, treatments, and medications that have as their direct purpose the cure of a proportionately serious pathological condition of a pregnant woman are permitted when they cannot be safely postponed until the unborn child is viable, even if they will result in the death of the unborn child.

48. In case of extrauterine pregnancy, no intervention is morally licit which constitutes a direct abortion.[31]

49. For a proportionate reason, labor may be induced after the fetus is viable.

50. Prenatal diagnosis is permitted when the procedure does not threaten the life or physical integrity of the unborn child or the mother and does not subject them to disproportionate risks; when the diagnosis can provide information to guide preventative care for the mother or pre- or postnatal care for the child; and when the parents, or at least the mother, give free and informed consent. Prenatal diagnosis is not permitted when undertaken with the intention of aborting an unborn child with a serious defect.[32]

51. Nontherapeutic experiments on a living embryo or fetus are not permitted, even with the consent of the parents. Therapeutic experiments are permitted for a proportionate reason with the free and informed consent of the parents or, if the father cannot be contacted, at least of the mother. Medical research that will not harm the life or physical integrity of an unborn child is permitted with parental consent.[33]

52. Catholic health institutions may not promote or condone contraceptive practices but should provide, for married couples and the medical staff who counsel them, instruction both about the Church's teaching on responsible parenthood and in methods of natural family planning.

53. Direct sterilization of either men or women, whether permanent or temporary, is not permitted in a Catholic health care institution. Procedures that induce sterility are permitted when their direct effect is the cure or alleviation of a present and serious pathology and a simpler treatment is not available.[34]

54. Genetic counseling may be provided in order to promote responsible parenthood and to prepare for the proper treatment and care of children with genetic defects, in accordance with Catholic moral teaching and the intrinsic rights and obligations of married couples regarding the transmission of life.

PART FIVE

Issues in Care for the Seriously Ill and Dying

Introduction

Christ's redemption and saving grace embrace the whole person, especially in his or her illness, suffering, and death.[35] The Catholic health care ministry faces the reality of death with the confidence of faith. In the face of death—for many, a time when hope seems lost—the Church witnesses to her belief that God has created each person for eternal life.[36]

Above all, as a witness to its faith, a Catholic health care institution will be a community of respect, love, and support to patients or residents and their families as they face the reality of death. What is hardest to face is the process of dying itself, especially the dependency, the helplessness, and the pain that so often accompany terminal illness. One of the primary purposes of medicine in caring for the dying is the relief of pain and the suffering caused by it. Effective management of pain in all its forms is critical in the appropriate care of the dying.

The truth that life is a precious gift from God has profound implications for the question of stewardship over human life. We are not the owners of our lives and, hence, do not have absolute power over life. We have a duty to preserve our life and to use it for the glory of God, but the duty to preserve life is not absolute, for we may reject life-prolonging procedures that are insufficiently beneficial or excessively burdensome. Suicide and euthanasia are never morally acceptable options.

The task of medicine is to care even when it cannot cure. Physicians and their patients must evaluate the use of the technology at their disposal. Reflection on the innate dignity of human life in all its dimensions and on the purpose of medical care is indispensable for formulating a true moral judgment about the use of technology to maintain life. The use of life-sustaining technology is judged in light of the Christian meaning of life, suffering, and death. In this way two extremes are avoided: on the one hand, an insistence on useless or burdensome technology even when a patient may legitimately wish to forgo it and, on the other hand, the withdrawal of technology with the intention of causing death.[37]

The Church's teaching authority has addressed the moral issues concerning medically assisted nutrition and hydration. We are guided on this issue by Catholic teaching against euthanasia, which is "an action or an omission which of itself or by intention causes death, in order that all suffering may in this way be eliminated."[38] While medically assisted nutrition and hydration are not morally obligatory in certain cases, these forms of basic care should in principle be provided to all patients who need them, including patients diagnosed as being in a "persistent vegetative state" (PVS), because even the most severely debilitated and helpless patient retains the full dignity of a human person and must receive ordinary and proportionate care.

Directives

55. Catholic health care institutions offering care to persons in danger of death from illness,

accident, advanced age, or similar condition should provide them with appropriate opportunities to prepare for death. Persons in danger of death should be provided with whatever information is necessary to help them understand their condition and have the opportunity to discuss their condition with their family members and care providers. They should also be offered the appropriate medical information that would make it possible to address the morally legitimate choices available to them. They should be provided the spiritual support as well as the opportunity to receive the sacraments in order to prepare well for death.

56. A person has a moral obligation to use ordinary or proportionate means of preserving his or her life. Proportionate means are those that in the judgment of the patient offer a reasonable hope of benefit and do not entail an excessive burden or impose excessive expense on the family or the community.[39]

57. A person may forgo extraordinary or disproportionate means of preserving life. Disproportionate means are those that in the patient's judgment do not offer a reasonable hope of benefit or entail an excessive burden, or impose excessive expense on the family or the community.

58. In principle, there is an obligation to provide patients with food and water, including medically assisted nutrition and hydration for those who cannot take food orally. This obligation extends to patients in chronic and presumably irreversible conditions (e.g., the "persistent vegetative state") who can reasonably be expected to live indefinitely if given such care.[40] Medically assisted nutrition and hydration become morally optional when they cannot reasonably be expected to prolong life or when they would be "excessively burdensome for the patient or [would] cause significant physical discomfort, for example resulting from complications in the use of the means employed."[41] For instance, as a patient draws close to inevitable death from an underlying progressive and fatal condition, certain measures to provide nutrition and hydration may become excessively burdensome and therefore not obligatory in light of their very limited ability to prolong life or provide comfort.

59. The free and informed judgment made by a competent adult patient concerning the use or withdrawal of life-sustaining procedures should always be respected and normally complied with, unless it is contrary to Catholic moral teaching.

60. Euthanasia is an action or omission that of itself or by intention causes death in order to alleviate suffering. Catholic health care institutions may never condone or participate in euthanasia or assisted suicide in any way. Dying patients who request euthanasia should receive loving care, psychological and spiritual support, and appropriate remedies for pain and other symptoms so that they can live with dignity until the time of natural death.[42]

61. Patients should be kept as free of pain as possible so that they may die comfortably and

with dignity, and in the place where they wish to die. Since a person has the right to prepare for his or her death while fully conscious, he or she should not be deprived of consciousness without a compelling reason. Medicines capable of alleviating or suppressing pain may be given to a dying person, even if this therapy may indirectly shorten the person's life so long as the intent is not to hasten death. Patients experiencing suffering that cannot be alleviated should be helped to appreciate the Christian understanding of redemptive suffering.

62. The determination of death should be made by the physician or competent medical authority in accordance with responsible and commonly accepted scientific criteria.

63. Catholic health care institutions should encourage and provide the means whereby those who wish to do so may arrange for the donation of their organs and bodily tissue, for ethically legitimate purposes, so that they may be used for donation and research after death.

64. Such organs should not be removed until it has been medically determined that the patient has died. In order to prevent any conflict of interest, the physician who determines death should not be a member of the transplant team.

65. The use of tissue or organs from an infant may be permitted after death has been determined and with the informed consent of the parents or guardians.

66. Catholic health care institutions should not make use of human tissue obtained by direct abortions even for research and therapeutic purposes.[43]

PART SIX
Collaborative Arrangements with Other Health Care Organizations and Providers[44]

Introduction

In and through her compassionate care for the sick and suffering members of the human family, the Church extends Jesus' healing mission and serves the fundamental human dignity of every person made in God's image and likeness. Catholic health care, in serving the common good, has historically worked in collaboration with a variety of non-Catholic partners. Various factors in the current health care environment in the United States, however, have led to a multiplication of collaborative arrangements among health care institutions, between Catholic institutions as well as between Catholic and non-Catholic institutions.

Collaborative arrangements can be unique and vitally important opportunities for Catholic health care to further its mission of caring for the suffering and sick, in faithful imitation of Christ. For example, collaborative arrangements can provide opportunities for Catholic health care institutions to influence the healing profession through their witness to the Gospel of Jesus Christ. Moreover, they can be opportunities to realign the local delivery system to provide a continuum of health care to the community, to provide a model of a responsible stewardship of limited health care resources, to provide poor and vulnerable persons with more equitable access to basic care, and to provide access to medical technologies and expertise that greatly enhance the quality of care. Collaboration can even, in some instances, ensure the continued presence of a Catholic institution, or the presence of any health care facility at all, in a given area.

When considering a collaboration, Catholic health care administrators should seek first to establish arrangements with Catholic institutions or other institutions that operate in conformity with the Church's moral teaching. It is not uncommon, however, that arrangements with Catholic institutions are not practicable and that, in pursuit of the common good, the only available candidates for collaboration are institutions that do not operate in conformity with the Church's moral teaching.

Such collaborative arrangements can pose particular challenges if they would involve institutional connections with activities that conflict with the natural moral law, church teaching, or canon law. Immoral actions are always contrary to "the singular dignity of the human person, 'the only creature that God has wanted for its own sake.'"[45] It is precisely because Catholic health care services are called to respect the inherent dignity of every human being and to contribute to the common good that they should avoid, whenever possible, engaging in collaborative arrangements that would involve them in contributing to the wrongdoing of other providers.

The Catholic moral tradition provides principles for assessing cooperation with the wrongdoing of others to determine the conditions under which cooperation may or may not be morally justified, distinguishing between "formal" and "material" cooperation. *Formal* cooperation "occurs when an action, either by its very nature or by the form it takes in a concrete situation, can be defined as a direct participation in an [immoral] act . . . or a sharing in the immoral intention of the person committing it."[46] Therefore, cooperation is formal not only when the cooperator shares the intention of the wrongdoer, but also when the cooperator directly participates in the immoral act, even if the cooperator does not share the intention of the wrongdoer, but participates as a means to some other end. Formal cooperation may take various forms, such as authorizing wrongdoing, approving it, prescribing it, actively defending it, or giving specific direction about carrying it out. Formal cooperation, in whatever form, is always morally wrong.

The cooperation is *material* if the one cooperating neither shares the wrongdoer's intention in performing the immoral act nor cooperates by directly participating in the act as a means to some other end, but rather contributes to the immoral activity in a way that is causally related but not essential to the immoral act itself. While some instances of material cooperation are morally wrong, others are morally justified. There are many factors to consider when assessing whether or not material cooperation is justified, including: whether the cooperator's act is morally good or neutral in itself, how significant is its causal contribution to the wrongdoer's act, how serious is the immoral act of the wrongdoer, and how important are the goods to be preserved or the harms to be avoided by cooperating. Assessing material cooperation can be complex, and legitimate disagreements may arise over which factors are most relevant in a given case. Reliable theological experts should be consulted in interpreting and applying the principles governing cooperation.

Any moral analysis of a collaborative arrangement must also take into account the danger of scandal, which is "an attitude or behavior which leads another to do evil."[47] The cooperation of a Catholic institution with other health care entities engaged in immoral activities, even when such cooperation is morally justified in all other respects, might, in certain cases, lead people to conclude that those activities are morally acceptable. This could lead people to sin. The danger of scandal, therefore, needs to be carefully evaluated in each case. In some cases, the danger of scandal can be mitigated by certain measures, such as providing an explanation as to why the Catholic institution is cooperating in this way at this time. In any event, prudential judgments that take into account the particular circumstances need to be made about the risk and degree of scandal and about whether they can be effectively addressed.

Even when there are good reasons for establishing collaborative arrangements that involve material cooperation with wrongdoing, leaders of Catholic healthcare institutions must assess whether becoming associated with the wrongdoing of a collaborator will risk undermining their institution's ability to fulfill its mission of providing health care as a witness to the Catholic faith and an embodiment of Jesus' concern for the sick. They must do everything they can to ensure that the integrity of the Church's witness to Christ and his Gospel is not adversely affected by a collaborative arrangement.

In sum, collaborative arrangements with entities that do not share our Catholic moral tradition present both opportunities and challenges. The opportunities to further the mission of Catholic health care can be significant. The challenges do not necessarily preclude all such arrangements on moral grounds, but they do make it imperative for Catholic leaders to undertake careful analyses to ensure that new collaborative arrangements—as well as those that already exist—abide by the principles governing cooperation, effectively address the risk of scandal, abide by canon law, and sustain the Church's witness to Christ and his saving message.

While the following Directives are offered to assist Catholic health care institutions in analyzing the moral considerations of collaborative arrangements, the ultimate responsibility for interpreting and applying of the Directives rests with the diocesan bishop.

Directives

67. Each diocesan bishop has the ultimate responsibility to assess whether collaborative arrangements involving Catholic health care providers operating in his local church involve wrongful cooperation, give scandal, or undermine the Church's witness. In fulfilling this responsibility, the bishop should consider not only the circumstances in his local diocese but also the regional and national implications of his decision.
68. When there is a possibility that a prospective collaborative arrangement may lead to serious adverse consequences for the identity or reputation of Catholic health care services or entail a risk of scandal, the diocesan bishop is to be consulted in a timely manner. In addition, the diocesan bishop's approval is required for collaborative arrangements involving institutions subject to his governing authority; when they involve institutions not subject to his governing authority but operating in his diocese, such as those involving a juridic person erected by the Holy See, the diocesan bishop's *nihil obstat* is to be obtained.
69. In cases involving health care systems that extend across multiple diocesan jurisdictions, it remains the responsibility of the diocesan bishop of each diocese in which the system's affiliated institutions are located to approve locally the prospective collaborative arrangement or to grant the requisite *nihil obstat*, as the situation may require. At the same time, with such a proposed arrangement, it is the duty of the diocesan bishop of the diocese in which the system's headquarters is located to initiate a collaboration with the diocesan bishops of the dioceses affected by the collaborative arrangement. The bishops involved in this collaboration should make every effort to reach a consensus.
70. Catholic health care organizations are not permitted to engage in immediate material cooperation in actions that are intrinsically immoral, such as abortion, euthanasia, assisted suicide, and direct sterilization.[48]
71. When considering opportunities for collaborative arrangements that entail material cooperation in wrongdoing, Catholic institutional leaders must assess whether scandal[49] might be given and whether the Church's witness might be undermined. In some cases, the risk of scandal can be appropriately mitigated or removed by an explanation of what is in fact being done by the health care organization under Catholic auspices. Nevertheless, a

collaborative arrangement that in all other respects is morally licit may need to be refused because of the scandal that might be caused or because the Church's witness might be undermined.

72. The Catholic party in a collaborative arrangement has the responsibility to assess periodically whether the binding agreement is being observed and implemented in a way that is consistent with the natural moral law, Catholic teaching, and canon law.
73. Before affiliating with a health care entity that permits immoral procedures, a Catholic institution must ensure that neither its administrators nor its employees will manage, carry out, assist in carrying out, make its facilities available for, make referrals for, or benefit from the revenue generated by immoral procedures.
74. In any kind of collaboration, whatever comes under the control of the Catholic institution—whether by acquisition, governance, or management—must be operated in full accord with the moral teaching of the Catholic Church, including these Directives.
75. It is not permitted to establish another entity that would oversee, manage, or perform immoral procedures. Establishing such an entity includes actions such as drawing up the civil bylaws, policies, or procedures of the entity, establishing the finances of the entity, or legally incorporating the entity.
76. Representatives of Catholic health care institutions who serve as members of governing boards of non-Catholic health care organizations that do not adhere to the ethical principles regarding health care articulated by the Church should make their opposition to immoral procedures known and not give their consent to any decisions proximately connected with such procedures. Great care must be exercised to avoid giving scandal or adversely affecting the witness of the Church.
77. If it is discovered that a Catholic health care institution might be wrongly cooperating with immoral procedures, the local diocesan bishop should be informed immediately and the leaders of the institution should resolve the situation as soon as reasonably possible.

Conclusion

Sickness speaks to us of our limitations and human frailty. It can take the form of infirmity resulting from the simple passing of years or injury from the exuberance of youthful energy. It can be temporary or chronic, debilitating, and even terminal. Yet the follower of Jesus faces illness and the consequences of the human condition aware that our Lord always shows compassion toward the infirm.

Jesus not only taught his disciples to be compassionate, but he also told them who should be the special object of their compassion. The parable of the feast with its humble guests was preceded by the instruction: "When you hold a banquet, invite the poor, the crippled, the lame, the blind" (Lk 14:13). These were people whom Jesus healed and loved.

Catholic health care is a response to the challenge of Jesus to go and do likewise. Catholic health care services rejoice in the challenge to be Christ's healing compassion in the world and see their ministry not only as an effort to restore and preserve health but also as a spiritual service and a sign of that final healing that will one day bring about the new creation that is the ultimate fruit of Jesus' ministry and God's love for us.

Notes

1. United States Conference of Catholic Bishops, *Health and Health Care: A Pastoral Letter of the American Catholic Bishops* (Washington, DC: United States Conference of Catholic Bishops, 1981).
2. Health care services under Catholic auspices are carried out in a variety of institutional settings (e.g., hospitals, clinics, outpatient facilities, urgent care centers, hospices, nursing homes, and parishes). Depending on the context, these Directives will employ the terms "institution" and/or "services" in order to encompass the variety of settings in which Catholic health care is provided.
3. *Health and Health Care,* p. 5.
4. Second Vatican Ecumenical Council, *Decree on the Apostolate of the Laity* (*Apostolicam Actuositatem*) (1965), no. 1.
5. Pope John Paul II, Post-Synodal Apostolic Exhortation *On the Vocation and the Mission of the Lay Faithful in the Church and in the World* (*Christifideles Laici*) (Washington, DC: United States Conference of Catholic Bishops, 1988), no. 29.
6. As examples, see Congregation for the Doctrine of the Faith, *Declaration on Procured Abortion* (1974); Congregation for the Doctrine of the Faith, *Declaration on Euthanasia* (1980); Congregation for the Doctrine of the Faith, *Instruction on Respect for Human Life in Its Origin and on the Dignity of Procreation: Replies to Certain Questions of the Day* (*Donum Vitae*) (Washington, DC: United States Conference of Catholic Bishops, 1987).
7. Pope John XXIII, Encyclical Letter *Peace on Earth* (*Pacem in Terris*) (Washington, DC: United States Conference of Catholic Bishops, 1963), no. 11; *Health and Health Care,* pp. 5, 17-18; *Catechism of the Catholic Church,* 2nd ed. (Washington, DC: Libreria Editrice Vaticana–United States Conference of Catholic Bishops, 2000), no. 2211.
8. Pope John Paul II, *On Social Concern, Encyclical Letter on the Occasion of the Twentieth Anniversary of "Populorum Progressio"* (*Sollicitudo Rei Socialis*) (Washington, DC: United States Conference of Catholic Bishops, 1988), no. 43.
9. United States Conference of Catholic Bishops, *Economic Justice for All: Pastoral Letter on Catholic Social Teaching and the U.S. Economy* (Washington, DC: United States Conference of Catholic Bishops, 1986), no. 80.
10. The duty of responsible stewardship demands responsible collaboration. But in collaborative efforts, Catholic institutionally based health care services must be attentive to occasions when the policies and practices of other institutions are not compatible with the Church's authoritative moral teaching. At such times, Catholic health care institutions should determine whether or to what degree collaboration would be morally permissible. To make that judgment, the governing boards of Catholic institutions should adhere to the moral principles on cooperation. See Part Six.
11. *Health and Health Care,* p. 12.
12. Cf. *Code of Canon Law,* cc. 921-923.
13. Cf. ibid., c. 867, § 2, and c. 871.
14. To confer Baptism in an emergency, one must have the proper intention (to do what the Church intends by Baptism) and pour water on the head of the person to be baptized, meanwhile pronouncing the words: "I baptize you in the name of the Father, and of the Son, and of the

Holy Spirit."

15. Cf. c. 883, 3º.
16. For example, while the donation of a kidney represents loss of biological integrity, such a donation does not compromise functional integrity since human beings are capable of functioning with only one kidney.
17. Cf. directive 53.
18. *Declaration on Euthanasia,* Part IV; cf. also directives 56-57.
19. It is recommended that a sexually assaulted woman be advised of the ethical restrictions that prevent Catholic hospitals from using abortifacient procedures; cf. Pennsylvania Catholic Conference, "Guidelines for Catholic Hospitals Treating Victims of Sexual Assault," *Origins* 22 (1993): 810.
20. Pope John Paul II, "Address of October 29, 1983, to the 35th General Assembly of the World Medical Association," *Acta Apostolicae Sedis* 76 (1984): 390.
21. Second Vatican Ecumenical Council, *Pastoral Constitution on the Church in the Modern World* (*Gaudium et Spes*) (1965), no. 49.
22. Ibid., no. 50.
23. Pope Paul VI, Encyclical Letter *On the Regulation of Birth* (*Humanae Vitae*) (Washington, DC: United States Conference of Catholic Bishops, 1968), no. 14.
24. Ibid., no. 12.
25. Pope John XXIII, Encyclical Letter *Mater et Magistra* (1961), no. 193, quoted in Congregation for the Doctrine of the Faith, *Donum Vitae,* no. 4.
26. Pope John Paul II, Encyclical Letter *The Splendor of Truth* (*Veritatis Splendor*) (Washington, DC: United States Conference of Catholic Bishops, 1993), no. 50.
27. "Homologous artificial insemination within marriage cannot be admitted except for those cases in which the technical means is not a substitute for the conjugal act but serves to facilitate and to help so that the act attains its natural purpose" (*Donum Vitae,* Part II, B, no. 6; cf. also Part I, nos. 1, 6).
28. Ibid., Part II, A, no. 2.
29. "Artificial insemination as a substitute for the conjugal act is prohibited by reason of the voluntarily achieved dissociation of the two meanings of the conjugal act. Masturbation, through which the sperm is normally obtained, is another sign of this dissociation: even when it is done for the purpose of procreation, the act remains deprived of its unitive meaning: 'It lacks the sexual relationship called for by the moral order, namely, the relationship which realizes "the full sense of mutual self-giving and human procreation in the context of true love"' " (*Donum Vitae,* Part II, B, no. 6).
30. Ibid., Part II, A, no. 3.
31. Cf. directive 45.
32. *Donum Vitae,* Part I, no. 2.
33. Cf. ibid., no. 4. (Washington, DC: United States Conference of Catholic Bishops, 1988), no. 43.
34. Cf. Congregation for the Doctrine of the Faith, "Responses on Uterine Isolation and Related Matters," July 31, 1993, *Origins* 24 (1994): 211-212.
35. Pope John Paul II, Apostolic Letter *On the Christian Meaning of Human Suffering* (*Salvifici Doloris*) (Washington, DC: United States Conference of Catholic Bishops, 1984), nos. 25-27.

36. United States Conference of Catholic Bishops, *Order of Christian Funerals* (Collegeville, Minn.: The Liturgical Press, 1989), no. 1.
37. See *Declaration on Euthanasia.*
38. Ibid., Part II.
39. Ibid., Part IV; Pope John Paul II, Encyclical Letter *On the Value and Inviolability of Human Life* (*Evangelium Vitae*) (Washington, DC: United States Conference of Catholic Bishops, 1995), no. 65.
40. See Pope John Paul II, Address to the Participants in the International Congress on "Life-Sustaining Treatments and Vegetative State: Scientific Advances and Ethical Dilemmas" (March 20, 2004), no. 4, where he emphasized that "the administration of water and food, even when provided by artificial means, always represents a *natural means* of preserving life, not a *medical act*." See also Congregation for the Doctrine of the Faith, "Responses to Certain Questions of the United States Conference of Catholic Bishops Concerning Artificial Nutrition and Hydration" (August 1, 2007).
41. Congregation for the Doctrine of the Faith, Commentary on "Responses to Certain Questions of the United States Conference of Catholic Bishops Concerning Artificial Nutrition and Hydration."
42. See *Declaration on Euthanasia*, Part IV.
43. *Donum Vitae,* Part I, no. 4.
44. See: Congregation for the Doctrine of the Faith, "Some Principles for Collaboration with non-Catholic Entities in the Provision of Healthcare Services," published in *The National Catholic Bioethics Quarterly* (Summer 2014), 337-40.
45. Pope John Paul II, *Veritatis Splendor*, no. 13.
46. Pope John Paul II, *Evangelium Vitae*, no. 74.
47. *Catechism of the Catholic Church*, no. 2284.
48. While there are many acts of varying moral gravity that can be identified as intrinsically evil, in the context of contemporary health care the most pressing concerns are currently abortion, euthanasia, assisted suicide, and direct sterilization. See Pope John Paul II's Ad Limina Address to the bishops of Texas, Oklahoma, and Arkansas (Region X), in *Origins* 28 (1998): 283. See also "Reply of the Sacred Congregation for the Doctrine of the Faith on Sterilization in Catholic Hospitals" (*Quaecumque Sterilizatio*), March 13, 1975, Origins 6 (1976): 33-35: "Any cooperation institutionally approved or tolerated in actions which are in themselves, that is, by their nature and condition, directed to a contraceptive end . . . is absolutely forbidden. For the official approbation of direct sterilization and, a fortiori, its management and execution in accord with hospital regulations, is a matter which, in the objective order, is by its very nature (or intrinsically) evil." This directive supersedes the "Commentary on the Reply of the Sacred Congregation for the Doctrine of the Faith on Sterilization in Catholic Hospitals" published by the National Conference of Catholic Bishops on September 15, 1977, in *Origins* 7 (1977): 399-400.
49. See *Catechism of the Catholic Church*: "Anyone who uses the power at his disposal in such a way that it leads others to do wrong becomes guilty of scandal and responsible for the evil that he has directly or indirectly encouraged" (no. 2287).

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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

LAURENCE KAPLAN, on behalf of himself, individually, and on behalf of all others similarly situated, Plaintiff, v. SAINT PETER'S HEALTHCARE SYSTEM, RETIREMENT PLAN COMMITTEE FOR THE SAINT PETER'S HEALTHCARE SYSTEM RETIREMENT PLAN, LESLIE D. HIRSCH, an individual, PAMELA TEUFEL, an individual, GARRICK STOLDT, an individual, LISA DRUMBORE, an individual, RONALD C. RAK, an individual, SUSAN BALLESTERO, an individual, and JOHN and JANE DOES, each an individual, 1-20, Defendants.	:	Civil Action No. 13-2941 (MAS)(TJB) Honorable Michael A. Shipp United States District Judge **CERTIFICATION OF <u>MONSIGNOR JOHN FELL</u>** (Electronically Filed Document)

Monsignor John Fell hereby certifies as follows:

1. I am currently the Episcopal Vicar for the Healthcare Apostolate for the Diocese of Metuchen. I submit this Certification in support of defendants' motion to dismiss the Amended Complaint to address issues raised with respect to

the relationship between the Roman Catholic Church (the "Church") and Saint Peter's Healthcare System ("Saint Peter's").

2. I have been a priest of the Church for thirty years. In addition, I obtained a Doctorate in Sacred Theology (specifically Moral Theology) from the Accademia Alfonsiana in Rome in 2002, with my dissertation in the area of biomedical ethics.

3. I began my formal relationship with Saint Peter's in 1989 when I was appointed by the Most Reverend Edward Hughes, who was the Bishop of Metuchen at that time, to the Ethics Committee and Infant Bioethics Committee of Saint Peter's University Hospital (the "Hospital"). I was subsequently appointed to the Board of Trustees for the Hospital in 1990, and continued to serve in these positions until 1998 when I started work on my Doctorate. Upon finishing my Doctorate in 2002, I rejoined these roles at the Hospital.

4. I currently serve on the Board of Governors for Saint Peter's, the Board of Trustees for the Hospital, the Ethics Committee, the Infant Bioethics Committee, the Investment Committee, and the Retirement Plan Committee.

5. On March 1, 2010, the Most Reverend Paul G. Bootkoski, the then Bishop of Metuchen, appointed me as Episcopal Vicar for the Healthcare Apostolate for the Diocese of Metuchen ("Episcopal Vicar") for a three year term, which he subsequently extended until December 31, 2015, and which was further

extended by The Most Reverend James F. Checchio, the current Bishop of Metuchen, until December 31, 2019. A true copy of my appointment letter is attached hereto as Exhibit A. As set forth more fully below, my primary role as Episcopal Vicar is to act as the Bishop's liaison to ensure that Saint Peter's retains its Catholic identity and conforms to the Church's core tenets and values. Accordingly, I am directly and personally responsible, under the Bishop, for the Church's oversight of Saint Peter's and the Retirement Plan Committee, of which I am a member, and their adherence to Catholic tenets.

Background of the Diocese of Metuchen and Saint Peter's

6. In 1981, Pope John Paul II established the Diocese of Metuchen (the "Diocese"). The four counties that currently make up the Diocese were previously part of the Diocese of Trenton. Like other diocesan bishops, the Bishop of Metuchen reports directly to the Holy See and is subject to the direct authority of the Holy See.

7. The Diocese is a public juridic person under Roman Catholic Canon Law, meaning that it operates as an entity of the Church and exists to carry out the mission of the Church. *See Codex Iuris Canonici*, Code c.113 § 2, c.114 § 1 (1983). All of the assets and property of the Diocese are considered ecclesiastical property owned by the Church. Accordingly, certain property transactions that exceed a pre-approved amount must be approved by the Holy See. Code c. 1292.

8. Since inception, Saint Peter's has been governed by the Church. The Diocese of Trenton founded and incorporated Saint Peter's in 1907 and 1908, and religious orders, including the Grey Nuns of Montreal and the Sister of St. Joseph of Peace, were historically involved with staffing at Saint Peter's.

9. To advance the Church's health ministries, the Diocese is the current sponsor of Saint Peter's. Saint Peter's is incorporated as a nonprofit corporation under the New Jersey Nonprofit Corporation Law, N.J.S.A. 15A:1-1 *et seq*., with the Bishop as the sole member of the corporation. Using his authority under Canon Law, and his authority as sole member of Saint Peter's, the Bishop controls all aspects of Saint Peter's performance of its mission to deliver health care to the community in accord with the teachings of the Church.

10. On July 7, 2010, the Bishop issued a Decree that "establish[ed] as particular law for the Diocese of Metuchen the Fifth Edition of the United States Conference of Catholic Bishops' *Ethical and Religious Directives for Catholic Health Care Services*." A true copy of the Bishop's Decree, dated July 7, 2010, is attached hereto as Exhibit B, and a true copy of the Ethical and Religious Directives for Catholic Health Care Services (the "ERDs") is attached to the Certification of Garrick Stoldt (the "*Stoldt Cert*."), as Exhibit L.

11. The ERDs are promulgated by the U.S. Conference of Catholic Bishops and provide both a reaffirmation of "the ethical standards of behavior in

health care that flow from the Church's teaching about the dignity of the human person" and "authoritative guidance on certain moral issues that face Catholic health care today." (*Stoldt Cert*., Exhibit L, at 4). As a result of the Bishop's Decree, all Catholic health care institutions within the Diocese, including Saint Peter's, are required to abide by the ERDs as Church law.

Saint Peter's Catholic Identity

12. The Catholic identity of Saint Peter's is evident in both the management of Saint Peter's and in the day-to-day operations of Saint Peter's.

13. As detailed in the Certification of Garrick Stoldt, the sole member of Saint Peter's is the Bishop of the Diocese of Metuchen, and the Bylaws of Saint Peter's provide for the appointment of an Episcopal Vicar to the Board of Governors by the Bishop. As noted in my appointment letter, the Episcopal Vicar receives the Bishop's mandate "to act as [his] liaison with [Saint Peter's], serving on its Board of Trustees [now its Board of Governors] and having primary responsibility for insuring the System's Catholic identity and its conformity with the Church's mission and core values." (*See* Exhibit A.)

14. The purpose of the Episcopal Vicar position is therefore to act as an agent through whom the Bishop exercises his authority over Saint Peter's and to assure that Saint Peter's operates in accord with Catholic doctrine. While I discuss matters of importance to Saint Peter's with the Bishop when appropriate, the

Bishop remains directly involved with Saint Peter's and communicates regularly with the management of Saint Peter's.

15. In accord with my mandate from the Bishop, I regularly attend and participate in meetings of the Saint Peter's Board of Governors, the Hospital's Board of Trustees, and the Retirement Plan Committee, and advise Saint Peter's and the Retirement Plan Committee in matters related to the adherence to the ERDs.

16. I am also an active member of the Ethics Committee and the Infant Bioethics Committee. These two committees meet regularly to ensure compliance with the ERDs. The Ethics Committee maintains a hotline that allows anyone to report a perceived violation of the ERDs at Saint Peter's. During Ethics Committee meetings, we discuss any reports to the hotline and determine the appropriate response. The ethics committees continually review and revise the policies at Saint Peter's to ensure compliance with the ERDs. I have also provided a monthly class to the medical residents at Saint Peter's on ethical teachings.

17. Thus, it is directly through my position as Episcopal Vicar that I ensure that the management of Saint Peter's complies with the ERDs of the Church and retains its Catholic identity.

18. The Catholic identity of Saint Peter's is immediately visible upon a visit to the Hospital. Catholic symbolism is present throughout the Hospital,

including religious statues and pictures. Crucifixes are also hung in many, if not all, of the rooms.

19. The logo of Saint Peter's contains a cross, thereby further reflecting the Catholic identity of Saint Peter's:

SAINT PETER'S HEALTHCARE SYSTEM

The logo is contained on the Saint Peter's letterhead and website and is prominently displayed outside of and throughout the Hospital.

20. Saint Peter's also provides many Church services for its patients. We offer daily Mass, meditation facilities, and prayer leadership, and provide opportunities for patients to receive the sacrament of reconciliation and the anointing of the sick.

21. We also offer religious celebrations during Mass. In addition to celebrating Catholic Holy Days, we routinely celebrate individuals who are part of the Saint Peter's community during Mass. For example, we hold Mass in honor of our volunteers, veterans, and employees who have reached certain milestone anniversaries in their employment with Saint Peter's.

22. Every morning there is a prayer broadcast over the public address system at the Hospital.

23. Saint Peter's also has a Pastoral Care Department that works to ensure that the patients of Saint Peter's have access to spiritual care, regardless of faith. This department coordinates clergy visits from various faiths in addition to ensuring that Catholic clergy and Eucharistic ministers are available to meet the needs of Catholic patients, including the provision of the sacraments of the sick and reconciliation and the arrangement of daily Mass at the Hospital. In keeping with the ERDs, the Director of the Pastoral Care Department, recently retired, but working part-time, is Catholic. (*Stoldt Cert*., Exhibit L, Directive 22.) We are currently searching for a new full-time director.

24. I am also a voting member of the Saint Peter's Retirement Plan Committee. All meetings of the Retirement Plan Committee begin with a prayer. Among other things, my responsibilities include representing the Bishop to make sure Catholic guidelines are following, including the ERDs and the U.S. Conference of Catholic Bishops' Socially Responsible Investment Guidelines.

25. Saint Peter's also remains financially accountable to the Diocese and to the Church. Like most Catholic institutions, if Saint Peter's seeks to engage in an alienation of property above a certain threshold (currently $7 million), Saint Peter's must obtain permission from the Vatican prior to proceeding with that transaction.

26. I understand that the plaintiff in this case makes certain assertions regarding practices at Saint Peter's that he believes are in contradiction to the teachings of the Church. While the Certification of Garrick Stoldt provides a more detailed response to these claims, I would like to emphasize a few points that relate to the Church's teachings.

27. First, I understand that the plaintiff suggests that Saint Peter's engages in practices that are in contradiction to the teachings of the Church by lacking any denominational requirement for its patients or clients, encouraging its patients to seek spiritual guidance in accordance with their own religious practices, and providing non-denominational chapels. On the contrary, the pastoral care of all, regardless of religion, is part of the healthcare ministry of the Church.

28. The ERDs specifically provide that a "Catholic institutional health care service is a community that provides health care to those in need of it." (*Id*., Directive 1.) The ERDs also provide that "[a] Catholic health care organization should provide pastoral care to minister to the religious and spiritual needs of all those it serves," and that "[a]ppropriate pastoral services and/or referrals should be available to all in keeping with their religious beliefs or affiliation." (*Id*., Directives 10 & 11.) The comfort and the healing of the patients are the foremost priorities of Saint Peter's, and thus, the patients should be allowed to practice their own faith while in the care of Saint Peter's.

29. Second, I also understand that the plaintiff in this case suggests that the practice of Saint Peter's to hire employees without regard to religion is also somehow contrary to the teachings of the Church. This too is not correct. The ERDs instruct us that "[a] Catholic health care institution must treat its employees respectfully and justly. This responsibility includes: equal employment opportunities for anyone qualified for the task . . . . " (*Id*., Directive 7.) This is in keeping with the Church's social teachings, which also provide that discrimination in job opportunities should never be tolerated. *See* United States Conference of Catholic Bishops, Economic Justice for All: Pastoral Letter on Catholic Social Teaching and the U.S. Economy (1986), at 17, a true copy of which is attached hereto as Exhibit C. Similarly, with the exception of a few positions that are required to be filled by Catholics, the Diocese also does not discriminate on the basis of religion in its hiring of employees.

30. Finally, I understand that the plaintiff criticizes Saint Peter's for its collaborations with Drexel University, Children's Hospital of Philadelphia, Rutgers Biomedical and Health Sciences, and Kean University. However, as noted in the Certification of Garrick Stoldt, the ERDs specifically contemplate such partnerships and discuss the potential for benefits from such partnerships, including the furtherance of the Catholic health care mission to care for the sick and greater opportunities for the Church's health institutions to influence the

profession. (*Stoldt Cert.*, Exhibit L, at 23.) Moreover, I was involved in monitoring the relationship with Drexel University, which terminated on June 30, 2014, and remain involved in monitoring our relationships with Children's Hospital of Philadelphia, Rutgers Biomedical and Health Sciences, and Kean University to ensure compliance with the ERDs.

31. In light of the above, plaintiff's assertions regarding Saint Peter's adherence to the Church's doctrine are incorrect. Saint Peter's follows the ERDs, and in doing so, advances the Catholic faith and its healing ministry.

I certify under penalty of perjury that the foregoing is true and correct.

Executed on September 7, 2018.

MONSIGNOR JOHN FELL

EXHIBIT A

DIOCESE OF METUCHEN

Office of the Bishop

March 1, 2010

Very Rev. John N. Fell, STD
Our Lady of Perpetual Help Parish
111 Claremont Road
Bernardsville, NJ 07924

Dear Father Fell,

Throughout his public ministry, the Lord Jesus displayed particular compassion for those who were infirm, so that "all who had people sick with various diseases brought them to him" (Lk 6:40). Among the most urgent and complex challenges facing the Church in our time is maintaining the stability and vitality of our Catholic institutions dedicated to being instruments of the Lord's care for the sick.

The faithful in the Diocese of Metuchen who bear the burdens of illness are especially fortunate to be served by the various divisions of St. Peter's Healthcare System, Inc., which faces the same difficulties confronting so many health care institutions. In order to affirm my particular concern and support for St. Peter's mission, and for all those institutions in the Diocese involved in health services, I am pleased hereby to appoint you Episcopal Vicar for the Health Care Apostolate, effective immediately and for a term ending on December 31, 2012.

As Episcopal Vicar for the Health Care Apostolate, you have my mandate:

- to act as my liaison with St. Peter's Healthcare System, Inc., serving on its Board of Trustees and having primary responsibility for insuring the System's Catholic identity and its conformity with the Church's mission and core values;

- to act as my liaison in matters involving other health care providers serving the faithful of the Diocese; and

- to provide spiritual leadership for the Physicians Guild.

The Church's law specifies that episcopal vicars are to inform the diocesan bishop on "the principal matters" in which they are concerned and are not to act contrary to the bishop's "will and mind" (c. 480).

At your convenience, I ask that you make the required profession of faith in the presence of the vicar general, the chancellor, or the vice-chancellor (c. 833, 5°).

Finally, for as long as you serve as my vicar, I extend to you the privilege of the title "Very Reverend."

With my heartfelt gratitude for assuming these new responsibilities, and with the assurance of my prayers for the success of your important work, I remain

Sincerely in the Lord,

+Paul G. Bootkoski

Most Rev. Paul G. Bootkoski
Bishop of Metuchen

C: Marianne Majewski, LCSW
Ronald C. Rak, Esq.
Jennifer Ruggiero

EXHIBIT B

DECREE

Mindful of my responsibilities as diocesan bishop to safeguard the integrity and unity of the truths of the faith, moral principals, and ecclesiastical discipline in the works of the apostolate pertaining to health care (CIC, cc. 392, 394, 678, 747), with this decree I hereby establish as particular law for the Diocese of Metuchen the Fifth Edition of the United States Conference of Catholic Bishops' *Ethical and Religious Directives for Catholic Health Care Services (Ethical and Religious Directives)*.

The manner of promulgating this decree shall be the publication of the *Ethical and Religious Directives* on the diocesan website. Reference to this decree and to the availability of the *Ethical and Religious Directives* is to be made in the diocesan newspaper, the *Catholic Spirit*.

Finally, I direct that this decree and a copy of the *Ethical and Religious Directives* be delivered to the chief executive officers of all Catholic health care institutions currently operating in the Diocese of Metuchen and any that are established in the Diocese subsequent to this decree and until this decree is no longer in effect.

Given at the Curia of the Diocese of Metuchen, on this seventh day of July, in the Year of Our Lord 2010.

Most Reverend Paul G. Bootkoski, D.D.
Bishop of Metuchen

Notary

EXHIBIT C

Economic Justice for All:

Pastoral Letter on Catholic Social Teaching and the U.S. Economy

1986

United States Catholic Bishops

In November 1986, the National Conference of Catholic Bishops adopted *Economic Justice for All: Catholic Social Teaching and the U.S. Economy*. To mark the document's tenth anniversary, the U.S. Catholic bishops have issued two documents. *A Decade After "Economic Justice for All": Continuing Principles, Changing Context, New Challenges,* which was approved in November 1995, is a pastoral reflection applying the message of *Economic Justice for All* to the economy of the '90s. *A Catholic Framework for Economic Life*, which was approved in November 1996, outlines ten key principles of Catholic social teaching on the economy.

This anniversary publication, which includes all three documents as well as updated suggestions for action, is authorized by the undersigned.

Monsignor Dennis M. Schnurr
General Secretary
NCCB/USCC
(1997)

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A Pastoral Message
Economic Justice for All

Brothers and Sisters in Christ:

1. We are believers called to follow our Lord Jesus Christ and proclaim his Gospel in the midst of a complex and powerful economy. This reality poses both opportunities and responsibilities for Catholics in the United States. Our faith calls us to measure this economy not only by what it produces, but also by how it touches human life and whether it protects or undermines the dignity of the human person. Economic decisions have human consequences and moral content; they help or hurt people, strengthen or weaken family life, advance or diminish the quality of justice in our land.

2. This is why we have written *Economic Justice for All: A Pastoral Letter on Catholic Social Teaching and the U.S. Economy*. This letter is a personal invitation to Catholics to use the resources of our faith, the strength of our economy, and the opportunities of our democracy to shape a society that better protects the dignity and basic rights of our sisters and brothers, both in this land and around the world.

3. The pastoral letter has been a work of careful inquiry, wide consultation, and prayerful discernment. The letter has been greatly enriched by this process of listening and refinement. We offer this introductory pastoral message to Catholics in the United States seeking to live their faith in the marketplace—in homes, offices, factories, and schools; on farms and ranches; in board rooms and union halls; in service agencies and legislative chambers. We seek to explain why we wrote the pastoral letter, to introduce its major themes, and to share our hopes for the dialogue and action it might generate.

Why We Write

4. We write to share our teaching, to raise questions, to challenge one another to live our faith in the world. We write as heirs of the biblical prophets who summon us "to do the right and to love goodness, and to walk humbly with your God" (Mi 6:8). We write as followers of Jesus who told us in the Sermon on the Mount: "Blessed are the poor in spirit.... Blessed are the meek.... Blessed are they who hunger and thirst for righteousness.... You are the salt of the earth.... You are the light of the world" (Mt 5:1-6, 13-14). These words challenge us not only as believers, but also as consumers, citizens, workers, and owners. In the parable of the Last Judgment, Jesus said, "For I was hungry and you gave me food, I was thirsty and you gave me drink.... As often as you did it for one of my least brothers, you did it for me" (Mt 25:35-40). The challenge for us is to discover in our own place and time what it means to be "poor in spirit" and "the salt of the earth" and what it means to serve "the least among us" and to "hunger and thirst for righteousness."

5. Followers of Christ must avoid a tragic separation between faith and everyday life. They can neither shirk their earthly duties nor, as the Second Vatican Council declared, "immerse [them]selves in earthly activities as if these latter were utterly foreign to religion, and religion were nothing more than the fulfillment of acts of worship and the observance of a few moral obligations" (*Pastoral Constitution on the Church in the Modern World*, no. 43).

6. Economic life raises important social and moral questions for each of us and for society as a whole. Like family life, economic life is one of the chief areas where we live out our faith, love our

neighbor, confront temptation, fulfill God's creative design, and achieve our holiness. Our economic activity in factory, field, office, or shop feeds our families—or feeds our anxieties. It exercises our talents—or wastes them. It raises our hopes—or crushes them. It brings us into cooperation with others—or sets us at odds. The Second Vatican Council instructs us "to preach the message of Christ in such a way that the light of the Gospel will shine on all activities of the faithful" (*Pastoral Constitution*, no. 43). In this case, we are trying to look at economic life through the eyes of faith, applying traditional church teaching to the U.S. economy.

7. In our letter, we write as pastors, not public officials. We speak as moral teachers, not economic technicians. We seek not to make some political or ideological point but to lift up the human and ethical dimensions of economic life, aspects too often neglected in public discussion. We bring to this task a dual heritage of Catholic social teaching and traditional American values.

8. As *Catholics*, we are heirs of a long tradition of thought and action on the moral dimensions of economic activity. The life and words of Jesus and the teaching of his Church call us to serve those in need and to work actively for social and economic justice. As a community of believers, we know that our faith is tested by the quality of justice among us, that we can best measure our life together by how the poor and the vulnerable are treated. This is not a new concern for us. It is as old as the Hebrew prophets, as compelling as the Sermon on the Mount, and as current as the powerful voice of Pope John Paul II defending the dignity of the human person.

9. As *Americans*, we are grateful for the gift of freedom and committed to the dream of "liberty and justice for all." This nation, blessed with extraordinary resources, has provided an unprecedented standard of living for millions of people. We are proud of the strength, productivity, and creativity of our economy, but we also remember those who have been left behind in our progress. We believe that we honor our history best by working for the day when all our sisters and brothers share adequately in the American dream.

10. As bishops, in proclaiming the Gospel for these times we also manage institutions, balance budgets, and meet payrolls. In this we see the human face of our economy. We feel the hurts and hopes of our people. We feel the pain of our sisters and brothers who are poor, unemployed, homeless, living on the edge. The poor and vulnerable are on our doorsteps, in our parishes, in our service agencies, and in our shelters. We see too much hunger and injustice, too much suffering and despair, both in our own country and around the world.

11. As pastors, we also see the decency, generosity and vulnerability of our people. We see the struggles of ordinary families to make ends meet and provide a better future for their children. We know the desire of managers, professionals, and business people to shape what they do by what they believe. It is the faith, good will, and generosity of our people that gives us hope as we write this letter.

Principal Themes of the Pastoral Letter

12. The pastoral letter is not a blueprint for the American economy. It does not embrace any particular theory of how the economy works nor does it attempt to resolve the disputes between different schools of economic thought. Instead our letter turns to Scripture and to the social teachings of the Church. There, we discover what our economic life must serve, what standards it must meet. Let us examine some of these basic moral principles.

13. *Every economic decision and institution must be judged in light of whether it protects or undermines the dignity of the human person.* The pastoral letter begins with the human person. We believe the person is sacred—the clearest reflection of God among us. Human dignity comes from God, not from nationality, race, sex, economic status, or any human accomplishment. We judge any economic system by what it does for and to people and by how it permits all to participate in it. The economy should serve people, not the other way around.

14. *Human dignity can be realized and protected only in community*. In our teaching, the human person is not only sacred but also social. How we organize our society—in economics and politics, in law and policy—directly affects human dignity and the capacity of individuals to grow in community. The obligation to "love our neighbor" has an individual dimension, but it also requires a broader social commitment to the common good. We have many partial ways to measure and debate the health of our economy: Gross National Product, per capita income, stock market prices, and so forth. The Christian vision of economic life looks beyond them all and asks, Does economic life enhance or threaten our life together as a community?

15. *All people have a right to participate in the economic life of society*. Basic justice demands that people be assured a minimum level of participation in the economy. It is wrong for a person or group to be excluded unfairly or to be unable to participate or contribute to the economy. For example, people who are both able and willing, but cannot get a job are deprived of the participation that is so vital to human development. For, it is through employment that most individuals and families meet their material needs, exercise their talents, and have an opportunity to contribute to the larger community. Such participation has special significance in our tradition because we believe that it is a means by which we join in carrying forward God's creative activity.

16. *All members of society have a special obligation to the poor and vulnerable*. From the Scriptures and church teaching we learn that the justice of a society is tested by the treatment of the poor. The justice that was the sign of God's covenant with Israel was measured by how the poor and unprotected—the widow, the orphan, and the stranger—were treated. The kingdom that Jesus proclaimed in his word and ministry excludes no one. Throughout Israel's history and in early Christianity, the poor are agents of God's transforming power. "The Spirit of the Lord is upon me, therefore he has anointed me. He has sent me to bring glad tidings to the poor" (Lk 4:18). This was Jesus' first public utterance. Jesus takes the side of those most in need. In the Last Judgment, so dramatically described in St. Matthew's Gospel, we are told that we will be judged according to how we respond to the hungry, the thirsty, the naked, the stranger. As followers of Christ, we are challenged to make a fundamental "option for the poor"—to speak for the voiceless, to defend the defenseless, to assess life styles, policies, and social institutions in terms of their impact on the poor. This "option for the poor" does not mean pitting one group against another, but rather, strengthening the whole community by assisting those who are most vulnerable. As Christians, we are called to respond to the needs of *all* our brothers and sisters, but those with the greatest needs require the greatest response.

17. *Human rights are the minimum conditions for life in community*. In Catholic teaching, human rights include not only civil and political rights but also economic rights. As Pope John XXIII declared, “all people have a right to life, food, clothing, shelter, rest, medical care, education, and employment.” This means that when people are without a chance to earn a living, and must go hungry and homeless, they are being denied basic rights. Society must ensure that these rights are protected. In this way we will ensure that the minimum conditions of economic justice are met for all our sisters and brothers.

18. *Society as a whole, acting through public and private institutions, has the moral responsibility to enhance human dignity and protect human rights*. In addition to the clear responsibility of private institutions, government has an essential responsibility in this area. This does not mean that government has the primary or exclusive role, but it does have a positive moral responsibility in safeguarding human rights and ensuring that the minimum conditions of human dignity are met for all. In a democracy, government is a means by which we can act together to protect what is important to us and to promote our common values.

19. These six moral principles are not the only ones presented in the pastoral letter, but they give an overview of the moral vision that we are trying to share. This vision of economic life cannot exist in a vacuum; it must be translated into concrete measures. Our pastoral letter spells out some specific applications of Catholic moral principles. We call for a new national commitment to full employment. We say it is a social and moral scandal that one of every seven Americans is poor, and we call for concerted efforts to eradicate poverty. The fulfillment of the basic needs of the poor is of the highest priority. We urge that all economic policies be evaluated in light of their impact on the life and stability of the family. We support measures to halt the loss of family farms and to resist the growing concentration in the ownership of agricultural resources. We specify ways in which the United States can do far more to relieve the plight of poor nations and assist in their development. We also reaffirm church teaching on the rights of workers, collective bargaining, private property, subsidiarity, and equal opportunity.

20. We believe that the recommendations in our letter are reasonable and balanced. In analyzing the economy, we reject ideological extremes and start from the fact that ours is a "mixed" economy, the product of a long history of reform and adjustment. We know that some of our specific recommendations are controversial. As bishops, we do not claim to make these prudential judgments with the same kind of authority that marks our declarations of principle. But we feel obliged to teach by example how Christians can undertake concrete analysis and make specific judgments on economic issues. The church's teachings cannot be left at the level of appealing generalities.

21. In the pastoral letter we suggest that the time has come for a "New American Experiment"—to implement economic rights, to broaden the sharing of economic power, and to make economic decisions more accountable to the common good. This new experiment can create new structures of economic partnership and participation within firms at the regional level, for the whole nation, and across borders.

22. Of course, there are many aspects of the economy the letter does not touch, and there are basic questions it leaves to further exploration. There are also many specific points on which men and women of good will may disagree. We look for a fruitful exchange among differing viewpoints. We pray only that all will take to heart the urgency of our concerns; that together we will test our views by the Gospel and the Church's teaching; and that we will listen to other voices in a spirit of mutual respect and open dialogue.

A Call to Conversion and Action

23. We should not be surprised if we find Catholic social teaching to be demanding. The Gospel is demanding. We are always in need of conversion, of a change of heart. We are richly blessed, and as St. Paul assures us, we are destined for glory. Yet it is also true that we are sinners; that we are not always wise or loving or just; that, for all our amazing possibilities, we are

incompletely born, wary of life, and hemmed in by fears and empty routines. We are unable to entrust ourselves fully to the living God, and so we seek substitute forms of security: in material things, in power, in indifference, in popularity, in pleasure. The Scriptures warn us that these things can become forms of idolatry. We know that, at times, in order to remain truly a community of Jesus' disciples, we will have to say "no" to certain aspects in our culture, to certain trends and ways of acting that are opposed to a life of faith, love, and justice. Changes in our hearts lead naturally to a desire to change how we act. With what care, human kindness, and justice do I conduct myself at work? How will my economic decisions to buy, sell, invest, divest, hire, or fire serve human dignity and the common good? In what career can I best exercise my talents so as to fill the world with the Spirit of Christ? How do my economic choices contribute to the strength of my family and community, to the values of my children, to a sensitivity to those in need? In this consumer society, how can I develop a healthy detachment from things and avoid the temptation to assess who I am by what I have? How do I strike a balance between labor and leisure that enlarges my capacity for friendships, for family life, for community? What government policies should I support to attain the well-being of all, especially the poor and vulnerable?

24. The answers to such questions are not always clear—or easy to live out. But, conversion is a lifelong process. And, it is not undertaken alone. It occurs with the support of the whole believing community, through baptism, common prayer, and our daily efforts, large and small, on behalf of justice. As a Church, we must be people after God's own heart, bonded by the Spirit, sustaining one another in love, setting our hearts on God's kingdom, committing ourselves to solidarity with those who suffer, working for peace and justice, acting as a sign of Christ's love and justice in the world. The Church cannot redeem the world from the deadening effects of sin and injustice unless it is working to remove sin and injustice in its own life and institutions. All of us must help the Church to practice in its own life what it preaches to others about economic justice and cooperation.

25. The challenge of this pastoral letter is not merely to think differently, but also to act differently. A renewal of economic life depends on the conscious choices and commitments of individual believers who practice their faith in the world. The road to holiness for most of us lies in our secular vocations. We need a spirituality which calls forth and supports lay initiative and witness not just in our churches but also in business, in the labor movement, in the professions, in education, and in public life. Our faith is not just a weekend obligation, a mystery to be celebrated around the altar on Sunday. It is a pervasive reality to be practiced every day in homes, offices, factories, schools, and businesses across our land. We cannot separate what we believe from how we act in the marketplace and the broader community, for this is where we make our primary contribution to the pursuit of economic justice.

26. We ask each of you to read the pastoral letter, to study it, to pray about it, and match it with your own experience. We ask you to join with us in service to those in need. Let us reach out personally to the hungry and the homeless, to the poor and the powerless, and to the troubled and the vulnerable. In serving them, we serve Christ. Our service efforts cannot substitute for just and compassionate public policies, but they can help us practice what we preach about human life and human dignity.

27. The pursuit of economic justice takes believers into the public arena, testing the policies of government by the principles of our teaching. We ask you to become more informed and active citizens, using your voices and votes to speak for the voiceless, to defend the poor and the vulnerable, and to advance the common good. We are called to shape a constituency of conscience,

measuring every policy by how it touches the least, the lost, and the left-out among us. This letter calls us to conversion and common action, to new forms of stewardship, service, and citizenship.

28. The completion of a letter such as this is but the beginning of a long process of education, discussion, and action. By faith and baptism, we are fashioned into new creatures, filled with the Holy Spirit and with a love that compels us to seek out a new profound relationship with God, with the human family, and with all created things. Jesus has entered our history as God's anointed son who announces the coming of God's kingdom, a kingdom of justice and peace and freedom. And, what Jesus proclaims, he embodies in his actions. His ministry reveals that the reign of God is something more powerful than evil, injustice, and the hardness of hearts. Through his crucifixion and resurrection, he reveals that God's love is ultimately victorious over all suffering, all horror, all meaninglessness, and even over the mystery of death. Thus, we proclaim words of hope and assurance to all who suffer and are in need.

29. We believe that the Christian view of life, including economic life, can transform the lives of individuals, families, schools, and our whole culture. We believe that with your prayers, reflection, service, and action, our economy can be shaped so that human dignity prospers and the human person is served. This is the unfinished work of our nation. This is the challenge of our faith.

CHAPTER 1

THE CHURCH AND THE FUTURE OF THE U.S. ECONOMY

1. Every perspective on economic life that is human, moral, and Christian must be shaped by three questions: What does the economy do *for* people? What does it do *to* people? And how do people *participate* in it? The economy is a human reality: men and women working together to develop and care for the whole of God's creation. All this work must serve the material and spiritual well-being of people. It influences what people hope for themselves and their loved ones. It affects the way they act together in society. It influences their very faith in God.(1)

2. The Second Vatican Council declared that "the joys and hopes, the griefs and anxieties of the people of this age, especially those who are poor or in any way afflicted, these too are the joys and hopes, the griefs and anxieties of the followers of Christ."(2) There are many signs of hope in U.S. economic life today:

- Many fathers and mothers skillfully balance the arduous responsibilities of work and family life. There are parents who pursue a purposeful and modest way of life and by their example encourage their children to follow a similar path. A large number of women and men, drawing on their religious tradition, recognize the challenging vocation of family life and child rearing in a culture that emphasizes material display and self-gratification.
- Conscientious business people seek new and more equitable ways to organize resources and the workplace. They face hard choices over expanding or retrenching, shifting investments, hiring or firing.
- Young people choosing their life's work ask whether success and security are compatible with service to others.
- Workers whose labor may be toilsome or repetitive try daily to ennoble their work with a spirit of solidarity and friendship.
- New immigrants brave dislocations while hoping for the opportunities realized by the millions who came before them.

3. These signs of hope are not the whole story. There have been failures—some of them massive and ugly:

- Poor and homeless people sleep in community shelters and in our church basements; the hungry line up in soup lines.
- Unemployment gnaws at the self-respect of both middle-aged persons who have lost jobs and the young who cannot find them.
- Hard-working men and women wonder if the system of enterprise that helped them yesterday might destroy their jobs and their communities tomorrow.
- Families confront major new challenges: dwindling social supports for family stability; economic pressures that force both parents of young children to work outside the home; a driven pace of life among the successful that can sap love and commitment; lack of hope

among those who have less or nothing at all. Very different kinds of families bear different burdens of our economic system.

- Farmers face the loss of their land and way of life; young people find it difficult to choose farming as a vocation; farming communities are threatened; migrant farm workers break their backs in serf-like conditions for disgracefully low wages.

4. *And beyond our own shores, the reality of 800 million people living in absolute poverty and 450 million malnourished or facing starvation casts an ominous shadow over all these hopes and problems at home.*

5. Anyone who sees all this will understand our concern as pastors and bishops. People shape the economy and in turn are shaped by it. Economic arrangements can be sources of fulfillment, of hope, of community—or of frustration, isolation, and even despair. They teach virtues—or vices—and day by day help mold our characters. They affect the quality of people's lives; at the extreme even determining whether people live or die. Serious economic choices go beyond purely technical issues to fundamental questions of value and human purpose.(3) We believe that in facing these questions the Christian religious and moral tradition can make an important contribution.

A. The U.S. Economy Today: Memory and Hope

6. The United States is among the most economically powerful nations on earth. In its short history the U.S. economy has grown to provide an unprecedented standard of living for most of its people. The nation has created productive work for millions of immigrants and enabled them to broaden their freedoms, improve their families' quality of life, and contribute to the building of a great nation. Those who came to this country from other lands often understood their new lives in the light of biblical faith. They thought of themselves as entering a promised land of political freedom and economic opportunity. The United States is a land of vast natural resources and fertile soil. It has encouraged citizens to undertake bold ventures. Through hard work, self-sacrifice and cooperation, families have flourished; towns, cities and a powerful nation have been created.

7. But we should recall this history with sober humility. The American experiment in social, political, and economic life has involved serious conflict and suffering. Our nation was born in the face of injustice to native Americans, and its independence was paid for with the blood of revolution. Slavery stained the commercial life of the land through its first 250 years and was ended only by a violent civil war. The establishment of women's suffrage, the protection of industrial workers, the elimination of child labor, the response to the Great Depression of the 1930s, and the civil rights movement of the 1960s all involved a sustained struggle to transform the political and economic institutions of the nation.

8. The U.S. value system emphasizes economic freedom. It also recognizes that the market is limited by fundamental human rights. Some things are never to be bought or sold.(4) This conviction has prompted positive steps to modify the operation of the market when it harms vulnerable members of society. Labor unions help workers resist exploitation. Through their government, the people of the United States have provided support for education, access to food, unemployment compensation, security in old age, and protection of the environment. The market system contributes to the success of the U.S. economy, but so do many efforts to forge economic institutions and public policies that enable *all* to share in the riches of the nation. The country's

economy has been built through a creative struggle; entrepreneurs, business people, workers, unions, consumers, and government have all played essential roles.

9. The task of the United States today is as demanding as that faced by our forebears. Abraham Lincoln's words at Gettysburg are a reminder that complacency today would be a betrayal of our nation's history: "It is for us the living, rather to be dedicated here to the unfinished work they … have thus far nobly advanced."(5) There is unfinished business in the American experiment in freedom and justice for all.

B. Urgent Problems of Today

10. The pre-eminent role of the United States in an increasingly interdependent global economy is a central sign of our times.(6) The United States is still the world's economic giant. Decisions made here have immediate effects in other countries; decisions made abroad have immediate consequences for steelworkers in Pittsburgh, oil company employees in Houston, and farmers in Iowa. U.S. economic growth is vitally dependent on resources from other countries and on their purchases of our goods and services. Many jobs in U.S. industry and agriculture depend on our ability to export manufactured goods and food.

11. In some industries the mobility of capital and technology makes wages the main variable in the cost of production. Overseas competitors with the same technology but with wage rates as low as one-tenth of ours put enormous pressure on U.S. firms to cut wages, relocate abroad, or close. U.S. workers and their communities should not be expected to bear these burdens alone.

12. All people on this globe share a common ecological environment that is under increasing pressure. Depletion of soil, water, and other natural resources endangers the future. Pollution of air and water threatens the delicate balance of the biosphere on which future generations will depend.(7) The resources of the earth have been created by God for the benefit of all, and we who are alive today hold them in trust. This is a challenge to develop a new ecological ethic which will help shape a future that is both just and sustainable.

13. In short, nations separated by geography, culture, and ideology are linked in a complex commercial, financial, technological, and environmental network. These links have two direct consequences. First, they create hope for a new form of community among all peoples, one built on dignity, solidarity, and justice. Second, this rising global awareness calls for greater attention to the stark inequities across countries in the standards of living and control of resources. We must not look at the welfare of U.S. citizens as the only good to be sought. Nor may we overlook the disparities of power in the relationships between this nation and the developing countries. The United States is the major supplier of food to other countries, a major source of arms sales to developing nations and a powerful influence in multilateral institutions such as the International Monetary Fund, the World Bank, and the United Nations. What Americans see as a growing interdependence is regarded by many in the less-developed countries as a pattern of domination and dependence.

14. Within this larger international setting there are also a number of challenges to the domestic economy that call for creativity and courage. The promise of the "American dream"—freedom for all persons to develop their God-given talents to the full—remains unfulfilled for millions in the United States today.

15. Several areas of U.S. economic life demand special attention. Unemployment is the most basic. Despite the large number of new jobs the U.S. economy has generated in the past decade, approximately 8 million people seeking work in this country are unable to find it, and many more are so discouraged they have stopped looking.(8) Over the past two decades the nation has come to tolerate an increasing level of unemployment. The 6 to 7 percent rate deemed acceptable today would have been intolerable twenty years ago. Among the unemployed are a disproportionate number of blacks, Hispanics, young people, or women who are the sole support of their families.(9) Some cities and states have many more unemployed persons than others as a result of economic forces that have little to do with people's desire to work. Unemployment is a tragedy no matter whom it strikes, but the tragedy is compounded by the unequal and unfair way it is distributed in our society.

16. Harsh poverty plagues our country despite its great wealth. More than 33 million Americans are poor; by any reasonable standard another 20 to 30 million are needy. Poverty is increasing in the United States, not decreasing.(10) For a people who believe in "progress," this should be cause for alarm. These burdens fall most heavily on blacks, Hispanics, and Native Americans. Even more disturbing is the large increase in the number of women and children living in poverty. Today children are the largest single group among the poor. This tragic fact seriously threatens the nation's future. That so many people are poor in a nation as rich as ours is a social and moral scandal that we cannot ignore.

17. Many working people and middle-class Americans live dangerously close to poverty. A rising number of families must rely on the wages of two or even three members just to get by. From 1968 to 1978 nearly a quarter of the U.S. population was in poverty part of the time and received welfare benefits in at least one year.(11) The loss of a job, illness, or the breakup of a marriage may be all it takes to push people into poverty.

18. The lack of a mutually supportive relation between family life and economic life is one of the most serious problems facing the United States today.(12) The economic and cultural strength of the nation is directly linked to the stability and health of its families.(13) When families thrive, spouses contribute to the common good through their work at home, in the community, and in their jobs; and children develop a sense of their own worth and of their responsibility to serve others. When families are weak or break down entirely, the dignity of parents and children is threatened. High cultural and economic costs are inflicted on society at large.

19. The precarious economic situation of so many people and so many families calls for examination of U.S. economic arrangements. Christian conviction and the American promise of liberty and justice for all give the poor and the vulnerable a special claim on the nation's concern. They also challenge all members of the Church to help build a more just society.

20. The investment of human creativity and material resources in the production of the weapons of war makes these economic problems even more difficult to solve. Defense Department expenditures in the United States are almost $300 billion per year. The rivalry and mutual fear between superpowers divert into projects that threaten death, minds, and money that could better human life. Developing countries engage in arms races they can ill afford, often with the encouragement of the superpowers. Some of the poorest countries of the world use scarce resources to buy planes, guns, and other weapons when they lack the food, education, and health care their people need. Defense policies must be evaluated and assessed in light of their real contribution to freedom, justice, and peace for the citizens of our own and other nations. We have developed a perspective on these multiple moral concerns in our 1983 pastoral letter, *The Challenge of Peace:*

God's Promise and Our Response.(14) When weapons or strategies make questionable contributions to security, peace, and justice and will also be very expensive, spending priorities should be redirected to more pressing social needs.(15)

21. Many other social and economic challenges require careful analysis: the movement of many industries from the Snowbelt to the Sunbelt, the federal deficit and interest rates, corporate mergers and takeovers, the effects of new technologies such as robotics and information systems in U.S. industry, immigration policy, growing international traffic in drugs, and the trade imbalance. All of these issues do not provide a complete portrait of the economy. Rather they are symptoms of more fundamental currents shaping U.S. economic life today: the struggle to find meaning and value in human work, efforts to support individual freedom in the context of renewed social cooperation, the urgent need to create equitable forms of global interdependence in a world now marked by extreme inequality. These deeper currents are cultural and moral in content. They show that the long-range challenges facing the nation call for sustained reflection on the values that guide economic choices and are embodied in economic institutions. Such explicit reflection on the ethical content of economic choices and policies must become an integral part of the way Christians relate religious belief to the realities of everyday life. In this way, the "split between the faith which many profess and their daily lives,"(16) which Vatican II counted among the more serious errors of the modern age, will begin to be bridged.

C. The Need for Moral Vision

22. Sustaining a common culture and a common commitment to moral values is not easy in our world. Modern economic life is based on a division of labor into specialized jobs and professions. Since the industrial revolution people have had to define themselves and their work ever more narrowly to find a niche in the economy. The benefits of this are evident in the satisfaction many people derive from contributing their specialized skills to society. But the costs are social fragmentation, a decline in seeing how one's work serves the whole community, and an increased emphasis on personal goals and private interests.(17) This is vividly clear in discussions of economic justice. Here it is often difficult to find a common ground among people with different backgrounds and concerns. One of our chief hopes in writing this letter is to encourage and contribute to the development of this common ground.(18)

23. Strengthening common moral vision is essential if the economy is to serve all people more fairly. Many middle class Americans feel themselves in the grip of economic demands and cultural pressures that go far beyond the individual family's capacity to cope. Without constructive guidance in making decisions with serious moral implications, men and women who hold positions of responsibility in corporations or government find their duties exacting a heavy price. We want these reflections to help them contribute to a more just economy.

24. The quality of the national discussion about our economic future will affect the poor most of all, in this country and throughout the world. The life and dignity of millions of men, women, and children hang in the balance. Decisions must be judged in light of what they do *for* the poor, what they do *to* the poor and what they enable the poor to do *for themselves*. The fundamental moral criterion for all economic decisions, policies, and institutions is this: They must be at the service of *all people, especially the poor*.

25. This letter is based on a long tradition of Catholic social thought, rooted in the Bible and developed over the past century by the popes and the Second Vatican Council in response to

modern economic conditions. This tradition insists that human dignity, realized in community with others and with the whole of God's creation, is the norm against which every social institution must be measured.(19)

26. This teaching has a rich history. It is also dynamic and growing.(20) Pope Paul VI insisted that all Christian communities have the responsibility "to analyze with objectivity the situation which is proper to their own country, to shed on it the light of the Gospel's unalterable words and to draw principles of reflection, norms of judgment, and directives for action from the social teaching of the Church."(21) Therefore, we build on the past work of our own bishops' conference, including the 1919 Program of Social Reconstruction and other pastoral letters.(22) In addition many people from the Catholic, Protestant, and Jewish communities, in academic, business or political life, and from many different economic backgrounds have also provided guidance. We want to make the legacy of Christian social thought a living, growing resource that can inspire hope and help shape the future.

27. We write, then, first of all to provide guidance for members of our own Church as they seek to form their consciences about economic matters. No one may claim the name Christian and be comfortable in the face of the hunger, homelessness, insecurity, and injustice found in this country and the world. At the same time, we want to add our voice to the public debate about the directions in which the U.S. economy should be moving. We seek the cooperation and support of those who do not share our faith or tradition. The common bond of humanity that links all persons is the source of our belief that the country can attain a renewed public moral vision. The questions are basic and the answers are often elusive; they challenge us to serious and sustained attention to economic justice.

FOOTNOTES

Chapter I

1 Vatican Council II, *The Pastoral Constitution on the Church in the Modern World*, 33. [Note: This pastoral letter frequently refers to documents of the Second Vatican Council, papal encyclicals, and other official teachings of the Catholic Church. Most of these texts have been published by the United States Catholic Conference; many are available in collections, though no single collection is comprehensive. See selected bibliography.]

2 *Pastoral Constitution*, 1.

3 See ibid., 10, 42, 43; Congregation for the Doctrine of the Faith, *Instruction on Christian Freedom and Liberation* (Washington, D.C.: United States Catholic Conference, 1986), 34-36.

4 See Pope John Paul II, *On Human Work* (1981), 14; and Pope Paul VI, *Octogesima Adveniens* (1971), 35. See also Arthur Okun, *Equality and Efficiency: The Big Tradeoff* (Washington, D.C.: The Brookings Institution, 1975) ch. 1; Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1983), ch. 4; Jon P. Gunnemann, "Capitalism and Commutative Justice," paper presented at the 1985 meeting of the Society of Christian Ethics.

5 Abraham Lincoln, Address at Dedication of National Cemetery at Gettysburg, November 19, 1863.

6 Pope John XXIII, *Peace on Earth* (1963), 130-131.

7 Synod of Bishops, *Justice in the World* (1971), 8; Pope John Paul II, *Redeemer of Man* (1979), 15.

8 U.S. Department of Labor, Bureau of Labor Statistics, *The Employment Situation: August 1985* (September 1985); Table A-l.

9 Ibid.

10 U.S. Bureau of the Census, *Current Population Reports, Series P-60*, 145, *Money Income and Poverty Status of Families and Persons in the United States: 1983* (Washington, D.C.: Government Printing Office, 1984), 20.

11 Greg H. Duncan, *Years of Poverty, Years of Plenty: The Changing Economic Fortunes of American Workers and Their Families* (Ann Arbor, Mich.: Institute for Social Research, University of Michigan, 1984).

12 See John Paul II, *Familiaris Consortio* (1981), 46.

13 *Pastoral Constitution*, 47.

14 National Conference of Catholic Bishops, *The Challenge of Peace: God's Promise and Our Response* (Washington, D.C.: United States Catholic Conference, 1983).

15 Cardinal Joseph L. Bernardin and Cardinal John J. O'Connor, Testimony before the House Foreign Relations Committee, June 26, 1984, *Origins* 14:10 (August 10, 1984): 157.

16 *Pastoral Constitution*, 43.

17 See, for example, Peter Berger, Brigitte Berger, and Hansfried Kellner, *The Homeless Mind: Modernization and Consciousness* (New York: Vintage, 1974).

18 For a recent study of the importance and difficulty of achieving such a common language and vision see Robert N. Bellah, Richard Madsen, William M. Sullivan, Ann Swidler, and Stephen M. Tipton, *Habits of the Heart: Individualism and Commitment in American Life* (Berkeley, Calif.: University of California Press, 1985). See also Martin E. Marty, *The Public Church* (New York: Crossroads, 1981).

19 Pope John XXIII, *Mater et Magistra* (1961), 219; *Pastoral Constitution*, 40.

20 Congregation for the Doctrine of the Faith, *Instruction on Certain Aspects of the Theology of Liberation*, (Washington, D.C.: United States Catholic Conference, 1984); Pope Paul VI, *Octogesima Adveniens* (1971), 42.

21 *Octogesima Adveniens*, 4.

22 Administrative Committee of the National Catholic War Council, *Program of Social Reconstruction*, February 12, 1919. Other notable statements on the economy by our predecessors are *The Present Crisis*, April 25, 1933; *Statement on Church and Social Order*, February 4, 1940; The Economy: Human Dimensions, November 20, 1975. These and numerous other statements of the U.S. Catholic episcopate can be found in Hugh J. Nolan, ed., *Pastoral Letters of the U.S. Catholic Bishops*, 4 vols. (Washington, D.C.: United States Catholic Conference, 1984).

CHAPTER 2
THE CHRISTIAN VISION OF ECONOMIC LIFE

28. The basis for all that the Church believes about the moral dimensions of economic life is its vision of the transcendent worth—the sacredness—of human beings. *The dignity of the human person, realized in community with others, is the criterion against which all aspects of economic life must be measured.*(1) All human beings, therefore, are ends to be served by the institutions that make up the economy, not means to be exploited for more narrowly defined goals. Human personhood must be respected with a reverence that is religious. When we deal with each other, we should do so with the sense of awe that arises in the presence of something holy and sacred. For that is what human beings are: we are created in the image of God (Gn 1:27). Similarly, all economic institutions must support the bonds of community and solidarity that are essential to the dignity of persons. Wherever our economic arrangements fail to conform to the demands of human dignity lived in community, they must be questioned and transformed. These convictions have a biblical basis. They are also supported by a long tradition of theological and philosophical reflection and through the reasoned analysis of human experience by contemporary men and women.

29. In presenting the Christian moral vision, we turn first to the Scriptures for guidance. Though our comments are necessarily selective, we hope that pastors and other church members will become personally engaged with the biblical texts. The Scriptures contain many passages that speak directly of economic life. We must also attend to the Bible's deeper vision of God, of the purpose of creation, and of the dignity of human life in society. Along with other churches and ecclesial communities who are "strengthened by the grace of baptism and the hearing of God's Word," we strive to become faithful hearers and doers of the word.(2) We also claim the Hebrew Scriptures as common heritage with our Jewish brothers and sisters, and we join with them in the quest for an economic life worthy of the divine revelation we share.

A. Biblical Perspectives

30. The fundamental conviction of our faith is that human life is fulfilled in the knowledge and love of the living God in communion with others. The Sacred Scriptures offer guidance so that men and women may enter into full communion with God and with each other, and witness to God's saving acts. We discover there a God who is creator of heaven and earth, and of the human family. Though our first parents reject the God who created them, God does not abandon them, but from Abraham and Sarah forms a people of promise. When this people is enslaved in an alien land, God delivers them and makes a covenant with them in which they are summoned to be faithful to the torah or sacred teaching. The focal points of Israel's faith—creation, covenant, and community—provide a foundation for reflection on issues of economic and social justice.

1. Created in God's Image

31. After the exile, when Israel combined its traditions into a written *torah*, it prefaced its history as a people with the story of the creation of all peoples and of the whole world by the same God who created them as a nation (Gn 1-11). God is the creator of heaven and earth (Gn 14:19-22;

Is 40:28; 45:18); creation proclaims God's glory (Ps 89:6-12) and is "very good" (Gn 1:31). Fruitful harvests, bountiful flocks, a loving family, are God's blessings on those who heed God's word. Such is the joyful refrain that echoes throughout the Bible. One legacy of this theology of creation is the conviction that no dimension of human life lies beyond God's care and concern. God is present to creation, and creative engagement with God's handiwork is itself reverence for God.

32. At the summit of creation stands the creation of man and woman, made in God's image (Gn 1:26-27). *As such every human being possesses an inalienable dignity that stamps human existence prior to any division into races or nations and prior to human labor and human achievement* (Gn 4-11). Men and women are also to share in the creative activity of God. They are to be fruitful, to care for the earth (Gn 2:15), and to have "dominion" over it (Gn 1:28), which means they are "to govern the world in holiness and justice, and to render judgment in integrity of heart" (Wis 9:3). Creation is a gift; women and men are to be faithful stewards in caring for the earth. They can justly consider that by their labor they are unfolding the Creator's work.(3)

33. The narratives of Genesis 1-11 also portray the origin of the strife and suffering that mar the world. Though created to enjoy intimacy with God and the fruits of the earth, Adam and Eve disrupted God's design by trying to live independently of God through a denial of their status as creatures. They turned away from God and gave to God's creation the obedience due to God alone. For this reason the prime sin in so much of the biblical tradition is idolatry: service of the creature rather than of the creator (Rom 1:25), and the attempt to overturn creation by making God in human likeness. The Bible castigates not only the worship of idols, but also manifestations of idolatry, such as the quest for unrestrained power and the desire for great wealth (Is 40:12-20; 44:1-20; Wis 13:1-14:31; Col 3:5, "the greed that is idolatry"). The sin of our first parents had other consequences as well. Alienation from God pits brother against brother (Gn 4:8-16) in a cycle of war and vengeance (Gn 4:22-23). Sin and evil abound, and the primeval history culminates with another assault on the heavens, this time ending in a babble of tongues scattered over the face of the earth (Gn 11:1-9). Sin simultaneously alienates human beings from God and shatters the solidarity of the human community. Yet this reign of sin is not the final word. The primeval history is followed by the call of Abraham, a man of faith, who was to be the bearer of the promise to many nations (Gn 12:1-4). Throughout the Bible we find this struggle between sin and repentance. God's judgment on evil is followed by God's seeking out a sinful people.

34. The biblical vision of creation has provided one of the most enduring legacies of church teaching. To stand before God as the Creator is to respect God's creation, both the world of nature and of human history. *From the patristic period to the present, the Church has affirmed that misuse of the world's resources or appropriation of them by a minority of the world's population betrays the gift of creation since "whatever belongs to God belongs to all."*(4)

2. A People of the Covenant

35. When the people of Israel, our forerunners in faith, gathered in thanksgiving to renew their covenant (Jos 24:1-15), they recalled the gracious deeds of God (Dt 6:20-25; 26:5-11). When they lived as aliens in a strange land and experienced oppression and slavery, they cried out. The Lord, the God of their ancestors, heard their cries, knew their afflictions, and came to deliver them (Ex 3:7-8). By leading them out of Egypt, God created a people that was to be the Lord's very own (Jer 24:7; Hos 2:25). They were to imitate God by treating the alien and the slave in their midst as God had treated them (Ex 22:20-22; Jer 34:8-14).

36. In the midst of this saving history stands the covenant at Sinai (Ex 19-24). It begins with an account of what God has done for the people (Ex 19:1-6; cf. Jos 24:1-13) and includes from God's side a promise of steadfast love (*hesed*) and faithfulness (*'emeth*, Ex 34:5-7). The people are summoned to ratify this covenant by faithfully worshiping God alone and by directing their lives according to God's will, which was made explicit in Israel's great legal codes such as the Decalogue (Ex 20:1-17) and the Book of the Covenant (Ex 20:22-23:33). Far from being an arbitrary restriction on the life of the people, these codes made life in community possible.(5) The specific laws of the covenant protect human life and property, demand respect for parents and the spouses and children of one's neighbor, and manifest a special concern for the vulnerable members of the community: widows, orphans, the poor, and strangers in the land. Laws such as that for the Sabbath year when the land was left fallow (Ex 23:11; Lv 25:1-7) and for the year of release of debts (Dt 15:1-11) summoned people to respect the land as God's gift and reminded Israel that as a people freed by God from bondage they were to be concerned for the poor and oppressed in their midst. Every fiftieth year a jubilee was to be proclaimed as a year of "liberty throughout the land" and property was to be restored to its original owners (Lv 25:8-17, cf. Is 61:1-2; Lk 4:18-19).(6) The codes of Israel reflect the norms of the covenant: reciprocal responsibility, mercy, and truthfulness. They embody a life in freedom from oppression: worship of the One God, rejection of idolatry, mutual respect among people, care and protection for every member of the social body. Being free and being a co-responsible community are God's intentions for us.

37. When the people turn away from the living God to serve idols and no longer heed the commands of the covenant, God sends prophets to recall his saving deeds and to summon them to return to the one who betrothed them "in right and in justice, in love and in mercy" (Hos 2:21). The substance of prophetic faith is proclaimed by Micah: "to do justice, and to love kindness, and to walk humbly with your God" (Mi 6:8, RSV). Biblical faith in general, and prophetic faith especially, insist that fidelity to the covenant joins obedience to God with reverence and concern for the neighbor. The biblical terms which best summarize this double dimension of Israel's faith are *sedaqah*, justice (also translated as righteousness), and *mishpat* (right judgment or justice embodied in a concrete act or deed). The biblical understanding of justice gives a fundamental perspective to our reflections on social and economic justice.(7)

38. God is described as a "God of justice" (Is 30:18) who loves justice (Is 61:8; cf. Pss 11:7; 33:5; 37:28; 99:4) and delights in it (Jer 9:23). God demands justice from the whole people (Dt 16:20) and executes justice for the needy (Ps 140:13). Central to the biblical presentation of justice is that the justice of a community is measured by its treatment of the powerless in society, most often described as the widow, the orphan, the poor, and the stranger (non-Israelite) in the land. The Law, the Prophets, and the Wisdom literature of the Old Testament all show deep concern for the proper treatment of such people.(8) What these groups of people have in common is their vulnerability and lack of power. They are often alone and have no protector or advocate. Therefore, it is God who hears their cries (Pss 109:21; 113:7), and the king who is God's anointed is commanded to have special concern for them.

39. Justice has many nuances.(9) Fundamentally it suggests a sense of what is right or of what should happen. For example, paths are just when they bring you to your destination (Gn 24:48; Ps 23:3), and laws are just when they create harmony within the community, as Isaiah says: "Justice will bring about peace; right will produce calm and security" (Is 32:17). God is "just" by acting as God should, coming to the people's aid and summoning them to conversion when they stray. People are summoned to be "just," that is, to be in a proper relation to God, by observing God's laws which form them into a faithful community. Biblical justice is more comprehensive than subsequent

philosophical definitions. It is not concerned with a strict definition of rights and duties, but with the rightness of the human condition before God and within society. Nor is justice opposed to love; rather, it is both a manifestation of love and a condition for love to grow.(10) Because God loves Israel, he rescues them from oppression and summons them to be a people that "does justice" and loves kindness. The quest for justice arises from loving gratitude for the saving acts of God and manifests itself in wholehearted love of God and neighbor.

40. These perspectives provide the foundation for a biblical vision of economic justice. Every human person is created as an image of God, and the denial of dignity to a person is a blot on this image. Creation is a gift to all men and women, not to be appropriated for the benefit of a few; its beauty is an object of joy and reverence. The same God who came to the aid of an oppressed people and formed them into a covenant community continues to hear the cries of the oppressed and to create communities which are responsive to God's word. God's love and life are present when people can live in a community of faith and hope. These cardinal points of the faith of Israel also furnish the religious context for understanding the saving action of God in the life and teaching of Jesus.

3. The Reign of God and Justice

41. Jesus enters human history as God's anointed son who announces the nearness of the reign of God (Mk 1:9-14). This proclamation summons us to acknowledge God as creator and covenant partner, and challenges us to seek ways in which God's revelation of the dignity and destiny of all creation might become incarnate in history. It is not simply the promise of the future victory of God over sin and evil, but that this victory has already begun—in the life and teaching of Jesus.

42. What Jesus proclaims by word, he enacts in his ministry. He resists temptations of power and prestige, follows his Father's will, and teaches us to pray that it be accomplished on earth. He warns against attempts to "lay up treasures on earth" (Mt 6:19) and exhorts his followers not to be anxious about material goods but rather to seek first God's reign and God's justice (Mt 6:25-33). His mighty works symbolize that the reign of God is more powerful than evil, sickness, and the hardness of the human heart. He offers God's loving mercy to sinners (Mk 2:17), takes up the cause of those who suffered religious and social discrimination (Lk 7:36-50; 15:1-2), and attacks the use of religion to avoid the demands of charity and justice (Mk 7:9-13; Mt 23:23).

43. When asked what was the greatest commandment, Jesus quoted the age-old Jewish affirmation of faith that God alone is One and to be loved with the whole heart, mind, and soul (Dt 6:4-5) and immediately adds: "You shall love your neighbor as yourself" (Lv 19:18; Mk 12:28-34). This dual command of love that is at the basis of all Christian morality is illustrated in the Gospel of Luke by the parable of a Samaritan who interrupts his journey to come to the aid of a dying man (Lk 10:29-37). Unlike the other wayfarers who look on the man and pass by, the Samaritan "was moved with compassion at the sight"; he stops, tends the wounded man and takes him to a place of safety. In this parable compassion is the bridge between mere seeing and action; love is made real through effective action.(11)

44. Near the end of his life, Jesus offers a vivid picture of the last judgment (Mt 25:31-46). All the nations of the world will be assembled and will be divided into those blessed who are welcomed into God's kingdom or those cursed who are sent to eternal punishment. The blessed are those who fed the hungry, gave drink to the thirsty, welcomed the stranger, clothed the naked, and visited the sick and imprisoned; the cursed are those who neglected these works of mercy and love. Neither the

blessed nor the cursed are astounded that they are judged by the Son of Man, nor that judgment is rendered according to works of charity. The shock comes when they find that in neglecting the poor, the outcast, and the oppressed, they were rejecting Jesus himself. Jesus who came as "Emmanuel" (God with us, Mt 1:23) and who promises to be with his people until the end of the age (Mt 28:20) is hidden in those most in need; to reject them is to reject God made manifest in history.

4. Called to Be Disciples in Community

45. Jesus summoned his first followers to a change of heart and to take on the yoke of God's reign (Mk 1:14-15; Mt 11:29). They are to be the nucleus of that community, which will continue the work of proclaiming and building God's kingdom through the centuries. As Jesus called the first disciples in the midst of their everyday occupations of fishing and tax collecting, so he again calls people in every age in the home, in the workplace, and in the marketplace.

46. The Church is, as Pope John Paul II reminded us, "a community of disciples" in which "we must see first and foremost Christ saying to each member of the community: follow me."(12) To be a Christian is to join with others in responding to this personal call and in learning the meaning of Christ's life. It is to be sustained by that loving intimacy with the Father that Jesus experienced in his work, in his prayer, and in his suffering.

47. Discipleship involves imitating the pattern of Jesus' life by openness to God's will in the service of others (Mk 10:42-45). Disciples are also called to follow him on the way of the cross, and to heed his call that those who lose their lives for the sake of the Gospel will save them (Mk 8:34-35). Jesus' death is an example of that greater love which lays down one's life for others (cf. Jn 15:12-18). It is a model for those who suffer persecution for the sake of justice (Mt 5:10). The death of Jesus was not the end of his power and presence, for he was raised up by the power of God. Nor did it mark the end of the disciples' union with him. After Jesus had appeared to them and when they received the gift of the Spirit (Acts 2:1-12), they became apostles of the good news to the ends of the earth. In the face of poverty and persecution they transformed human lives and formed communities which became signs of the power and presence of God. Sharing in this same resurrection faith, contemporary followers of Christ can face the struggles and challenges that await those who bring the gospel vision to bear on our complex economic and social world.

5. Poverty, Riches, and the Challenge of Discipleship

48. The pattern of Christian life as presented in the Gospel of Luke has special relevance today. In her *Magnificat*, Mary rejoices in a God who scatters the proud, brings down the mighty, and raises up the poor and lowly (Lk 1:51-53). The first public utterance of Jesus is, "The Spirit of the Lord is upon me, because he has anointed me to preach the good news to the poor" (Lk 4:18; cf. Is 61:1-2). Jesus adds to the blessing on the poor a warning, "Woe to you who are rich, for you have received your consolation" (Lk 6:24). He warns his followers against greed and reliance on abundant possessions and underscores this by the parable of the man whose life is snatched away at the very moment he tries to secure his wealth (Lk 12:13-21). In Luke alone, Jesus tells the parable of the rich man who does not see the poor and suffering Lazarus at his gate (Lk 16:19-31). When the rich man finally "sees" Lazarus, it is from the place of torment and the opportunity for

conversion has passed. Pope John Paul II has often recalled this parable to warn the prosperous not to be blind to the great poverty that exists beside great wealth.(13)

49. Jesus, especially in Luke, lives as a poor man, like the prophets takes the side of the poor, and warns of the dangers of wealth.(14) The terms used for poor, while primarily describing lack of material goods, also suggest dependence and powerlessness. The poor are also an exiled and oppressed people whom God will rescue (Is 51:21-23) as well as a faithful remnant who take refuge in God (Zep. 3:12-13). Throughout the Bible, material poverty is a misfortune and a cause of sadness. A constant biblical refrain is that the poor must be cared for and protected and that when they are exploited, God hears their cries (Prv 22:22-23). Conversely, even though the goods of the earth are to be enjoyed and people are to thank God for material blessings, wealth is a constant danger. The rich are wise in their own eyes (Prv 28:11) and are prone to apostasy and idolatry (Am 5:4-13; Is. 2:6-8), as well as to violence and oppression (Jas 2:6-7).(15) Since they are neither blinded by wealth nor make it into an idol, the poor can be open to God's presence; throughout Israel's history and in early Christianity the poor are agents of God's transforming power.

50. The poor are often related to the lowly (Mt 5:3, 5) to whom God reveals what was hidden from the wise (Mt 11:25-30). When Jesus calls the poor "blessed," he is not praising their condition of poverty, but their openness to God. When he states that the reign of God is theirs, he voices God's special concern for them, and promises that they are to be the beneficiaries of God's mercy and justice. When he summons disciples to leave all and follow him, he is calling them to share his own radical trust in the Father and his freedom from care and anxiety (cf. Mt 6:25-34). The practice of evangelical poverty in the Church has always been a living witness to the power of that trust and to the joy that comes with that freedom.

51. Early Christianity saw the poor as an object of God's special love, but it neither canonized material poverty nor accepted deprivation as an inevitable fact of life. Though few early Christians possessed wealth or power (1 Cor 1:26-28; Jas 2:5), their communities had well-off members (Acts 16:14; 18:8). Jesus' concern for the poor was continued in different forms in the early church. The early community at Jerusalem distributed its possessions so that "there was no needy person among them" and held "all things in common"—a phrase that suggests not only shared material possessions, but more fundamentally, friendship and mutual concern among all its members (Acts 4:32-34; 2:44). While recognizing the dangers of wealth, the early church proposed the proper use of possessions to alleviate need and suffering rather than universal dispossession. Beginning in the first century and throughout history, Christian communities have developed varied structures to support and sustain the weak and powerless in societies that were often brutally unconcerned about human suffering.

52. Such perspectives provide a basis for what today is called the "preferential option for the poor."(16) Though in the Gospels and in the New Testament as a whole the offer of salvation is extended to all peoples, Jesus takes the side of those most in need, physically and spiritually. The example of Jesus poses a number of challenges to the contemporary church. It imposes a prophetic mandate to speak for those who have no one to speak for them, to be a defender of the defenseless, who in biblical terms are the poor. It also demands a compassionate vision that enables the Church to see things from the side of the poor and powerless and to assess lifestyle, policies, and social institutions in terms of their impact on the poor. It summons the Church also to be an instrument in assisting people to experience the liberating power of God in their own lives so that they may respond to the Gospel in freedom and in dignity. Finally, and most radically, it calls for an emptying

of self, both individually and corporately, that allows the Church to experience the power of God in the midst of poverty and powerlessness.

6. A Community of Hope

53. The biblical vision of creation, covenant, and community, as well as the summons to discipleship, unfolds under the tension between promise and fulfillment. The whole Bible is spanned by the narratives of the first creation (Gn 1-3) and the vision of a restored creation at the end of history (Rv 21:1-4). Just as creation tells us that God's desire was one of wholeness and unity between God and the human family and within this family itself, the images of a new creation give hope that enmity and hatred will cease and justice and peace will reign (Is 11:6; 25:1-8). Human life unfolds "between the times," the time of the first creation and that of a restored creation (Rom 8:18-25). Although the ultimate realization of God's plan lies in the future, Christians in union with all people of good will are summoned to shape history in the image of God's creative design and in response to the reign of God proclaimed and embodied by Jesus.

54. A Christian is a member of a new community, "God's own people" (1 Pt 2:9-10), who, like the people of Exodus, owes its existence to the gracious gift of God and is summoned to respond to God's will made manifest in the life and teaching of Jesus. A Christian walks in the newness of life (Rom 6:4) and is "a new creation; the old has passed away, the new has come" (2 Cor 5:17). This new creation in Christ proclaims that God's creative love is constantly at work, offers sinners forgiveness, and reconciles a broken world. Our action on behalf of justice in our world proceeds from the conviction that, despite the power of injustice and violence, life has been fundamentally changed by the entry of the Word made flesh into human history.

55. Christian communities that commit themselves to solidarity with those suffering and to confrontation with those attitudes and ways of acting which institutionalize injustice, will themselves experience the power and presence of Christ. They will embody in their lives the values of the new creation while they labor under the old. The quest for economic and social justice will always combine hope and realism, and must be renewed by every generation. It involves diagnosing those situations that continue to alienate the world from God's creative love as well as presenting hopeful alternatives that arise from living in a renewed creation. This quest arises from faith and is sustained by hope as it seeks to speak to a broken world of God's justice and loving kindness.

7. A Living Tradition

56. Our reflection on U.S. economic life today must be rooted in this biblical vision of the kingdom and discipleship, but it must also be shaped by the rich and complex tradition of Catholic life and thought. Throughout its history, the Christian community has listened to the words of Scripture and sought to enact them in the midst of daily life in very different historical and cultural contexts.

57. In the first centuries, when Christians were a minority in a hostile society, they cared for one another through generous almsgiving. In the patristic era, the church fathers repeatedly stressed that the goods of the earth were created by God for the benefit of every person without exception, and that all have special duties toward those in need. The monasteries of the Middle Ages were centers of prayer, learning, and education. They contributed greatly to the cultural and economic life

of the towns and cities that sprang up around them. In the twelfth century the new mendicant orders dedicated themselves to following Christ in poverty and to the proclamation of the good news to the poor.

58. These same religious communities also nurtured some of the greatest theologians of the Church's tradition, thinkers who synthesized the call of Christ with the philosophical learning of Greek, Roman, Jewish, and Arab worlds. Thomas Aquinas and the other scholastics devoted rigorous intellectual energy to clarifying the meaning of both personal virtue and justice in society. In more recent centuries Christians began to build a large network of hospitals, orphanages, and schools, to serve the poor and society at large. And beginning with Leo XIII's *Rerum Novarum*, down to the writings and speeches of John Paul II, the popes have more systematically addressed the rapid change of modern society in a series of social encyclicals. These teachings of modern popes and of the Second Vatican Council are especially significant for efforts to respond to the problems facing society today.(17)

59. We also have much to learn from the strong emphasis in Protestant traditions on the vocation of lay people in the world and from ecumenical efforts to develop an economic ethic that addresses newly emergent problems. And in a special way our fellow Catholics in developing countries have much to teach us about the Christian response to an ever more interdependent world.

60. Christians today are called by God to carry on this tradition through active love of neighbor, a love that responds to the special challenges of this moment in human history. The world is wounded by sin and injustice, in need of conversion and of the transformation that comes when persons enter more deeply into the mystery of the death and Resurrection of Christ. The concerns of this pastoral letter are not at all peripheral to the central mystery at the heart of the Church.(18) They are integral to the proclamation of the Gospel and part of the vocation of every Christian today.(19)

B. Ethical Norms for Economic Life

61. These biblical and theological themes shape the overall Christian perspective on economic ethics. This perspective is also subscribed to by many who do not share Christian religious convictions. Human understanding and religious belief are complementary, not contradictory. For human beings are created in God's image, and their dignity is manifest in the ability to reason and understand, in their freedom to shape their own lives and the life of their communities, and in the capacity for love and friendship. In proposing ethical norms, therefore, we appeal both to Christians and to all in our pluralist society to show that respect and reverence owed to the dignity of every person. Intelligent reflection on the social and economic realities of today is also indispensable in the effort to respond to economic circumstances never envisioned in biblical times. Therefore, we now want to propose an ethical framework that can guide economic life today in ways that are both faithful to the Gospel and shaped by human experience and reason.

62. First we outline the *duties* all people have to each other and to the whole community: love of neighbor, the basic requirements of justice and the special obligation to those who are poor or vulnerable. Corresponding to these duties are the *human rights* of every person; the obligation to protect the dignity of all demands respect for these rights. Finally these duties and rights entail several *priorities* that should guide the economic choices of individuals, communities, and the nation as a whole.

1. The Responsibilities of Social Living

63. Human life is life in community. Catholic social teaching proposes several complementary perspectives that show how moral responsibilities and duties in the economic sphere are rooted in this call to community.

a. Love and Solidarity

64. *The commandments to love God with all one's heart and to love one's neighbor as oneself are the heart and soul of Christian morality*. Jesus offers himself as the model of this all-inclusive love: ". . . love one another as I have loved you" (Jn 15:12). These commands point out the path toward true human fulfillment and happiness. They are not arbitrary restrictions on human freedom. Only active love of God and neighbor makes the fullness of community happen. Christians look forward in hope to a true communion among all persons with each other and with God. The Spirit of Christ labors in history to build up the bonds of solidarity among all persons until that day on which their union is brought to perfection in the Kingdom of God.(20) Indeed Christian theological reflection on the very reality of God as a trinitarian unity of persons—Father, Son, and Holy Spirit—shows that being a person means being united to other persons in mutual love.(21)

65. What the Bible and Christian tradition teach, human wisdom confirms. Centuries before Christ, the Greeks and Romans spoke of the human person as a "social animal" made for friendship, community, and public life. These insights show that human beings achieve self-realization not in isolation, but in interaction with others.(22)

66. The virtues of citizenship are an expression of Christian love more crucial in today's interdependent world than ever before. These virtues grow out of a lively sense of one's dependence on the commonweal and obligations to it. This civic commitment must also guide the economic institutions of society. In the absence of a vital sense of citizenship among the businesses, corporations, labor unions, and other groups that shape economic life, society as a whole is endangered. Solidarity is another name for this social friendship and civic commitment that make human moral and economic life possible.

67. The Christian tradition recognizes, of course, that the fullness of love and community will be achieved only when God's work in Christ comes to completion in the kingdom of God. This kingdom has been inaugurated among us, but God's redeeming and transforming work is not yet complete. Within history, knowledge of how to achieve the goal of social unity is limited. Human sin continues to wound the lives of both individuals and larger social bodies and places obstacles in the path toward greater social solidarity. If efforts to protect human dignity are to be effective, they must take these limits on knowledge and love into account. Nevertheless, sober realism should not be confused with resigned or cynical pessimism. It is a challenge to develop a courageous hope that can sustain efforts that will sometimes be arduous and protracted.

b. Justice and Participation

68. Biblical justice is the goal we strive for. This rich biblical understanding portrays a just society as one marked by the fullness of love, compassion, holiness, and peace. On their path

through history, however, sinful human beings need more specific guidance on how to move toward the realization of this great vision of God's Kingdom. This guidance is contained in the norms of basic or minimal justice. These norms state the *minimum* levels of mutual care and respect that all persons owe to each other in an imperfect world.(23) Catholic social teaching, like much philosophical reflection, distinguishes three dimensions of basic justice: commutative justice, distributive justice, and social justice.(24)

69. *Commutative justice calls for fundamental fairness in all agreements and exchanges between individuals or private social groups*. It demands respect for the equal human dignity of all persons in economic transactions, contracts, or promises. For example, workers owe their employers diligent work in exchange for their wages. Employers are obligated to treat their employees as persons, paying them fair wages in exchange for the work done and establishing conditions and patterns of work that are truly human.(25)

70. *Distributive justice requires that the allocation of income, wealth, and power in society be evaluated in light of its effects on persons whose basic material needs are unmet*. The Second Vatican Council stated: "The right to have a share of earthly goods sufficient for oneself and one's family belongs to everyone. The fathers and doctors of the Church held this view, teaching that we are obliged to come to the relief of the poor and to do so not merely out of our superfluous goods."(26) Minimum material resources are an absolute necessity for human life. If persons are to be recognized as members of the human community, then the community has an obligation to help fulfill these basic needs unless an absolute scarcity of resources makes this strictly impossible. No such scarcity exists in the United States today.

71. Justice also has implications for the way the larger social, economic, and political institutions of society are organized. *Social justice implies that persons have an obligation to be active and productive participants in the life of society and that society has a duty to enable them to participate in this way*. This form of justice can also be called "contributive," for it stresses the duty of all who are able to help create the goods, services, and other nonmaterial or spiritual values necessary for the welfare of the whole community. In the words of Pius XI, "It is of the very essence of social justice to demand from each individual all that is necessary for the common good."(27) Productivity is essential if the community is to have the resources to serve the well-being of all. Productivity, however, cannot be measured solely by its output in goods and services. Patterns of production must also be measured in light of their impact on the fulfillment of basic needs, employment levels, patterns of discrimination, environmental quality, and sense of community.

72. The meaning of social justice also includes a duty to organize economic and social institutions so that people can contribute to society in ways that respect their freedom and the dignity of their labor. Work should enable the working person to become "more a human being," more capable of acting intelligently, freely, and in ways that lead to self-realization.(28)

73. Economic conditions that leave large numbers of able people unemployed, underemployed, or employed in dehumanizing conditions fail to meet the converging demands of these three forms of basic justice. Work with adequate pay for all who seek it is the primary means for achieving basic justice in our society. Discrimination in job opportunities or income levels on the basis of race, sex, or other arbitrary standards can never be justified.(29) It is a scandal that such discrimination continues in the United States today. Where the effects of past discrimination persist, society has the obligation to take positive steps to overcome the legacy of injustice. Judiciously administered affirmative action programs in education and employment can be important

expressions of the drive for solidarity and participation that is at the heart of true justice. Social harm calls for social relief.

74. Basic justice also calls for the establishment of a floor of material well-being on which all can stand. This is a duty of the whole of society and it creates particular obligations for those with greater resources. This duty calls into question extreme inequalities of income and consumption when so many lack basic necessities. Catholic social teaching does not maintain that a flat, arithmetical equality of income and wealth is a demand of justice, but it does challenge economic arrangements that leave large numbers of people impoverished. Further, it sees extreme inequality as a threat to the solidarity of the human community, for great disparities lead to deep social divisions and conflict.(30)

75. This means that all of us must examine our way of living in light of the needs of the poor. Christian faith and the norms of justice impose distinct limits on what we consume and how we view material goods. The great wealth of the United States can easily blind us to the poverty that exists in this nation and the destitution of hundreds of millions of people in other parts of the world. Americans are challenged today as never before to develop the inner freedom to resist the temptation constantly to seek more. Only in this way will the nation avoid what Paul VI called "the most evident form of moral underdevelopment," namely greed.(31)

76. These duties call not only for individual charitable giving but also for a more systematic approach by businesses, labor unions, and the many other groups that shape economic life—as well as government. The concentration of privilege that exists today results far more from institutional relationships that distribute power and wealth inequitably than from differences in talent or lack of desire to work. These institutional patterns must be examined and revised if we are to meet the demands of basic justice. For example, a system of taxation based on assessment according to ability to pay(32) is a prime necessity for the fulfillment of these social obligations.

c. Overcoming Marginalization and Powerlessness

77. These fundamental duties can be summarized this way: *Basic justice demands the establishment of minimum levels of participation in the life of the human community for all persons.* The ultimate injustice is for a person or group to be treated actively or abandoned passively as if they were nonmembers of the human race. To treat people this way is effectively to say that they simply do not count as human beings. This can take many forms, all of which can be described as varieties of marginalization, or exclusion from social life.(33) This exclusion can occur in the political sphere: restriction of free speech, concentration of power in the hands of a few, or outright repression by the state. It can also take economic forms that are equally harmful. Within the United States, individuals, families, and local communities fall victim to a downward cycle of poverty generated by economic forces they are powerless to influence. The poor, the disabled, and the unemployed too often are simply left behind. This pattern is even more severe beyond our borders in the least-developed countries. Whole nations are prevented from fully participating in the international economic order because they lack the power to change their disadvantaged position. Many people within the less developed countries are excluded from sharing in the meager resources available in their homelands by unjust elites and unjust governments. These patterns of exclusion are created by free human beings. In this sense they can be called forms of social sin.(34) Acquiescence in them or failure to correct them when it is possible to do so is a sinful dereliction of Christian duty.

78. Recent Catholic social thought regards the task of overcoming these patterns of exclusion and powerlessness as a most basic demand of justice. Stated positively, justice demands that social institutions be ordered in a way that guarantees all persons the ability to participate actively in the economic, political, and cultural life of society.(35) The level of participation may legitimately be greater for some persons than for others, but there is a basic level of access that must be made available for all. Such participation is an essential expression of the social nature of human beings and of their communitarian vocation.

2. Human Rights: The Minimum Conditions for Life in Community

79. Catholic social teaching spells out the basic demands of justice in greater detail in the human rights of every person. These fundamental rights are prerequisites for a dignified life in community. The Bible vigorously affirms the sacredness of every person as a creature formed in the image and likeness of God. The biblical emphasis on covenant and community also shows that human dignity can only be realized and protected in solidarity with others. In Catholic social thought, therefore, respect for human rights and a strong sense of both personal and community responsibility are linked, not opposed. Vatican II described the common good as "the sum of those conditions of social life which allow social groups and their individual members relatively thorough and ready access to their own fulfillment."(36) These conditions include the rights to fulfillment of material needs, a guarantee of fundamental freedoms, and the protection of relationships that are essential to participation in the life of society.(37) These rights are bestowed on human beings by God and grounded in the nature and dignity of human persons. They are not created by society. Indeed society has a duty to secure and protect them.(38)

80. The full range of human rights has been systematically outlined by John XXIII in his encyclical *Peace on Earth*. His discussion echoes the United Nations Universal Declaration on Human Rights and implies that internationally accepted human rights standards are strongly supported by Catholic teaching. These rights include the civil and political rights to freedom of speech, worship, and assembly. A number of human rights also concern human welfare and are of a specifically economic nature. First among these are the rights to life, food, clothing, shelter, rest, medical care, and basic education. These are indispensable to the protection of human dignity. In order to ensure these necessities, all persons have a right to earn a living, which for most people in our economy is through remunerative employment. All persons also have a right to security in the event of sickness, unemployment, and old age. Participation in the life of the community calls for the protection of this same right to employment, as well as the right to healthful working conditions, to wages, and other benefits sufficient to provide individuals and their families with a standard of living in keeping with human dignity, and to the possibility of property ownership.(39) These fundamental personal rights—civil and political as well as social and economic—state the minimum conditions for social institutions that respect human dignity, social solidarity, and justice. They are all essential to human dignity and to the integral development of both individuals and society, and are thus moral issues.(40) Any denial of these rights harms persons and wounds the human community. Their serious and sustained denial violates individuals and destroys solidarity among persons.

81. Social and economic rights call for a mode of implementation different from that required to secure civil and political rights. Freedom of worship and of speech imply immunity from interference on the part of both other persons and the government. The rights to education,

employment, and social security, for example, are empowerments that call for positive action by individuals and society at large.

82. However, both kinds of rights call for positive action to create social and political institutions that enable all persons to become active members of society. Civil and political rights allow persons to participate freely in the public life of the community, for example, through free speech, assembly, and the vote. In democratic countries these rights have been secured through a long and vigorous history of creating the institutions of constitutional government. In seeking to secure the full range of social and economic rights today, a similar effort to shape new economic arrangements will be necessary.

83. The first step in such an effort is the development of a new cultural consensus that the basic economic conditions of human welfare are essential to human dignity and are due persons by right. Second, the securing of these rights will make demands on all members of society, on all private sector institutions, and on government. A concerted effort on all levels in our society is needed to meet these basic demands of justice and solidarity. Indeed political democracy and a commitment to secure economic rights are mutually reinforcing.

84. Securing economic rights for all will be an arduous task. There are a number of precedents in U.S. history, however, which show that the work has already begun.(41) The country needs a serious dialogue about the appropriate levels of private and public sector involvement that are needed to move forward. There is certainly room for diversity of opinion in the Church and in U.S. society on how to protect the human dignity and economic rights of all our brothers and sisters.(42) In our view, however, there can be no legitimate disagreement on the basic moral objectives.

3. Moral Priorities for the Nation

85. *The common good demands justice for all, the protection of the human rights of all.*(43) Making cultural and economic institutions more supportive of the freedom, power, and security of individuals and families must be a central, long-range objective for the nation. Every person has a duty to contribute to building up the commonweal. All have a responsibility to develop their talents through education. Adults must contribute to society through their individual vocations and talents. Parents are called to guide their children to the maturity of Christian adulthood and responsible citizenship. Everyone has special duties toward the poor and the marginalized. Living up to these responsibilities, however, is often made difficult by the social and economic patterns of society. Schools and educational policies both public and private often serve the privileged exceedingly well, while the children of the poor are effectively abandoned as second-class citizens. Great stresses are created in family life by the way work is organized and scheduled, and by the social and cultural values communicated on television. Many in the lower middle class are barely getting by and fear becoming victims of economic forces over which they have no control.

86. *The obligation to provide justice for all means that the poor have the single most urgent economic claim on the conscience of the nation.* Poverty can take many forms, spiritual as well as material. All people face struggles of the spirit as they ask deep questions about their purpose in life. Many have serious problems in marriage and family life at some time in their lives, and all of us face the certain reality of sickness and death. The Gospel of Christ proclaims that God's love is stronger than all these forms of diminishment. Material deprivation, however, seriously compounds such sufferings of the spirit and heart. To see a loved one sick is bad enough, but to have no possibility of obtaining health care is worse. To face family problems, such as the death of a spouse

or a divorce, can be devastating, but to have these lead to the loss of one's home and end with living on the streets is something no one should have to endure in a country as rich as ours. In developing countries these human problems are even more greatly intensified by extreme material deprivation. This form of human suffering can be reduced if our own country, so rich in resources, chooses to increase its assistance.

87. As individuals and as a nation, therefore, we are called to make a fundamental "option for the poor."(44) The obligation to evaluate social and economic activity from the viewpoint of the poor and the powerless arises from the radical command to love one's neighbor as one's self. Those who are marginalized and whose rights are denied have privileged claims if society is to provide justice for *all*. This obligation is deeply rooted in Christian belief. As Paul VI stated:

> In teaching us charity, the Gospel instructs us in the preferential respect due the poor and the special situation they have in society: the more fortunate should renounce some of their rights so as to place their goods more generously at the service of others. (45)

John Paul II has described this special obligation to the poor as "a call to have a special openness with the small and the weak, those that suffer and weep, those that are humiliated and left on the margin of society, so as to help them win their dignity as human persons and children of God."(46)

88. The prime purpose of this special commitment to the poor is to enable them to become active participants in the life of society. It is to enable *all* persons to share in and contribute to the common good.(47) The "option for the poor," therefore, is not an adversarial slogan that pits one group or class against another. Rather it states that the deprivation and powerlessness of the poor wounds the whole community. The extent of their suffering is a measure of how far we are from being a true community of persons. These wounds will be healed only by greater solidarity with the poor and among the poor themselves.

89. In summary, the norms of love, basic justice and human rights imply that personal decisions, social policies, and economic institutions should be governed by several key priorities. These priorities do not specify everything that must be considered in economic decision making. They do indicate the most fundamental and urgent objectives.

90. a. *The fulfillment of the basic needs of the poor is of the highest priority*. Personal decisions, policies of private and public bodies, and power relationships must all be evaluated by their effects on those who lack the minimum necessities of nutrition, housing, education, and health care. In particular, this principle recognizes that meeting fundamental human needs must come before the fulfillment of desires for luxury consumer goods, for profits not conducive to the common good, and for unnecessary military hardware.

91. b. *Increasing active participation in economic life by those who are presently excluded or vulnerable is a high social priority*. The human dignity of all is realized when people gain the power to work together to improve their lives, strengthen their families, and contribute to society. Basic justice calls for more than providing help to the poor and other vulnerable members of society. It recognizes the priority of policies and programs that support family life and enhance economic participation through employment and widespread ownership of property. It challenges privileged economic power in favor of the well-being of all. It points to the need to improve the present situation of those unjustly discriminated against in the past. And it has very important implications for both the domestic and the international distribution of power.

92. c. *The investment of wealth, talent and human energy should be specially directed to benefit those who are poor or economically insecure*. Achieving a more just economy in the United States

and the world depends in part on increasing economic resources and productivity. In addition, the ways these resources are invested and managed must be scrutinized in light of their effects on non-monetary values. Investment and management decisions have crucial moral dimensions: they create jobs or eliminate them; they can push vulnerable families over the edge into poverty or give them new hope for the future; they help or hinder the building of a more equitable society. Indeed they can have either positive or negative influence on the fairness of the global economy. Therefore, this priority presents a strong moral challenge to policies that put large amounts of talent and capital into the production of luxury consumer goods and military technology while failing to invest sufficiently in education, health, the basic infrastructure of our society, and economic sectors that produce urgently needed jobs, goods, and services.

93. d. *Economic and social policies as well as the organization of the work world should be continually evaluated in light of their impact on the strength and stability of family life*. The long-range future of this nation is intimately linked with the well-being of families, for the family is the most basic form of human community.(48) Efficiency and competition in the marketplace must be moderated by greater concern for the way work schedules and compensation support or threaten the bonds between spouses and between parents and children. Health, education, and social service programs should be scrutinized in light of how well they ensure both individual dignity and family integrity.

94. These priorities are not policies. They are norms that should guide the economic choices of all and shape economic institutions. They can help the United States move forward to fulfill the duties of justice and protect economic rights. They were strongly affirmed as implications of Catholic social teaching by Pope John Paul II during his visit to Canada in 1984: 'The needs of the poor take priority over the desires of the rich; the rights of workers over the maximization of profits; the preservation of the environment over uncontrolled industrial expansion; production to meet social needs over production for military purposes."(49) There will undoubtedly be disputes about the concrete applications of these priorities in our complex world. We do not seek to foreclose discussion about them. However, we believe that an effort to move in the direction they indicate is urgently needed.

95. The economic challenge of today has many parallels with the political challenge that confronted the founders of our nation. In order to create a new form of political democracy they were compelled to develop ways of thinking and political institutions that had never existed before. Their efforts were arduous and their goals imperfectly realized, but they launched an experiment in the protection of civil and political rights that has prospered through the efforts of those who came after them. *We believe the time has come for a similar experiment in securing economic rights: the creation of an order that guarantees the minimum conditions of human dignity in the economic sphere for every person*. By drawing on the resources of the Catholic moral-religious tradition, we hope to make a contribution through this letter to such a new "American experiment": a new venture to secure economic justice for all.

C. Working for Greater Justice: Persons and Institutions

96. The economy of this nation has been built by the labor of human hands and minds. Its future will be forged by the ways persons direct all this work toward greater justice. The economy is not a machine that operates according to its own inexorable laws, and persons are not mere objects tossed about by economic forces. Pope John Paul II has stated that "human work is a key, probably

the essential key, to the whole social question."(50) The Pope's understanding of work includes virtually all forms of productive human activity: agriculture, entrepreneurship, industry, the care of children, the sustaining of family life, politics, medical care, and scientific research. Leisure, prayer, celebration, and the arts are also central to the realization of human dignity and to the development of a rich cultural life. It is in their daily work, however, that persons become the subjects and creators of the economic life of the nation.(51) Thus, it is primarily through their daily labor that people make their most important contributions to economic justice.

97. All work has a threefold moral significance. First, it is a principal way that people exercise the distinctive human capacity for self-expression and self-realization. Second, it is the ordinary way for human beings to fulfill their material needs. Finally, work enables people to contribute to the well-being of the larger community. Work is not only for oneself. It is for one's family, for the nation, and indeed for the benefit of the entire human family.(52)

98. These three moral concerns should be visible in the work of all, no matter what their role in the economy: blue collar workers, managers, home-makers, politicians, and others. They should also govern the activities of the many different, overlapping communities and institutions that make up society: families, neighborhoods, small businesses, giant corporations, trade unions, the various levels of government, international organizations, and a host of other human associations including communities of faith.

99. Catholic social teaching calls for respect for the full richness of social life. The need for vital contributions from different human associations—ranging in size from the family to government—has been classically expressed in Catholic social teaching in the "principle of subsidiarity":

> Just as it is gravely wrong to take from individuals what they can accomplish by their own initiative and industry and give it to the community, so also it is an injustice and at the same time a grave evil and disturbance of right order to assign to a greater and higher association what lesser and subordinate organizations can do. For every social activity ought of its very nature to furnish help (*subsidium*) to the members of the body social, and never destroy and absorb them.(53)

100. This principle guarantees institutional pluralism. It provides space for freedom, initiative, and creativity on the part of many social agents. At the same time, it insists that *all* these agents should work in ways that help build up the social body. Therefore, in all their activities these groups should be working in ways that express their distinctive capacities for action, that help meet human needs, and that make true contributions to the common good of the human community. The task of creating a more just U.S. economy is the vocation of all and depends on strengthening the virtues of public service and responsible citizenship in personal life and on all levels of institutional life.(54)

101. Without attempting to describe the tasks of all the different groups that make up society, we want to point to the specific rights and duties of some of the persons and institutions whose work for justice will be particularly important to the future of the U.S. economy. These rights and duties are among the concrete implications of the principle of subsidiarity. Further implications will be discussed in Chapter IV of this letter.

1. Working People and Labor Unions

102. Though John Paul II's understanding of work is a very inclusive one, it fully applies to those customarily called "workers" or "labor" in the United States. Labor has great dignity, so great

that all who are able to work are obligated to do so. The duty to work derives both from God's command and from a responsibility to one's own humanity and to the common good.(55) The virtue of industriousness is also an expression of a person's dignity and solidarity with others. All working people are called to contribute to the common good by seeking excellence in production and service.

103. Because work is this important, people have a right to employment. In return for their labor, workers have a right to wages and other benefits sufficient to sustain life in dignity. As Pope Leo XIII stated, every working person has "the right of securing things to sustain life."(56) The way power is distributed in a free-market economy frequently gives employers greater bargaining power than employees in the negotiation of labor contracts. Such unequal power may press workers into a choice between an inadequate wage and no wage at all. But justice, not charity, demands certain minimum guarantees. The provision of wages and other benefits sufficient to support a family in dignity is a basic necessity to prevent this exploitation of workers. The dignity of workers also requires adequate health care, security for old age or disability, unemployment compensation, healthful working conditions, weekly rest, periodic holidays for recreation and leisure, and reasonable security against arbitrary dismissal.(57) These provisions are all essential if workers are to be treated as persons rather than simply as a "factor of production."

104. The Church fully supports the right of workers to form unions or other associations to secure their rights to fair wages and working conditions. This is a specific application of the more general right to associate. In the words of Pope John Paul II, "The experience of history teaches that organizations of this type are an indispensable element of social life, especially in modern industrialized societies."(58) Unions may also legitimately resort to strikes where this is the only available means to the justice owed to workers.(59) No one may deny the right to organize without attacking human dignity itself. Therefore, we firmly oppose organized efforts, such as those regrettably now seen in this country, to break existing unions and prevent workers from organizing. Migrant agricultural workers today are particularly in need of protection, including the right to organize and bargain collectively. U.S. labor law reform is needed to meet these problems as well as to provide more timely and effective remedies for unfair labor practices.

105. Denial of the right to organize has been pursued ruthlessly in many countries beyond our borders. We vehemently oppose violations of the freedom to associate, wherever they occur, for they are an intolerable attack on social solidarity.

106. Along with the rights of workers and unions go a number of important responsibilities. Individual workers have obligations to their employers, and trade unions also have duties to society as a whole. Union management in particular carries a strong responsibility for the good name of the entire union movement. Workers must use their collective power to contribute to the well-being of the whole community and should avoid pressing demands whose fulfillment would damage the common good and the rights of more vulnerable members of society.(60) It should be noted, however, that wages paid to workers are but one of the factors affecting the competitiveness of industries. Thus, it is unfair to expect unions to make concessions if managers and shareholders do not make at least equal sacrifices.

107. Many U.S. unions have exercised leadership in the struggle for justice for minorities and women. Racial and sexual discrimination, however, has blotted the record of some unions. Organized labor has a responsibility to work positively toward eliminating the injustice this discrimination has caused.

108. Perhaps the greatest challenge facing U.S. workers and unions today is that of developing a new vision of their role in the U.S. economy of the future. The labor movement in the United States stands at a crucial moment. The dynamism of the unions that led to their rapid growth in the middle decades of this century has been replaced by a decrease in the percentage of U.S. workers who are organized. American workers are under heavy pressures today that threaten their jobs. The restrictions on the right to organize in many countries abroad make labor costs lower there, threaten American workers and their jobs, and lead to the exploitation of workers in these countries. In these difficult circumstances, guaranteeing the rights of U.S. workers calls for imaginative vision and creative new steps, not reactive or simply defensive strategies. For example, organized labor can play a very important role in helping to provide the education and training needed to help keep workers employable. Unions can also help both their own members and workers in developing countries by increasing their international efforts. A vital labor movement will be one that looks to the future with a deepened sense of global interdependence.

109. There are many signs that these challenges are being discussed by creative labor leaders today. Deeper and broader discussions of this sort are needed. This does not mean that only organized labor faces these new problems. All other sectors and institutions in the U.S. economy need similar vision and imagination. Indeed new forms of cooperation among labor, management, government, and other social groups are essential and will be discussed in Chapter IV of this letter.

2. Owners and Managers

110. The economy's success in fulfilling the demands of justice will depend on how its vast resources and wealth are managed. Property owners, managers, and investors of financial capital must all contribute to creating a more just society. Securing economic justice depends heavily on the leadership of men and women in business and on wise investment by private enterprises. Pope John Paul II has pointed out, "The degree of well-being which society today enjoys would be unthinkable without the dynamic figure of the business person, whose function consists of organizing human labor and the means of production so as to give rise to the goods and services necessary for the prosperity and progress of the community."(61) The freedom of entrepreneurship, business and finance should be protected, but the accountability of this freedom to the common good and the norms of justice must be assured.

111. Persons in management face many hard choices each day, choices on which the well-being of many others depends. Commitment to the public good and not simply the private good of their firms is at the heart of what it means to call their work a vocation and not simply a career or a job. We believe that the norms and priorities discussed in this letter can be of help as they pursue their important tasks. The duties of individuals in the business world, however, do not exhaust the ethical dimensions of business and finance. The size of a firm or bank is in many cases an indicator of relative power. Large corporations and large financial institutions have considerable power to help shape economic institutions within the United States and throughout the world. With this power goes responsibility and the need for those who manage it to be held to moral and institutional accountability.

112. Business and finance have the duty to be faithful trustees of the resources at their disposal. No one can ever own capital resources absolutely or control their use without regard for others and society as a whole.(62) This applies first of all to land and natural resources. Short-term profits

reaped at the cost of depletion of natural resources or the pollution of the environment violate this trust.

113. Resources created by human industry are also held in trust. Owners and managers have not created this capital on their own. They have benefited from the work of many others and from the local communities that support their endeavors.(63) They are accountable to these workers and communities when making decisions. For example, reinvestment in technological innovation is often crucial for the long-term viability of a firm. The use of financial resources solely in pursuit of short-term profits can stunt the production of needed goods and services; a broader vision of managerial responsibility is needed.

114. The Catholic tradition has long defended the right to private ownership of productive property.(64) This right is an important element in a just economic policy. It enlarges our capacity for creativity and initiative.(65) Small and medium-sized farms, businesses, and entrepreneurial enterprises are among the most creative and efficient sectors of our economy. They should be highly valued by the people of the United States, as are land ownership and home ownership. Widespread distribution of property can help avoid excessive concentration of economic and political power. For these reasons ownership should be made possible for a broad sector of our population.(66)

115. The common good may sometimes demand that the right to own be limited by public involvement in the planning or ownership of certain sectors of the economy. Support of private ownership does not mean that anyone has the right to unlimited accumulation of wealth. "Private property does not constitute for anyone an absolute or unconditioned right. No one is justified in keeping for his exclusive use what he does not need, when others lack necessities."(67) Pope John Paul II has referred to limits placed on ownership by the duty to serve the common good as a "social mortgage" on private property.(68) For example, these limits are the basis of society's exercise of eminent domain over privately owned land needed for roads or other essential public goods. The Church's teaching opposes collectivist and statist economic approaches. But it also rejects the notion that a free market automatically produces justice. Therefore, as Pope John Paul II has argued, "One cannot exclude the socialization, in suitable conditions, of certain means of production."(69) The determination of when such conditions exist must be made on a case-by-case basis in light of the demands of the common good.

116. United States business and financial enterprises can also help determine the justice or injustice of the world economy. They are not all-powerful, but their real power is unquestionable. Transnational corporations and financial institutions can make positive contributions to development and global solidarity. Pope John Paul II has pointed out, however, that the desire to maximize profits and reduce the cost of natural resources and labor has often tempted these transnational enterprises to behavior that increases inequality and decreases the stability of the international order.(70) By collaborating with those national governments that serve their citizens justly and with intergovernmental agencies, these corporations can contribute to overcoming the desperate plight of many persons throughout the world.

117. Business people, managers, investors, and financiers follow a vital Christian vocation when they act responsibly and seek the common good. We encourage and support a renewed sense of vocation in the business community. We also recognize that the way business people serve society is governed and limited by the incentives which flow from tax policies, the availability of credit, and other public policies.

118. Businesses have a right to an institutional framework that does not penalize enterprises that act responsibly. Governments must provide regulations and a system of taxation which encourage firms to preserve the environment, employ disadvantaged workers, and create jobs in depressed areas. Managers and stockholders should not be torn between their responsibilities to their organizations and their responsibilities toward society as a whole.

3. Citizens and Government

119. In addition to rights and duties related to specific roles in the economy, everyone has obligations based simply on membership in the social community. By fulfilling these duties, we create a true commonwealth. Volunteering time, talent, and money to work for greater justice is a fundamental expression of Christian love and social solidarity. All who have more than they need must come to the aid of the poor. People with professional or technical skills needed to enhance the lives of others have a duty to share them. And the poor have similar obligations: to work together as individuals and families to build up their communities by acts of social solidarity and justice. These voluntary efforts to overcome injustice are part of the Christian vocation.

120. Every citizen also has the responsibility to work to secure justice and human rights through an organized social response. In the words of Pius XI, "Charity will never be true charity unless it takes justice into account.... Let no one attempt with small gifts of charity to exempt himself from the great duties imposed by justice."(71) The guaranteeing of basic justice for all is not an optional expression of largesse but an inescapable duty for the whole of society.

121. The traditional distinction between society and the state in Catholic social teaching provides the basic framework for such organized public efforts. The church opposes all statist and totalitarian approaches to socioeconomic questions. Social life is richer than governmental power can encompass. All groups that compose society have responsibilities to respond to the demands of justice. We have just outlined some of the duties of labor unions and business and financial enterprises. These must be supplemented by initiatives by local community groups, professional associations, educational institutions, churches, and synagogues. All the groups that give life to this society have important roles to play in the pursuit of economic justice.

122. For this reason, it is all the more significant that the teachings of the Church insist that *government has a moral function: protecting human rights and securing basic justice for all members of the commonwealth*.(72) Society as a whole and in all its diversity is responsible for building up the common good. But it is government's role to guarantee the minimum conditions that make this rich social activity possible, namely, human rights and justice.(73) This obligation also falls on individual citizens as they choose their representatives and participate in shaping public opinion.

123. More specifically, it is the responsibility of all citizens, acting through their government, to assist and empower the poor, the disadvantaged, the handicapped, and the unemployed. Government should assume a positive role in generating employment and establishing fair labor practices, in guaranteeing the provision and maintenance of the economy's infrastructure, such as roads, bridges, harbors, public means of communication, and transport. It should regulate trade and commerce in the interest of fairness.(74) Government may levy the taxes necessary to meet these responsibilities, and citizens have a moral obligation to pay those taxes. The way society responds to the needs of the poor through its public policies is the litmus test of its justice or injustice. The

political debate about these policies is the indispensable forum for dealing with the conflicts and trade-offs that will always be present in the pursuit of a more just economy.

124. The primary norm for determining the scope and limits of governmental intervention is the "principle of subsidiarity" cited above. This principle states that, in order to protect basic justice, government should undertake only those initiatives which exceed the capacity of individuals or private groups acting independently. Government should not replace or destroy smaller communities and individual initiative. Rather it should help them to contribute more effectively to social well-being and supplement their activity when the demands of justice exceed their capacities. This does not mean, however, that the government that governs least governs best. Rather it defines good government intervention as that which truly "helps" other social groups contribute to the common good by directing, urging, restraining, and regulating economic activity as "the occasion requires and necessity demands."(75) This calls for cooperation and consensus building among the diverse agents in our economic life, including government. The precise form of government involvement in this process cannot be determined in the abstract. It will depend on an assessment of specific needs and the most effective ways to address them.

D. Christian Hope and the Courage to Act

125. The Christian vision is based on the conviction that God has destined the human race and all creation for "a kingdom of truth and life, of holiness and grace, of justice, love, and peace."(76) This conviction gives Christians strong hope as they face the economic struggles of the world today. This hope is not a naive optimism that imagines that simple formulas for creating a fully just society are ready at hand. The Church's experience through history and in nations throughout the world today has made it wary of all ideologies that claim to have the final answer to humanity's problems.(77) Christian hope has a much stronger foundation than such ideologies, for it rests on the knowledge that God is at work in the world, "preparing a new dwelling place and a new earth where justice will abide."(78)

126. This hope stimulates and strengthens Christian efforts to create a more just economic order in spite of difficulties and setbacks.(79) Christian hope is strong and resilient, for it is rooted in a faith that knows that the fullness of life comes to those who follow Christ in the way of the Cross. In pursuit of concrete solutions, all members of the Christian community are called to an ever finer discernment of the hurts and opportunities in the world around them, in order to respond to the most pressing needs and thus build up a more just society.(80) This is a communal task calling for dialogue, experimentation, and imagination. It also calls for deep faith and courageous love.

FOOTNOTES

Chapter II

1 *Mater et Magistra*, 219-220. See *Pastoral Constitution*, 63.

2 Vatican Council II, *Decree on Ecumenism*, 22-23.

3 C. Westermann, *Creation* (Philadelphia: Fortress Press, 1974); and B. Vawter, *On Genesis: A New Reading* (Garden City, N.Y.: Doubleday, 1977). See also *Pastoral Constitution*, 34.

4 St. Cyprian, *On Works and Almsgiving*, 25, trans. R. J. Deferrari, *St. Cyprian: Treatises*, 36 (New York: Fathers of the Church, 1958), 251. Original text in Migne, Patrologia Latina, vol. 4, 620. *On the Patristic teaching*, see C. Avila, *Ownership: Early Christian Teaching* (Maryknoll, N.Y.: Orbis Books, 1983). Collection of original texts and translations.

5 T. T. Ogletree, *The Use of the Bible in Christian Ethics* (Philadelphia: Fortress Press, 1983), 47-85.

6 Though scholars debate whether the Jubilee was a historical institution or an ideal, its images were continually evoked to stress God's sovereignty over the land and God's concern for the poor and the oppressed (e.g., Is. 61:1-2; Lk 4:16-19). See R. North, *Sociology of the Biblical Jubilee* (Rome: Biblical Institute, 1954); S. Ringe, *Jesus, Liberation and the Biblical Jubilee: Images for Ethics and Christology* (Philadelphia: Fortress Press, 1985).

7 On justice, see J. R. Donahue, "Biblical Perspectives on Justice," in Haughey, ed., *The Faith That Does Justice* (New York: Paulist Press, 1977), 68-112; and S. C. Mott, *Biblical Ethics and Social Change* (New York: Oxford University Press, 1982).

8 See Ex 22:20-26; Dt 15:1-11; Jb 29:12-17; Pss 69:34; 72:2, 4,12-24; 82:3-4; Prv 14:21, 31; Is 3:14-15, 10:2; Jer 22:16; Zec 7:9-10.

9 J. Pedersen, *Israel: Its Life and Culture*, vol. I-II (London: Oxford University Press, 1926), 337-340.

10 J. Alfaro, *Theology of Justice in the World* (Rome: Pontifical Commission on Justice and Peace, 1973), 40-41; E. McDonagh, *The Making of Disciples* (Wilmington, Del.: Michael Glazier, 1982), 119.

11 Pope John Paul II has drawn on this parable to exhort us to have a "compassionate heart" to those in need in his Apostolic Letter "On the Christian Meaning of Human Suffering" (*Salvifici Doloris*) (Washington, D.C.: United States Catholic Conference, 1984), 34-39.

12 *Redeemer of Man*, 21.

13 Address to Workers at Sao Paulo, 8, *Origins* 10:9 (July 31, 1980), 139; and Address at Yankee Stadium, *Origins* 9:19 (October 25, 1979), 311-312.

14 J. Dupont and A. George, eds., *La pauvreté évangelique* (Paris: Cerf, 1971); M. Hengel, *Property and Riches in the Early Church* (Philadelphia: Fortress Press, 1974); L. Johnson, *Sharing Possessions: Mandate and Symbol of Faith* (Philadelphia: Fortress Press, 1981); D. L. Mealand, *Poverty and Expectation in the Gospels* (London: SPCK, 1980); W. Pilgrim, *Good News to the Poor: Wealth and Poverty in Luke-Acts* (Minneapolis: Augsburg, 1981); and W. Stegemann, *The Gospel and the Poor* (Philadelphia: Fortress Press, 1984).

15 See Am 4:1-3; Jb 20:19; Sir 13:4-7; Jas 2:6; 5:1-6; Rv 18:11-19.

16 See paras. 85-91.

17 See Selected Bibliography.

18 Extraordinary Synod of Bishops (1985), *The Final Report, II, A* (Washington, D.C.: United States Catholic Conference, 1986).

19 Pope Paul VI, *On Evangelization in the Modern World*, 31.

20 Ibid., 24.

21 *Pastoral Constitution*, 32.

22 Ibid., 25.

23 See para. 39.

24 Josef Pieper, *The Four Cardinal Virtues* (Notre Dame, Ind.: University of Notre Dame Press, 1966), 43-116; David Hollenbach, "Modern Catholic Teachings Concerning Justice," in John C. Haughey ed., *The Faith That Does Justice* (New York: Paulist Press, 1977), 207-231.

25 Jon P. Gunnemann, "Capitalism and Commutative Justice," presented at the 1985 meeting of the Society of Christian Ethics, published in *The Annual of the Society of Christian Ethics*.

26 *Pastoral Constitution*, 69.

27 Pope Pius XI, *Divini Redemptoris*, 51. See John A. Ryan, *Distributive Justice, third edition* (New York: Macmillan, 1942), 188. The term "social justice" has been used in several different but related ways in the Catholic ethical tradition. See William Ferree, "The Act of Social Justice," *Philosophical Studies*, vol. 72 (Washington, D.C.: The Catholic University of America Press, 1943).

28 *On Human Work*, 6, 9.

29 *Pastoral Constitution*, 29.

30 Ibid. See below, paras. 180-182.

31 Pope Paul VI, *On the Development of Peoples* (1967), 19.

32 *Mater et Magistra*, 132.

33 Justice in the World, 10, 16; and *Octogesima Adveniens*, 15.

34 *Pastoral Constitution*, 25; *Justice in the World*, 51; Pope John Paul II, *The Gift of the Redemption, Apostolic Exhortation on Reconciliation and Penance* (Washington, D.C.: United States Catholic Conference, 1984), 16; Congregation for the Doctrine of the Faith, *Instruction on Christian Freedom and Liberation*, 42, 74.

35 In the words of the 1971 Synod of Bishops: "Participation constitutes a right which is to be applied in the economic and in the social and political field," *Justice in the World*, 18.

36 *Pastoral Constitution*, 26.

37 Pope John Paul II, Address at the General Assembly of the United Nations (October 2, 1979), 13, 14.

38 See Pope Pius XII, 1941 Pentecost Address, in V. Yzermans, *The Major Addresses of Pope Pius XII, vol. I* (St. Paul: North Central, 1961), 32-33.

39 *Peace on Earth*, 8-27. See *On Human Work*, 18-19. Peace on Earth and other modern papal statements refer explicitly to the "right to work" as one of the fundamental economic rights. Because of the ambiguous meaning of the phrase in the United States, and also because the ordinary way people earn their living in our society is through paid employment, the NCCB has affirmed previously that the protection of human dignity demands that the right to useful employment be secured for all who are able and willing to work. See NCCB, *The Economy: Human Dimensions* (November 20, 1975), 5, in NCCB, Justice in the Marketplace, 470. See also Congregation for the Doctrine of the Faith, *Instruction on Christian Freedom and Liberation*, 85.

40 *The Development of Peoples*, 14.

41 Martha H. Good, "Freedom From Want: The Failure of United States Courts to Protect Subsistence Rights," *Human Rights Quarterly* 6 (1984): 335-365.

42 *Pastoral Constitution*, 43.

43 *Mater et Magistra*, 65.

44 On the recent use of this term see: Congregation for the Doctrine of the Faith, *Instruction on Christian Freedom and Liberation*, 46-50, and 66-68; *Evangelization in Latin America's Present and Future, Final Document of the Third General Conference of the Latin American Episcopate* (Puebla, Mexico, January 27-February 13, 1979), esp. part VI, ch. 1, "A Preferential Option for the Poor," in J. Eagleson and P. Scharper, eds., *Puebla and Beyond* (Maryknoll, N.Y.: Orbis Books, 1979), 264-267; Donal Dorr, *Option for the Poor: A Hundred Years of Vatican Social Teaching* (Dublin: Gill and Macmillan/Maryknoll, N.Y.: Orbis Books, 1983).

45 *Octogesima Adveniens*, 23.

46 Address to Bishops of Brazil, 6.9, *Origins* 10:9 (July 31, 1980): 135.

47 Pope John Paul II, Address to Workers at Sao Paulo, 4, *Origins* (July 31, 1980): 138; Congregation for the Doctrine of the Faith, *Instruction on Christian Freedom and Liberation*, 66-68.

48 *Pastoral Constitution*, 47.

49 Address on Christian Unity in a Technological Age (Toronto, September 14, 1984) in *Origins* 14:16 (October 4, 1984): 248.

50 *On Human Work*, 3.

51 Ibid., 5, 6.

52 Ibid., 6, 10.

54 *Quadragesimo Anno*, 79. The meaning of this principle is not always accurately understood. For studies of its interpretation in Catholic teaching see: Calvez and Perrin, *Catholic Social Principles*, (Milkwaukee: Bruce, 1950), 328-342; Johannes Messner, "Freedom as a Principle of Social Order: An Essay in the Substance of Subsidiary Function," *Modern Schoolman* 28 (1951): 97-110; Richard E. Mulcahy, "Subsidiarity," *New Catholic Encyclopedia* vol. 13 (New York: McGraw-Hill, 1966), 762; Franz H. Mueller, "The Principle of Subsidiarity in Christian Tradition," *American*

Catholic Sociological Review 4 (October, 1943): 144-157; Oswald von Nell-Breuning, "Zur Sozialreform, Erwagungen zum Subsidiaritatsprinzip," *Stimmen der Zeit* 157, Bd. 81 (1955-56): 1-11; id., "Subsidiarity," *Sacramentum Mundi* (New York: Herder and Herder, 1970), 6, 114-116; Arthur Fridolin Utz, *Formen und Grenzen des Subsidiaritatsprinzips* (Heidelberg: F. H. Kerle Verlag, 1956); id., "The Principle of Subsidiarity and Contemporary Natural Law," *Natural Law Forum* 3 (1958): 170-183; id., *Grundsatze der Sozialpolitik: Solidaritat und Subsidiaritat in der Alterversicherung* (Stuttgart: Sewald Verlag, 1969).

54 *Pastoral Constitution*, 31.

55 *On Human Work*, 16.

56 *Rerum Novarum*, 62; see also 9.

57 *On Human Work*, 19.

58 Ibid., 20.

59 Ibid.

60 Ibid.

61 Pope John Paul II, Address to Business Men and Economic Managers (Milan, May 22, 1983) in *L'Osservatore Romano*, weekly edition in English (June 20, 1983): 9:1.

62 Thomas Aquinas, *Summa Theologiae*, IIa, IIae, q. 66.

63 As Pope John Paul II has stated: "This gigantic and powerful instrument—the whole collection of the means of production that in a sense are considered synonymous with 'capital'—is the result of work and bears the signs of human labor." *On Human Work*, 12.

64 *Rerum Novarum*, 10, 15, and 36.

65 *Mater et Magistra*, 109.

66 *Rerum Novarum*, 65, 66; *Mater et Magistra*, 115.

67 *On the Development of Peoples*, 23.

68 Pope John Paul II, *Opening Address at the Puebla Conference* (Puebla, Mexico, January 28, 1979) in John Eagleson and Philip Scharper, eds. *Peubla and Beyond*, 67.

69 *On Human Work*, 14.

70 Ibid., 17.

71 *Divini Redemptoris*, 49.

72 *Peace on Earth*, 60-62.

73 Vatican Council II, *Declaration on Religious Freedom* (*Dignitatis Humanae*), 6. See John Courtney Murray, *The Problem of Religious Freedom*, Woodstock Papers, no. 7 (Westminster, Md.: Newman Press, 1965).

74 *Peace on Earth*, 63-64; *Quadragesimo Anno*, 80. In *Rerum Novarum* Pope Leo XIII set down the basic norm which determines when government intervention is called for: "If, therefore, any injury has been done to or threatens either the common good or the interests of individual groups, which injury cannot in any other way be repaired or prevented, it is necessary for public authority to intervene" *Rerum Novarum*, 52. Pope John XXIII synthesized the Church's understanding of the function of governmental intervention this way: 'The State, whose purpose is the realization of the common good in the temporal order, can by no means disregard the economic activity of its citizens. Indeed it should be present to promote in suitable manner the production of a sufficient supply of material goods,... contribute actively to the betterment of the living conditions of workers,... see to it that labor agreements are entered into according to the norms of justice and equity, and that in the environment of work the dignity of the human being is not violated either in body or spirit," *Mater et Magistra*, 20-21.

75 *Quadragesimo Anno*, 80.

76 Preface for the Feast of Christ the King, *The Sacramentary of the Roman Missal*.

77 *Octogesima Adveniens*, 26-35.

78 *Pastoral Constitution*, 39.

79 Ibid.

80 *Octogesima Adveniens*, 42.

CHAPTER III

SELECTED ECONOMIC POLICY ISSUES

127. We have outlined this moral vision as a guide to all who seek to be faithful to the Gospel in their daily economic decisions and as a challenge to transform the economic arrangements that shape our lives and our world. These arrangements embody and communicate social values, and therefore have moral significance both in themselves and in their effects. Christians, like all people, must be concerned about how the concrete outcomes of their economic activity serve human dignity; they must assess the extent to which the structures and practices of the economy support or undermine their moral vision.

128. Such an assessment of economic practices, structures, and outcomes leads to a variety of conclusions. Some people argue that an unfettered free-market economy, where owners, workers, and consumers pursue their enlightened self-interest, provides the greatest possible liberty, material welfare, and equity. The policy implication of this view is to intervene in the economy as little as possible because it is such a delicate mechanism that any attempt to improve it is likely to have the opposite effect. Others argue that the capitalist system is inherently inequitable and therefore contradictory to the demands of Christian morality, for it is based on acquisitiveness, competition, and self-centered individualism. They assert that capitalism is fatally flawed and must be replaced by a radically different system that abolishes private property, the profit motive, and the free market.

129. Catholic social teaching has traditionally rejected these ideological extremes because they are likely to produce results contrary to human dignity and economic justice.(1) Starting with the assumption that the economy has been created by human beings and can be changed by them, the Church works for improvement in a variety of economic and political contexts; but it is not the Church's role to create or promote a specific new economic system. Rather, the Church must encourage all reforms that hold out hope of transforming our economic arrangements into a fuller systemic realization of the Christian moral vision. The Church must also stand ready to challenge practices and institutions that impede or carry us farther away from realizing this vision.

130. In short, the Church is not bound to any particular economic, political, or social system; it has lived with many forms of economic and social organization and will continue to do so, evaluating each according to moral and ethical principles: What is the impact of the system on people? Does it support or threaten human dignity?

131. In this document we offer reflections on the particular reality that is the U.S. economy. In doing so we are aware of the need to address not only individual issues within the economy but also the larger question of the economic system itself. Our approach in analyzing the U.S. economy is pragmatic and evolutionary in nature. We live in a "mixed" economic system which is the product of a long history of reform and adjustment. It is in the spirit of this American pragmatic tradition of reform that we seek to continue the search for a more just economy. Our nation has many assets to employ in this quest—vast economic, technological, and human resources, and a system of representative government through which we can all help shape economic decisions.

132. Although we have chosen in this chapter to focus primarily on some aspects of the economy where we think reforms are realistically possible, we also emphasize that Catholic social teaching bears directly on larger questions concerning the economic system itself and the values it

expresses—questions that cannot be ignored in the Catholic vision of economic justice.(2) For example, does our economic system place more emphasis on maximizing profits than on meeting human needs and fostering human dignity? Does our economy distribute its benefits equitably or does it concentrate power and resources in the hands of a few? Does it promote excessive materialism and individualism? Does it adequately protect the environment and the nation's natural resources? Does it direct too many scarce resources to military purposes? These and other basic questions about the economy need to be scrutinized in light of the ethical norms we have outlined. We urge continuing exploration of these systemic questions in a more comprehensive way than this document permits.

133. We have selected the following subjects to address here: 1) employment, 2) poverty, 3) food and agriculture, and 4) the U.S. role in the global economy. These topics were chosen because of their relevance to both the economic "signs of the times" and the ethical norms of our tradition. Each exemplifies U.S. policies that are basic to the establishment of economic justice in the nation and the world, and each illustrates key moral principles and norms for action from Catholic social teaching. Our treatment of these issues does not constitute a comprehensive analysis of the U.S. economy. We emphasize that these are illustrative topics intended to exemplify the interaction of moral values and economic issues in our day, not to encompass all such values and issues. This document is not a technical blueprint for economic reform. Rather, it is an attempt to foster a serious moral analysis leading to a more just economy.

134. In focusing on some of the central economic issues and choices in American life in the light of moral principles, we are aware that the movement from principle to policy is complex and difficult and that although moral values are essential in determining public policies, they do not dictate specific solutions. They must interact with empirical data, with historical, social, and political realities, and with competing demands on limited resources. The soundness of our prudential judgments depends not only on the moral force of our principles, but also on the accuracy of our information and the validity of our assumptions.

135. Our judgments and recommendations on specific economic issues, therefore, do not carry the same moral authority as our statements of universal moral principles and formal church teaching; the former are related to circumstances which can change or which can be interpreted differently by people of good will. We expect and welcome debate on our specific policy recommendations. Nevertheless, we want our statements on these matters to be given serious consideration by Catholics as they determine whether their own moral judgments are consistent with the Gospel and with Catholic social teaching. We believe that differences on complex economic questions should be expressed in a spirit of mutual respect and open dialogue.(3)

A. Employment

136. Full employment is the foundation of a just economy. The most urgent priority for domestic economic policy is the creation of new jobs with adequate pay and decent working conditions. We must make it possible as a nation for everyone who is seeking a job to find employment within a reasonable amount of time. Our emphasis on this goal is based on the conviction that human work has a special dignity and is a key to achieving justice in society.(4)

137. Employment is a basic right, a right which protects the freedom of all to participate in the economic life of society. It is a right which flows from the principles of justice which we have outlined above. Corresponding to this right is the duty on the part of society to ensure that the right

is protected. The importance of this right is evident in the fact that for most people employment is crucial to self-realization and essential to the fulfillment of material needs. Since so few in our economy own productive property, employment also forms the first line of defense against poverty. Jobs benefit society as well as workers, for they enable more people to contribute to the common good and to the productivity required for a healthy economy.

1. The Scope and Effects of Unemployment

138. Joblessness is becoming a more widespread and deep-seated problem in our nation. There are about 8 million people in the United States looking for a job who cannot find one. They represent about 7 percent of the labor force.(5) The official rate of unemployment does not include those who have given up looking for work or those who are working part-time, but want to work full-time. When these categories are added, it becomes clear that about one-eighth of the workforce is directly affected by unemployment.(6) The severity of the unemployment problem is compounded by the fact that almost three-fourths of those who are unemployed receive no unemployment insurance benefits.(7)

139. In recent years there has been a steady trend toward higher and higher levels of unemployment, even in good times. Between 1950 and 1980 the annual unemployment rate exceeded current levels only during the recession years of 1975 and 1976. Periods of economic recovery during these three decades brought unemployment rates down to 3 and 4 percent. Since 1979, however, the rate has generally been above 7 percent.

140. Who are the unemployed? Blacks, Hispanics, Native Americans, young adults, female heads of households, and those who are inadequately educated are represented disproportionately among the ranks of the unemployed. The unemployment rate among minorities is almost twice as high as the rate among whites. For female heads of households the unemployment rate is over 10 percent. Among black teenagers, unemployment reaches the scandalous rate of more than one in three.(8)

141. The severe human costs of high unemployment levels become vividly clear when we examine the impact of joblessness on human lives and human dignity. It is a deep conviction of American culture that work is central to the freedom and well-being of people. The unemployed often come to feel they are worthless and without a productive role in society. Each day they are unemployed our society tells them: We don't need your talent. We don't need your initiative. We don't need you. Unemployment takes a terrible toll on the health and stability of both individuals and families. It gives rise to family quarrels, greater consumption of alcohol, child abuse, spouse abuse, divorce, and higher rates of infant mortality.(9) People who are unemployed often feel that society blames them for being unemployed. Very few people survive long periods of unemployment without some psychological damage even if they have sufficient funds to meet their needs.(10) At the extreme, the strains of job loss may drive individuals to suicide.(11)

142. In addition to the terrible waste of individual talent and creativity, unemployment also harms society at large. Jobless people pay little or no taxes, thus lowering the revenues for city, state and the federal governments. At the same time, rising unemployment requires greater expenditures for unemployment compensation, food stamps, welfare, and other assistance. It is estimated that in 1986, for every one percentage point increase in the rate of unemployment, there will be roughly a $40 billion increase in the federal deficit.(12) The costs to society are also evident in the rise in crime associated with joblessness. The Federal Bureau of Prisons reports that increases in unemployment have been followed by increases in the prison population. Other studies have

shown links between the rate of joblessness and the frequency of homicides, robberies, larcenies, narcotics arrests, and youth crimes.(13)

143. Our own experiences with the individuals, families, and communities that suffer the burdens of unemployment compel us to the conviction that as a nation we simply cannot afford to have millions of able-bodied men and women unemployed. We cannot afford the economic costs, the social dislocation, and the enormous human tragedies caused by unemployment. In the end, however, what we can least afford is the assault on human dignity that occurs when millions are left without adequate employment. Therefore, we cannot but conclude that current levels of unemployment are intolerable, and they impose on us a moral obligation to work for policies that will reduce joblessness.

2. Unemployment in a Changing Economy

144. The structure of the U.S. economy is undergoing a transformation that affects both the quantity and the quality of jobs in our nation. The size and makeup of the work force, for example, have changed markedly in recent years. For a number of reasons, there are now more people in the labor market than ever before in our history. Population growth has pushed up the supply of potential workers. In addition, large numbers of women have entered the labor force in order to put their talents and education to greater use and out of economic necessity. Many families need two salaries if they are to live in a decently human fashion. Female-headed households often depend heavily on the mother's income to stay off the welfare rolls. Immigrants seeking a better existence in the United States have also added to the size of the labor force. These demographic changes, however, cannot fully explain the higher levels of unemployment.

145. Technological changes are also having dramatic impacts on the employment picture in the United States. Advancing technology brings many benefits, but it can also bring social and economic costs, including the downgrading and displacement of workers. High technology and advanced automation are changing the very face of our nation's industries and occupations. In the 1970s, about 90 percent of all new jobs were in service occupations. By 1990, service industries are expected to employ 72 percent of the labor force. Much of the job growth in the 1980s is expected to be in traditionally low-paying, high-turnover jobs such as sales, clerical, janitorial, and food service.(14) Too often these jobs do not have career ladders leading to higher skilled, higher paying jobs. Thus the changing industrial and occupational mix in the U.S. economy could result in a shift toward lower paying and lower skilled jobs.

146. Increased competition in world markets is another factor influencing the rate of joblessness in our nation. Many other exporting nations have acquired and developed up-to-the-minute technology, enabling them to increase productivity dramatically. Combined with very low wages in many nations, this has allowed them to gain a larger share of the U.S. market to cut into U.S. export markets. At the same time many corporations have closed plants in the United States and moved their capital, technology, and jobs to foreign affiliates.

147. Discrimination in employment is one of the causes for high rates of joblessness and low pay among racial minorities and women. Beyond the normal problems of locating a job, blacks, Hispanics, Native Americans, immigrants, and other minorities bear this added burden of discrimination. Discrimination against women is compounded by the lack of adequate child care services and by the unwillingness of many employers to provide flexible employment or extend fringe benefits to part-time employees.

148. High levels of defense spending also have an effect on the number of jobs in our economy. In our pastoral letter, *The Challenge of Peace*, we noted the serious economic distortions caused by the arms race and the disastrous effects that it has on society's ability to care for the poor and the needy. Employment is one area in which this interconnection is very evident. The hundreds of billions of dollars spent by our nation each year on the arms race create a massive drain on the U.S. economy as well as a very serious "brain drain." Such spending on the arms race means a net loss in the number of jobs created in the economy, because defense industries are less labor-intensive than other major sectors of the economy.(15) Moreover, nearly half of the American scientific and engineering force works in defense-related programs, and over 60 percent of the entire federal research and development budget goes to the military.(16) We must ask whether our nation will ever be able to modernize our economy and achieve full employment if we continue to devote so much of our financial and human resources to defense-related activities.

149. These are some of the factors that have driven up the rate of unemployment in recent years. Although our economy has created more than 20 million new jobs since 1970,(17) there continues to be a chronic and growing job shortage. In the face of this challenge, our nation's economic institutions have failed to adapt adequately and rapidly enough. For example, failure to invest sufficiently in certain industries and regions, inadequate education and training for new workers, and insufficient mechanisms to assist workers displaced by new technology have added to the unemployment problem.

150. Generating an adequate number of jobs in our economy is a complex task in view of the changing and diverse nature of the problem. It involves numerous trade-offs and substantial costs. Nevertheless, it is not an impossible task. Achieving the goal of full employment may require major adjustments and creative strategies that go beyond the limits of existing policies and institutions, but it is a task we must undertake.

3. Guidelines for Action

151. We recommend that the nation make a major new commitment to achieve full employment. At present there is nominal endorsement of the full employment ideal, but no firm commitment to bringing it about. If every effort were now being made to create the jobs required, one might argue that the situation today is the best we can do. But such is not the case. The country is doing far less than it might to generate employment.

152. Over the last decade, economists, policy makers, and the general public have shown greater willingness to tolerate unemployment levels of 6 to 7 percent or even more.(18) Although we recognize the complexities and trade-offs involved in reducing unemployment, we believe that 6 to 7 percent unemployment is neither inevitable nor acceptable. While a zero unemployment rate is clearly impossible in an economy where people are constantly entering the job market and others are changing jobs, appropriate policies and concerted private and public action can improve the situation considerably, if we have the will to do so. No economy can be considered truly healthy when so many millions of people are denied jobs by forces outside their control. The acceptance of present unemployment rates would have been unthinkable twenty years ago. It should be regarded as intolerable today.

153. We must first establish a consensus that everyone has a right to employment. Then the burden of securing full employment falls on all of us—policy makers, business, labor, and the general public—to create and implement the mechanisms to protect that right. We must work for

the formation of a new national consensus and mobilize the necessary political will at all levels to make the goal of full employment a reality.

154. Expanding employment in our nation will require significant steps in both the private and public sectors, as well as joint action between them. Private initiative and entrepreneurship are essential to this task, for the private sector accounts for about 80 percent of the jobs in the United States, and most new jobs are being created there.(19) Thus a viable strategy for employment generation must assume that a large part of the solution will be with private firms and small businesses. At the same time, it must be recognized that government has a prominent and indispensable role to play in addressing the problem of unemployment. The market alone will not automatically produce full employment. Therefore, the government must act to ensure that this goal is achieved by coordinating general economic policies, by job creation programs and by other appropriate policy measures.

155. Effective action against unemployment will require a careful mix of general economic policies and targeted employment programs. Taken together, these policies and programs should have full employment as their No. 1 goal.

a. General Economic Policies

156. The general or macroeconomic policies of the federal government are essential tools for encouraging the steady economic growth that produces more and better jobs in the economy. *We recommend that the fiscal and monetary policies of the nation—such as federal spending, tax and interest-rate policies—should be coordinated so as to achieve the goal of full employment.*

157. General economic policies that attempt to expand employment must also deal with the problem of inflation.(20) The risk of inflationary pressures resulting from such expansionary policies is very real. Our response to this risk, however, must not be to abandon the goal of full employment, but to develop effective policies that keep inflation under control.

158. While economic growth is an important and necessary condition for the reduction of unemployment, it is not sufficient in and of itself. In order to work for full employment and restrain inflation, it is also necessary to adopt more specific programs and policies targeted toward particular aspects of the unemployment problem.(21)

b. Targeted Employment Programs

159. (1) *We recommend expansion of job-training and apprenticeship programs in the private sector administered and supported jointly by business, labor unions, and government.* Any comprehensive employment strategy must include systematic means of developing the technical and professional skills needed for a dynamic and productive economy. Investment in a skilled work force is a prerequisite both for sustaining economic growth and achieving greater justice in the United States. The obligation to contribute to this investment falls on both the private and public sectors. Today business, labor, and government need to coordinate their efforts and pool their resources to promote a substantial increase in the number of apprenticeship programs and to expand on-the-job training programs. We recommend a national commitment to eradicate illiteracy and to provide people with skills necessary to adapt to the changing demands of employment.

160. With the rapid pace of technological change, continuing education and training are even more important today than in the past. Businesses have a stake in providing it, for skilled workers are essential to increased productivity. Labor unions should support it, for their members are increasingly vulnerable to displacement and job loss unless they continue to develop their skills and their flexibility on the job. Local communities have a stake as well, for their economic well-being will suffer serious harm if local industries fail to develop and are forced to shut down.

161. The best medicine for the disease of plant closings is prevention. Prevention depends not only on sustained capital investment to enhance productivity through advanced technology, but also on the training and retraining of workers within the private sector. In circumstances where plants are forced to shut down, management, labor unions, and local communities must see to it that workers are not simply cast aside. Retraining programs will be even more urgently needed in these circumstances.

162. (2) *We recommend increased support for direct job creation programs targeted on the long-term unemployed and those with special needs*. Such programs can take the form of direct public service employment and also of public subsidies for employment in the private sector. Both approaches would provide jobs for those with low skills less expensively and with less inflation than would general stimulation of the economy.(22) The cost of providing jobs must also be balanced against the savings realized by the government through decreased welfare and unemployment insurance expenditures and increased revenues from the taxes paid by the newly employed.

163. Government funds, if used effectively, can also stimulate private sector jobs for the long-term unemployed and for groups particularly hard to employ. Experiments need to be conducted on the precise ways such subsidies would most successfully attract business participation and ensure the generation of permanent jobs.

164. These job generation efforts should aim specifically at bringing marginalized persons into the labor force. They should produce a net increase in the number of jobs rather than displacing the burden of unemployment from one group of persons to another. They should also be aimed at long-term jobs and should include the necessary supportive services to assist the unemployed in finding and keeping jobs.

165. Jobs that are created should produce goods and services needed and valued by society. It is both good common sense and sound economics to create jobs directly for the purpose of meeting society's unmet needs. Across the nation, in every state and locality, there is ample evidence of social needs that are going unmet. Many of our parks and recreation facilities are in need of maintenance and repair. Many of the nation's bridges and highways are in disrepair. We have a desperate need for more low-income housing. Our educational systems, day-care services, senior citizen services and other community programs need to be expanded. These and many other elements of our national life are areas of unmet need. At the same time, there are more than 8 million Americans looking for productive and useful work. Surely we have the capacity to match these needs by giving Americans who are anxious to work a chance for productive employment in jobs that are waiting to be done. The overriding moral value of enabling jobless persons to achieve a new sense of dignity and personal worth through employment also strongly recommends these programs.

166. These job creation efforts will require increased collaboration and fresh alliances between the private and public sectors at all levels. There are already a number of examples of how such

efforts can be successful.(23) We believe that the potential of these kinds of partnerships has only begun to be tapped.

c. Examining New Strategies

167. In addition to the actions suggested above, we believe there is also a need for careful examination and experimentation with alternative approaches that might improve both the quantity and quality of jobs. More extensive use of job sharing, flex time, and a reduced work week are among the topics that should continue to be on the agenda of public discussion. Consideration should also be given to the possibility of limiting or abolishing compulsory overtime work. Similarly, methods might be examined to discourage the overuse of part-time workers, who do not receive fringe benefits.(24) New strategies also need to be explored in the area of education and training for the hard-to-employ, displaced workers, the handicapped, and others with special needs. Particular attention is needed to achieve pay equity between men and women, as well as upgrading the pay scale and working conditions of traditionally low-paying jobs. The nation should renew its efforts to develop effective affirmative action policies that assist those who have been excluded by racial or sexual discrimination in the past. New strategies for improving job placement services at the national and local levels are also needed. Improving occupational safety is another important concern that deserves increased attention.

168. Much greater attention also needs to be devoted to the long-term task of converting some of the nation's military production to more peaceful and socially productive purposes. The nation needs to seek more effective ways to retool industries, to retrain workers, and to provide the necessary adjustment assistance for communities affected by this kind of economic conversion.

169. These are among the avenues that need to be explored in the search for just employment policies. A belief in the inherent dignity of human work and in the right to employment should motivate people in all sectors of society to carry on that search in new and creative ways.

B. Poverty

170. More than 33 million Americans—about one in every seven people in our nation—are poor by the government's official definition. The norms of human dignity and the preferential option for the poor compel us to confront this issue with a sense of urgency. Dealing with poverty is not a luxury to which our nation can attend when it finds the time and resources. Rather, it is a moral imperative of the highest priority.

171. Of particular concern is the fact that poverty has increased dramatically during the last decade. Since 1973 the poverty rate has increased by nearly a third. Although the recent recovery has brought a slight decline in the rate, it remains at a level that is higher than at almost any other time during the last two decades.(25)

172. As pastors we have seen firsthand the faces of poverty in our midst. Homeless people roam city streets in tattered clothing and sleep in doorways or on subway grates at night. Many of these are former mental patients released from state hospitals. Thousands stand in line at soup kitchens because they have no other way of feeding themselves. Millions of children are so poorly nourished that their physical and mental development are seriously harmed.(26) We have also seen the growing economic hardship and insecurity experienced by moderate-income Americans when

they lose their jobs and their income due to forces beyond their control. These are alarming signs and trends. They pose for our nation an urgent moral and human challenge: to fashion a society where no one goes without the basic material necessities required for human dignity and growth.

173. Poverty can be described and defined in many different ways. It can include spiritual as well as material poverty. Likewise, its meaning changes depending on the historical, social, and economic setting. Poverty in our time is different from the more severe deprivation experienced in earlier centuries in the United States or in Third World nations today. Our discussion of poverty in this chapter is set within the context of present-day American society. By poverty, we are referring here to the lack of sufficient material resources required for a decent life. We use the government's official definition of poverty, although we recognize its limits.(27)

1. Characteristics of Poverty

174. Poverty is not an isolated problem existing solely among a small number of anonymous people in our central cities. Nor is it limited to a dependent underclass or to specific groups in the United States. It is a condition experienced at some time by many people in different walks of life and in different circumstances. Many poor people are working, but at wages insufficient to lift them out of poverty.(28) Others are unable to work and therefore dependent on outside sources of support. Still others are on the edge of poverty; although not officially defined as poor, they are economically insecure and at risk of falling into poverty.

175. While many of the poor manage to escape from beneath the official poverty line, others remain poor for extended periods of time. Long-term poverty is concentrated among racial minorities and families headed by women. It is also more likely to be found in rural areas and in the South.(29) Of the long-term poor, most are either working at wages too low to bring them above the poverty line or are retired, disabled or parents of preschool children. Generally they are not in a position to work more hours than they do now.(30)

a. Children in Poverty

176. Poverty strikes some groups more severely than others. Perhaps most distressing is the growing number of children who are poor. Today one in every four American children under the age of six and one in every two black children under six are poor. The number of children in poverty rose by four million over the decade between 1973 and 1983, with the result that there are now more poor children in the United States than at any time since 1965.(31) The problem is particularly severe among female-headed families, where more than half of all children are poor. Two-thirds of black children and nearly three-quarters of Hispanic children in such families are poor.

177. Very many poor families with children receive no government assistance, have no health insurance, and cannot pay medical bills. Less than half are immunized against preventable diseases such as diphtheria and polio.(32) Poor children are disadvantaged even before birth; their mothers' lack of access to high quality prenatal care leaves them at much greater risk of premature birth, low birth weight, physical and mental impairment, and death before their first birthday.

b. Women and Poverty

178. The past twenty years have witnessed a dramatic increase in the number of women in poverty.(33) This includes women raising children alone as well as women with inadequate income following divorce, widowhood, or retirement. More than one-third of all female-headed families are poor. Among minority families headed by women the poverty rate is over 50 percent.(34)

179. Wage discrimination against women is a major factor behind these high rates of poverty. Many women are employed but remain poor because their wages are too low. Women who work outside their homes full-time and year-round earn only 61 percent of what men earn. Thus, being employed full time is not by itself a remedy for poverty among women. Hundreds of thousands of women hold full-time jobs but are still poor. Sixty percent of all women work in only ten occupations, and most new jobs for women are in areas with low pay and limited chances of advancement. Many women suffer discrimination in wages, salaries, job classifications, promotions, and other areas.(35) As a result, they find themselves in jobs that have low status, little security, weak unionization, and few fringe benefits. Such discrimination is immoral and efforts must be made to overcome the effects of sexism in our society.

180. Women's responsibilities for child rearing are another important factor to be considered. Despite the many changes in marriage and family life in recent decades, women continue to have primary responsibility in this area. When marriages break up, mothers typically take custody of the children and bear the major financial responsibility for supporting them. Women often anticipate that they will leave the labor force to have and raise children, and often make job and career choices accordingly. In other cases they are not hired or promoted to higher paying jobs because of their childrearing responsibilities. In addition, most divorced or separated mothers do not get child support payments. In 1983, less than half of women raising children alone had been awarded child support, and of those only half received the full amount to which they were entitled. Even fewer women (14 percent) are awarded alimony, and many older women are left in poverty after a lifetime of homemaking and childrearing.(36) Such women have great difficulty finding jobs and securing health insurance.

c. Racial Minorities and Poverty

181. Most poor people in our nation are white, but the rates of poverty in our nation are highest among those who have borne the brunt of racial prejudice and discrimination. For example, blacks are about three times more likely to be poor than whites. While one out of every nine white Americans is poor, one of every three blacks and Native Americans and more than one of every four Hispanics are poor.(37) While some members of minority communities have successfully moved up the economic ladder, the overall picture indicates that black family income is only 55 percent of white family income, reflecting an income gap that is wider now than at any time in the last fifteen years.(38)

182. Despite the gains which have been made toward racial equality, prejudice and discrimination in our own time as well as the effects of past discrimination continue to exclude many members of racial minorities from the mainstream of American life. Discrimination practices in labor markets, in educational systems, and in electoral politics create major obstacles for blacks, Hispanics, Native Americans, and other racial minorities in their struggle to improve their economic status.(39) Such discrimination is evidence of the continuing presence of racism in our midst. In our

pastoral letter *Brothers and Sisters to Us*, we have described this racism as a sin—"a sin that divides the human family, blots out the image of God among specific members of that family, and violates the fundamental human dignity of those called to be children of the same Father."(40)

2. Economic Inequality

183. Important to our discussion of poverty in America is an understanding of the degree of economic inequality in our nation. Our economy is marked by a very uneven distribution of wealth and income. For example, it is estimated that 28 percent of the total net wealth is held by the richest 2 percent of families in the United States. The top ten percent holds 57 percent of the net wealth.(41) If homes and other real estate are excluded, the concentration of ownership of "financial wealth" is even more glaring. In 1983, 54 percent of the total net financial assets were held by 2 percent of all families, those whose annual income is over $125,000. Eighty-six percent of these assets were held by the top 10 percent of all families.(42)

184. Although disparities in the distribution of income are less extreme, they are still striking. In 1984 the bottom 20 percent of American families received only 4.7 percent of the total income in the nation, and the bottom 40 percent received only 15.7 percent, the lowest share on record in U.S. history. In contrast, the top one-fifth received 42.9 percent of the total income, the highest share since 1948.(43) These figures are only partial and very imperfect measures of the inequality in our society.(44) However, they do suggest that the degree of inequality is quite large. In comparison with other industrialized nations, the United States is among the more unequal in terms of income distribution.(45) Moreover, the gap between rich and poor in our nation has increased during the last decade.(46) These inequities are of particular concern because they reflect the uneven distribution of power in our society. They suggest that the level of participation in the political and social spheres is also very uneven.

185. Catholic social teaching does not require absolute equality in the distribution of income and wealth. Some degree of inequality is not only acceptable, but may be considered desirable for economic and social reasons, such as the need for incentives and the provision of greater rewards for greater risks. However, unequal distribution should be evaluated in terms of several moral principles we have enunciated: the priority of meeting the basic needs of the poor and the importance of increasing the level of participation by all members of society in the economic life of the nation. These norms establish a strong presumption against extreme inequality of income and wealth as long as there are poor, hungry, and homeless people in our midst. They also suggest that extreme inequalities are detrimental to the development of social solidarity and community. In view of these norms we find the disparities of income and wealth in the United States to be unacceptable. Justice requires that all members of our society work for economic, political, and social reforms that will decrease these inequities.

3. Guidelines for Action

186. Our recommendations for dealing with poverty in the United States build upon several moral principles that were explored in chapter two of this letter. The themes of human dignity and the preferential option for the poor are at the heart of our approach; they compel us to confront the issue of poverty with a real sense of urgency.

187. The principle of social solidarity suggests that alleviating poverty will require fundamental changes in social and economic structures that perpetuate glaring inequalities and cut off millions of citizens from full participation in the economic and social life of the nation. The process of change should be one that draws together all citizens, whatever their economic status, into one community.

188. The principle of participation leads us to the conviction that the most appropriate and fundamental solutions to poverty will be those that enable people to take control of their own lives. For poverty is not merely the lack of adequate financial resources. It entails a more profound kind of deprivation, a denial of full participation in the economic, social, and political life of society and an inability to influence decisions that affect one's life. It means being powerless in a way that assaults not only one's pocketbook but also one's fundamental human dignity. Therefore, we should seek solutions that enable the poor to help themselves through such means as employment. Paternalistic programs which do too much for and too little with the poor are to be avoided.

189. The responsibility for alleviating the plight of the poor falls upon all members of society. As individuals, all citizens have a duty to assist the poor through acts of charity and personal commitment. But private charity and voluntary action are not sufficient. We also carry out our moral responsibility to assist and empower the poor by working collectively through government to establish just and effective public policies.

190. Although the task of alleviating poverty is complex and demanding, we should be encouraged by examples of our nation's past successes in this area. Our history shows that we can reduce poverty. During the 1960s and early 1970s, the official poverty rate was cut in half, due not only to a healthy economy, but also to public policy decisions that improved the nation's income transfer programs. It is estimated, for example, that in the late 1970s federal benefit programs were lifting out of poverty about 70 percent of those who would have otherwise been poor.(47)

191. During the last twenty-five years, the Social Security Program has dramatically reduced poverty among the elderly.(48) In addition, in 1983 it lifted out of poverty almost 1.5 million children of retired, deceased, and disabled workers.(49) Medicare has enhanced the life expectancy and health status of elderly and disabled people, and Medicaid has reduced infant mortality and greatly improved access to health care for the poor.(50)

192. These and other successful social welfare programs are evidence of our nation's commitment to social justice and a decent life for everyone. They also indicate that we have the capacity to design programs that are effective and provide necessary assistance to the needy in a way that respects their dignity. Yet it is evident that not all social welfare programs have been successful. Some have been ill-designed, ineffective, and wasteful. No one has been more aware of this than the poor themselves, who have suffered the con-sequences. Where programs have failed, we should discard them, learn from our mistakes, and fashion a better alternative. Where programs have succeeded, we should acknowledge that fact and build on those successes. In every instance, we must summon a new creativity and commitment to eradicate poverty in our midst and to guarantee all Americans their right to share in the blessings of our land.

193. Before discussing directions for reform in public policy, we must speak frankly about misunderstandings and stereotypes of the poor. For example, a common misconception is that most of the poor are racial minorities. In fact, about two-thirds of the poor are white.(51) It is also frequently suggested that people stay on welfare for many years, do not work, could work if they wanted to, and have children who will be on welfare. In fact, reliable data shows that these are not accurate descriptions of most people who are poor and on welfare. Over a decade people move on

and off welfare, and less than 1 percent obtain these benefits for all 10 years.(52) Nor is it true that the rolls of Aid to Families with Dependent Children are filled with able-bodied adults who could but will not work. The majority of AFDC recipients are young children and their mothers who must remain at home.(53) These mothers are also accused of having more children so that they can raise their allowances. The truth is that 70 percent of AFDC families have only one or two children and that there is little financial advantage in having another. In a given year, almost half of all families who receive AFDC include an adult who has worked full or part time.(54) Research has consistently demonstrated that people who are poor have the same strong desire to work that characterizes the rest of the population.(55)

194. We ask everyone to refrain from actions, words or attitudes that stigmatize the poor, that exaggerate the benefits received by the poor, and that inflate the amount of fraud in welfare payments.(56) These are symptoms of a punitive attitude towards the poor. The belief persists in this country that the poor are poor by choice or through laziness, that anyone can escape poverty by hard work, and that welfare programs make it easier for people to avoid work. Thus, public attitudes toward programs for the poor tend to differ sharply from attitudes about other benefits and programs. Some of the most generous subsidies for individuals and corporations are taken for granted and are not even called benefits but entitlements.(57) In contrast programs for the poor are called handouts and receive a great deal of critical attention even though they account for less than 10 percent of the federal budget.(58)

195. We now wish to propose several elements which we believe are necessary for a national strategy to deal with poverty. We offer this not as a comprehensive list but as an invitation for others to join the discussion and take up the task of fighting poverty.

196. a. *The first line of attack against poverty must be to build and sustain a healthy economy that provides employment opportunities at just wages for all adults who are able to work*. Poverty is intimately linked to the issue of employment. Millions are poor because they have lost their jobs or because their wages are too low. The persistent high levels of unemployment during the last decade are a major reason why poverty has increased in recent years.(59) Expanded employment especially in the private sector would promote human dignity, increase social solidarity, and promote self-reliance of the poor. It should also reduce the need for welfare programs and generate the income necessary to support those who remain in need and cannot work: elderly, disabled, and chronically ill people, and single parents of young children. It should also be recognized that the persistence of poverty harms the larger society because the depressed purchasing power of the poor contributes to the periodic cycles of stagnation in the economy.

197. In recent years the minimum wage has not been adjusted to keep pace with inflation. Its real value has declined by 24 percent since 1981. We believe Congress should raise the minimum wage in order to restore some of the purchasing power it has lost due to inflation.

198. While job creation and just wages are major elements of a national strategy against poverty, they are clearly not enough. Other more specific policies are necessary to remedy the institutional causes of poverty and to provide for those who cannot work.

199. b. *Vigorous action should be undertaken to remove barriers to full and equal employment for women and minorities*. Too many women and minorities are locked into jobs with low pay, poor working conditions and little opportunity for career advancement. So long as we tolerate a situation in which people can work full time and still be below the poverty line—a situation common among those earning the minimum wage—too many will continue to be counted among the "working

poor." Concerted efforts must be made through job training, affirmative action, and other means to assist those now prevented from obtaining more lucrative jobs. Action should also be taken to upgrade poorer paying jobs and to correct wage differentials that discriminate unjustly against women.

200. c. *Self-help efforts among the poor should be fostered by programs and policies in both the private and public sectors.* We believe that an effective way to attack poverty is through programs that are small in scale, locally based, and oriented toward empowering the poor to become self-sufficient. Corporations, private organizations, and the public sector can provide seed money, training and technical assistance, and organizational support for self-help projects in a wide variety of areas such as low-income housing, credit unions, worker cooperatives, legal assistance, and neighborhood and community organizations. Efforts that enable the poor to participate in the ownership and control of economic resources are especially important.

201. Poor people must be empowered to take charge of their own futures and become responsible for their own economic advancement. Personal motivation and initiative, combined with social reform, are necessary elements to assist individuals in escaping poverty. By taking advantage of opportunities for education, employment, and training, and by working together for change, the poor can help themselves to be full participants in our economic, social, and political life.

202. d. *The tax system should be continually evaluated in terms of its impact on the poor.* This evaluation should be guided by three principles. First, the tax system should raise adequate revenues to pay for the public needs of society, especially to meet the basic needs of the poor. Secondly, the tax system should be structured according to the principle of progressivity, so that those with relatively greater financial resources pay a higher rate of taxation. The inclusion of such a principle in tax policies is an important means of reducing the severe inequalities of income and wealth in the nation. Action should be taken to reduce or offset the fact that most sales taxes and payroll taxes place a disproportionate burden on those with lower incomes. Thirdly, families below the official poverty line should not be required to pay income taxes. Such families are, by definition, without sufficient resources to purchase the basic necessities of life. They should not be forced to bear the additional burden of paying income taxes.(60)

203. e. *All of society should make a much stronger commitment to education for the poor.* Any long-term solution to poverty in this country must pay serious attention to education, public and private, in school and out of school. Lack of adequate education, especially in the inner-city setting, prevents many poor people from escaping poverty. In addition, illiteracy, a problem that affects tens of millions of Americans, condemns many to joblessness or chronically low wages. Moreover, it excludes them in many ways from sharing in the political and spiritual life of the community.(61) Since poverty is fundamentally a problem of powerlessness and marginalization, the importance of education as a means of overcoming it cannot be overemphasized.

204. Working to improve education in our society is an investment in the future, an investment that should include both the public and private school systems. Our Catholic schools have the well-merited reputation of providing excellent education, especially for the poor. Catholic inner-city schools provide an otherwise unavailable educational alternative for many poor families. They provide one effective vehicle for disadvantaged students to lift themselves out of poverty. We commend the work of all those who make great sacrifices to maintain these inner-city schools. We pledge ourselves to continue the effort to make Catholic schools models of education for the poor.

205. We also wish to affirm our strong support for the public school system in the United States. There can be no substitute for quality education in public schools, for that is where the large majority of all students, including Catholic students, are educated. In Catholic social teaching, basic education is a fundamental human right.(62) In our society a strong public school system is essential if we are to protect that right and allow everyone to develop to their maximum ability. Therefore, we strongly endorse the recent calls for improvements in and support for public education, including improving the quality of teaching and enhancing the rewards for the teaching profession.(63) At all levels of education we need to improve the ability of our institutions to provide the personal and technical skills that are necessary for participation not only in today's labor market but in contemporary society.

206. f. *Policies and programs at all levels should support the strength and stability of families, especially those adversely affected by the economy*. As a nation, we need to examine all aspects of economic life and assess their effects on families. Employment practices, health insurance policies, income-security programs, tax policy and service programs can either support or undermine the abilities of families to fulfill their roles in nurturing children and caring for infirm and dependent family members.

207. We affirm the principle enunciated by John Paul II that society's institutions and policies should be structured so that mothers of young children are not forced by economic necessity to leave their children for jobs outside the home.(64) The nation's social welfare and tax policies should support parents' decisions to care for their own children and should recognize the work of parents in the home because of its value for the family and for society.

208. For those children whose parents do work outside the home, there is a serious shortage of affordable, quality day care. Employers, governments, and private agencies need to improve both the availability and the quality of child care services. Likewise, families could be assisted by the establishment of parental leave policies that would assure job security for new parents.

209. The high rate of divorce and the alarming extent of teen age pregnancies in our nation are distressing signs of the breakdown of traditional family values. These destructive trends are present in all sectors of society: rich and poor; white, black, and brown; urban and rural. However, for the poor they tend to be more visible and to have more damaging economic consequences. These destructive trends must be countered by a revived sense of personal responsibility and commitment to family values.

210. g. *A thorough reform of the nation's welfare and income-support programs should be undertaken.* For millions of poor Americans the only economic safety net is the public welfare system. The programs that make up this system should serve the needs of the poor in a manner that respects their dignity and provides adequate support. In our judgment the present welfare system does not adequately meet these criteria.(65) We believe that several improvements can and should be made within the framework of existing welfare programs. However, in the long run, more far-reaching reforms that go beyond the present system will be necessary. Among the immediate improvements that could be made are the following:

211. (1) *Public assistance programs should be designed to assist recipients, wherever possible, to become self-sufficient through gainful employment*. Individuals should not be worse off economically when they get jobs than when they rely only on public assistance. Under current rules, people who give up welfare benefits to work in low-paying jobs soon lose their Medicaid benefits. To help recipients become self-sufficient and reduce dependency on welfare, public assistance

programs should work in tandem with job creation programs that include provisions for training, counseling, placement, and child care. Jobs for recipients of public assistance should be fairly compensated so that workers receive the full benefits and status associated with gainful employment.

212. (2) *Welfare programs should provide recipients with adequate levels of support*. This support should cover basic needs in food, clothing, shelter, health care, and other essentials. At present only 4 percent of poor families with children receive enough cash welfare benefits to lift them out of poverty.(66) The combined benefits of AFDC and food stamps typically come to less than three-fourths of the official poverty level.(67) Those receiving public assistance should not face the prospect of hunger at the end of the month, homelessness, sending children to school in ragged clothing, or inadequate medical care.

213. (3) *National eligibility standards and a national minimum benefit level for public assistance programs should be established*. Currently welfare eligibility and benefits vary greatly among states. In 1985 a family of three with no earnings had a maximum AFDC benefit of $96 a month in Mississippi and $558 a month in Vermont.(68) To remedy these great disparities, which are far larger than the regional differences in the cost of living, and to assure a floor of benefits for all needy people, our nation should establish and fund national minimum benefit levels and eligibility standards in cash assistance programs.(69) The benefits should also be indexed to reflect changes in the cost of living. These changes reflect standards that our nation has already put in place for aged and disabled people and veterans. Is it not possible to do the same for the children and their mothers who receive public assistance?

214. (4) *Welfare programs should be available to two-parent as well as single-parent families*. Most states now limit participation in AFDC to families headed by single parents, usually women.(70) The coverage of this program should be extended to two-parent families so that fathers who are unemployed or poorly paid do not have to leave home in order for their children to receive help. Such a change would be a significant step toward strengthening two-parent families who are poor.

Conclusion

215. The search for a more human and effective way to deal with poverty should not be limited to short-term reform measures. The agenda for public debate should also include serious discussion of more fundamental alternatives to the existing welfare system. We urge that proposals for a family allowance or a children's allowance be carefully examined as a possible vehicle for ensuring a floor of income support for all children and their families.(71) Special attention is needed to develop new efforts that are targeted on long-term poverty, which has proven to be least responsive to traditional social welfare programs. The "negative income tax" is another major policy proposal that deserves continued discussion.(72) These and other proposals should be part of a creative and ongoing effort to fashion a system of income support for the poor that protects their basic dignity and provides the necessary assistance in a just and effective manner.

C. Food and Agriculture

216. The fundamental test of an economy is its ability to meet the essential human needs of this generation and future generations in an equitable fashion. Food, water, and energy are essential to life; their abundance in the United States has tended to make us complacent. But these goods—the foundation of God's gift of life—are too crucial to be taken for granted. God reminded the people of Israel that "the land is mine; for you are strangers and guests with me" (Lv 25:23, RSV). Our Christian faith calls us to contemplate God's creative and sustaining action and to measure our own collaboration with the Creator in using the earth's resources to meet human needs. While Catholic social teaching on the care of the environment and the management of natural resources is still in the process of development, a Christian moral perspective clearly gives weight and urgency to their use in meeting human needs.

217. No aspect of this concern is more pressing than the nation's food system. We are concerned that this food system may be in jeopardy as increasing numbers of farm bankruptcies and foreclosures result in increased concentration of land ownership.(73) We are likewise concerned about the increasing damage to natural resources resulting from many modern agricultural practices: the over-consumption of water, the depletion of topsoil, and the pollution of land and water. Finally, we are concerned about the stark reality of world hunger in spite of food surpluses. Our food production system is clearly in need of evaluation and reform.

1. U.S. Agriculture—Past and Present

218. The current crisis has to be assessed in the context of the vast diversity of U.S. crops and climates. For example, subsistence farming in Appalachia, where so much of the land is absentee-owned and where coal mining and timber production are the major economic interests, has little in common with family farm grain production in the central Midwest or ranching in the Great Plains. Likewise, large-scale irrigated fruit, vegetable, and cotton production in the central valley of California is very different from dairy farming in Wisconsin or tobacco and peanut production in the Southeast.

219. Two aspects of the complex history of U.S. land and food policy are particularly relevant. First, the United States entered this century with the ownership of productive land widely distributed. The Pre-emption Acts of the early 19th century and the Homestead Act of 1862 were an important part of that history. Wide distribution of ownership was reflected in the number and decentralization of farms in the United States, a trend that reached its peak in the 1930s. The U.S. farm system included nearly 7 million owner-operators in 1935.(74) By 1983 the number of U.S. farms had declined to 2.4 million, and only about 3 percent of the population was engaged in producing food.(75) Second, U.S. food policy has had a parallel goal of keeping the consumer cost of food low. As a result, Americans today spend less of their disposable income on food than people in any other industrialized country.(76)

220. These outcomes require scrutiny. First of all, the loss of farms and the exodus of farmers from the land have led to the loss of a valued way of life, the decline of many rural communities, and the increased concentration of land ownership. Second, while low food prices benefit consumers, who are left with additional income to spend on other goods, these pricing policies put pressure on farmers to increase output and hold down costs. This has led them to replace human labor with cheaper energy, expand farm size to employ new technologies favoring larger scale

operations, neglect soil and water conservation, underpay farm workers, and oppose farmworker unionization.(77)

221. Today nearly half of U.S. food production comes from the 4 percent of farms with over $200,000 in gross sales.(78) Many of these largest farms are no longer operated by families, but by managers hired by owners.(79) Nearly three-quarters of all farms, accounting for only 13 percent of total farm sales, are comparatively small. They are often run by part-time farmers who derive most of their income from off-farm employment. The remaining 39 percent of sales comes from the 24 percent of farms grossing between $40,000 and $200,000. It is this group of farmers, located throughout the country and caught up in the long-term trend toward fewer and larger farms, who are at the center of the present farm crisis.

222. During the 1970s new markets for farm exports created additional opportunities for profit and accelerated the industrialization of agriculture, a process already stimulated by new petroleum-based, large-scale technologies that allowed farmers to cultivate many more acres. Federal tax policies and farm programs fostered this tendency by encouraging too much capital investment in agriculture and overemphasizing large scale technologies.(80) The results were greater production, increases in the value of farmland and heavy borrowing to finance expansion. In the 1980s, with export markets shrinking and commodity prices and land values declining, many farmers cannot repay their loans.

223. Their situation has been aggravated by certain "external" factors: persistent high interest rates that make it difficult to repay or refinance loans, the heavy debt burden of food-deficient countries, the high value of the dollar, dramatically higher U.S. budget and trade deficits, and generally reduced international trade following the worldwide recession of the early 1980s. The United States is unlikely to recapture its former share of the world food and fiber trade, and it is not necessarily an appropriate goal to attempt to do so. Exports are not the solution to U.S. farm problems. Past emphasis on production for overseas markets has contributed to the strain on our natural resource base and has also undermined the efforts of many less developed countries in attaining self-reliance in feeding their own people. In attempting to correct these abuses, however, we must not reduce our capability to help meet emergency food needs.

224. Some farmers face financial insolvency because of their own eagerness to take advantage of what appeared to be favorable investment opportunities. This was partly in response to the encouragement of public policy incentives and the advice of economists and financiers. Nevertheless, farmers should share some responsibility for their current plight.

225. Four other aspects of the current situation concern us: first, land ownership is becoming further concentrated as units now facing bankruptcy are added to existing farms and non-farm corporations. Diversity of ownership and widespread participation are declining in this sector of the economy as they have in others. Since differing scales of operation and the investment of family labor have been important for American farm productivity, the increasing concentration of ownership in almost all sectors of agriculture points to an important change in that system.(81) Of particular concern is the growing phenomenon of "vertical integration" whereby companies gain control of two or three of the links in the food chain: as suppliers of farm inputs, landowners, and food processors. This increased concentration could also adversely affect food prices.

226. Second, diversity and richness in American society are lost as farm people leave the land and rural communities decay. It is not just a question of coping with additional unemployment and a

need for retraining and relocation. It is also a matter of maintaining opportunities for employment and human development in a variety of economic sectors and cultural contexts.

227. Third, although the United States has set a world standard for food production, it has not done so without cost to our natural resource base.(82) On nearly one-quarter of our most productive cropland, topsoil erosion currently exceeds the rate at which it can be replaced by natural processes. Similarly, underground water supplies are being depleted in areas where food production depends on irrigation. Furthermore, chemical fertilizers, pesticides, and herbicides, considered now almost essential to today's agriculture, pollute the air, water, and soil, and pose countless health hazards. Finally, where the expansion of residential, industrial, and recreational areas makes it rewarding to do so, vast acreages of prime farmland, three million acres per year by some estimates, are converted to non-farm use. The continuation of these practices, reflecting short-term investment interests or immediate income needs of farmers and other landowners, constitutes a danger to future food production because these practices are not sustainable.

228. Farm owners and farmworkers are the immediate stewards of the natural resources required to produce the food that is necessary to sustain life. These resources must be understood as gifts of a generous God. When they are seen in that light and when the human race is perceived as a single moral community, we gain a sense of the substantial responsibility we bear as a nation for the world food system. Meeting human needs today and in the future demands an increased sense of stewardship and conservation from owners, managers, and regulators of all resources, especially those required for the production of food.

229. Fourth, the situation of racial minorities in the U.S. food system is a matter of special pastoral concern. They are largely excluded from significant participation in the farm economy. Despite the agrarian heritage of so many Hispanics, for example, they operate only a minute fraction of America's farms.(83) Black-owned farms, at one time a significant resource for black participation in the economy, have been disappearing at a dramatic rate in recent years,(84) a trend that the U.S. Commission on Civil Rights has warned "can only serve to further diminish the stake of blacks in the social order and reinforce their skepticism regarding the concept of equality under the law."(85)

230. It is largely as hired farm laborers rather than farm owners that minorities participate in the farm economy. Along with many white farm workers, they are by and large the poorest paid and least benefited of any laboring group in the country. Moreover, they are not as well protected by law and public policy as other groups of workers; and their efforts to organize and bargain collectively have been systematically and vehemently resisted, usually by farmers themselves. Migratory field workers are particularly susceptible to exploitation. This is reflected not only in their characteristically low wages but in the low standards of housing, health care, and education made available to these workers and their families.(86)

2. Guidelines for Action

231. We are convinced that current trends in the food sector are not in the best interests of the United States or of the global community. The decline in the number of moderate-sized farms, increased concentration of land ownership, and the mounting evidence of poor resource conservation raise serious questions of morality and public policy. As pastors, we cannot remain silent while thousands of farm families caught in the present crisis lose their homes, their land, and their way of life. We approach this situation, however, aware that it reflects longer-term conditions

that carry consequences for the food system as a whole and for the resources essential for food production.

232. While much of the change needed must come from the cooperative efforts of farmers themselves, we strongly believe that there is an important role for public policy in the protection of dispersed ownership through family farms, as well as in the preservation of natural resources. We suggest three guidelines for both public policy and private efforts aimed at shaping the future of American agriculture.

233. *First, moderate-sized farms operated by families on a full-time basis should be preserved and their economic viability protected.* Similarly, small farms and part-time farming, particularly in areas close to cities, should be encouraged. As we have noted elsewhere in this pastoral letter,(87) there is genuine social and economic value in maintaining a wide distribution in the ownership of productive property. The democratization of decision making and control of the land resulting from wide distribution of farm ownership are protections against concentration of power and a consequent possible loss of responsiveness to public need in this crucial sector of the economy.(88) Moreover, when those who work in an enterprise also share in its ownership, their active commitment to the purpose of the endeavor and their participation in it are enhanced. Ownership provides incentives for diligence and is a source of an increased sense that the work being done is one's own. This is particularly significant in a sector as vital to human well-being as agriculture.

234. Furthermore, diversity in farm ownership tends to prevent excessive consumer dependence on business decisions that seek maximum return on invested capital, thereby making the food system overly susceptible to fluctuations in the capital markets. This is particularly relevant in the case of non-farm corporations that enter agriculture in search of high profits. If the return drops substantially or if it appears that better profits can be obtained by investing elsewhere, the corporation may cut back or even close down operations without regard to the impact on the community or on the food system in general. In similar circumstances full-time farmers, with a heavy personal investment in their farms and strong ties to the community, are likely to persevere in the hope of better times. Family farms also make significant economic and social contributions to the life of rural communities.(89) They support farm suppliers and other local merchants, and their farms support the tax base needed to pay for roads, schools, and other vital services.

235. This rural interdependence has value beyond the rural community itself. Both Catholic social teaching and the traditions of our country have emphasized the importance of maintaining the rich plurality of social institutions that enhances personal freedom and increases the opportunity for participation in community life. Movement toward a smaller number of very large farms employing wage workers would be a movement away from this institutional pluralism. By contributing to the vitality of rural communities, full-time residential farmers enrich the social and political life of the nation as a whole. Cities, too, benefit soundly and economically from a vibrant rural economy based on family farms. Because of out-migration of farm and rural people, too much of this enriching diversity has been lost already.

236. *Second, the opportunity to engage in farming should be protected as a valuable form of work.* At a time when unemployment in the country is already too high, any unnecessary increase in the number of unemployed people, however small, should be avoided. Farm unemployment leads to further rural unemployment as rural businesses lose their customers and close down. The loss of people from the land also entails the loss of expertise in farm and land management and creates a need for retraining and relocating another group of displaced workers.

237. Losing any job is painful, but losing one's farm and having to leave the land can be tragic. It often means the sacrifice of a family heritage and a way of life. Once farmers sell their land and their equipment, their move is practically irreversible. The costs of returning are so great that few who leave ever come back. Even the small current influx of people into agriculture attracted by lower land values will not balance this loss. Society should help those who would and could continue effectively in farming.

238. *Third, effective stewardship of our natural resources should be a central consideration in any measures regarding U.S. agriculture*. Such stewardship is a contribution to the common good that is difficult to assess in purely economic terms, because it involves the care of resources entrusted to us by our Creator for the benefit of all. Responsibility for the stewardship of these resources rests on society as a whole. Since farmers make their living from the use of this endowment, however, they bear a particular obligation to be caring stewards of soil and water. They fulfill this obligation by participating in soil and water conservation programs, using farm practices that enhance the quality of all resources and maintaining prime farm land in food production rather than letting it be converted to non-farm uses.

3. Policies and Actions

239. The human suffering involved in the present situation and the long-term structural changes occurring in this sector call for responsible action by the whole society. A half-century of federal farm-price supports, subsidized credit, production-oriented research and extension services, and special tax policies for farmers have made the federal government a central factor in almost every aspect of American agriculture.(90) No redirection of current trends can occur without giving close attention to these programs.

240. A prime consideration in all agricultural trade and food-assistance policies should be the contribution our nation can make to global food security. This means continuing and increasing food aid without depressing Third World markets or using food as a weapon in international politics. It also means not subsidizing exports in ways that lead to trade wars and instability in international food markets.

241. We offer the following suggestions for governmental action with regard to the farm and food sector of the economy.

242. a. The current crisis calls for special measures to assist otherwise viable family farms that are threatened with bankruptcy or foreclosure. Operators of such farms should have access to emergency credit, reduced rates of interest and programs of debt restructuring. Rural lending institutions facing problems because of nonpayment or slow payment of large farm loans should also have access to temporary assistance. Farmers, their families, and their communities will gain immediately from these and other short-term measures aimed at keeping these people on the land.

243. b. Established federal farm programs, whose benefits now go disproportionately to the largest farmers,(91) should be reassessed for their long-term effects on the structure of agriculture. Income-support programs that help farmers according to the amount of food they produce or the number of acres they farm should be subject to limits that ensure a fair income to all farm families and should restrict participation to producers who genuinely need such income assistance. There should also be a strict ceiling on price-support payments which assist farmers in times of falling prices so that benefits go to farms of moderate or small size. To succeed in redirecting the benefits

of these programs while holding down costs to the public, consideration should be given to a broader application of mandatory production control programs.(92)

244. c. We favor reform of tax policies which now encourage the growth of large farms, attract investments into agriculture by non farmers seeking tax shelters, and inequitably benefit large and well-financed farming operations.(93) Offsetting non farm income with farm "losses" has encouraged high-income investors to acquire farm assets with no intention of depending on them for a living as family farmers must. The ability to depreciate capital equipment faster than its actual decline in value has benefited wealthy investors and farmers. Lower tax rates on capital gains have stimulated farm expansion and larger investments in energy-intensive equipment and technologies as substitutes for labor. Changes in estate tax laws have consistently favored the largest estates. All of these results have demonstrated that reassessment of these and similar tax provisions is needed.(94) We continue, moreover, to support a progressive land tax on farm acreage to discourage the accumulation of excessively large holdings.(95)

245. d. Although it is often assumed that farms must grow in size in order to make the most efficient and productive use of sophisticated and costly technologies, numerous studies have shown that medium-sized commercial farms achieve most of the technical cost efficiencies available in agriculture today. We therefore recommend that the research and extension resources of the federal government and the nation's land-grant colleges and universities be redirected toward improving the productivity of small and medium-sized farms.(96)

246. e. Since soil and water conservation, like other efforts to protect the environment, are contributions to the good of the whole society, it is appropriate for the public to bear a share of the cost of these practices and to set standards for environmental protection. Government should, therefore, encourage farmers to adopt more conserving practices and distribute the costs of this conservation more broadly.

247. f. Justice demands that worker guarantees and protections such as minimum wages and benefits and unemployment compensation be extended to hired farmworkers on the same basis as all other workers. There is also an urgent need for additional farmworker housing, health care, and educational assistance.

4. Solidarity in the Farm Community

248. While there is much that government can and should do to change the direction of farm and food policy in this country, that change in direction also depends upon the cooperation and good will of farmers. The incentives in our farm system to take risks, to expand farm size, and to speculate in farmland values are great. Hence, farmers and ranchers must weigh these incentives against the values of family, rural community, care of the soil, and a food system responsive to long-term as well as short-term food needs of the nation and the world. The ever-present temptation to individualism and greed must be countered by a determined movement toward solidarity in the farm community. Farmers should approach farming in a cooperative way, working with other farmers in the purchase of supplies and equipment and in the marketing of produce. It is not necessary for every farmer to be in competition against every other farmer. Such cooperation can be extended to the role farmers play through their various general and community organizations in shaping and implementing governmental farm and food policies.(97) Likewise, it is possible to seek out and adopt technologies that reduce costs and enhance productivity without demanding increases in farm size. New technologies are not forced on farmers; they are chosen by farmers themselves.

249. Fanners also must end their opposition to farmworker unionization efforts. Farmworkers have a legitimate right to belong to unions of their choice and to bargain collectively for just wages and working conditions. In pursuing that right they are protecting the value of labor in agriculture, a protection that also applies to farmers who devote their own labor to their farm operations.

5. Conclusion

250. The U.S. food system is an integral part of the larger economy of the nation and the world. As such this integral role necessitates the cooperation of rural and urban interests in resolving the challenges and problems facing agriculture. The very nature of agricultural enterprise and the family farm traditions of this country have kept it a highly competitive sector with a widely dispersed ownership of the most fundamental input to production, the land. That competitive, diverse structure, proven to be a dependable source of nutritious and affordable food for this country and millions of people in other parts of the world, is now threatened. The food necessary for life, the land and water resources needed to produce that food, and the way of life of the people who make the land productive are at risk. Catholic social and ethical traditions attribute moral significance to each of these. Our response to the present situation should reflect a sensitivity to that moral significance, a determination that the United States will play its appropriate role in meeting global food needs, and a commitment to bequeath to future generations an enhanced natural environment and the same ready access to the necessities of life that most of us enjoy today. To farmers and farm workers who are suffering because of the farm crisis, we promise our solidarity, prayers, counseling, and the other spiritual resources of our Catholic faith.

D. The U.S. Economy and the Developing Nations: Complexity, Challenge, and Choices

1. The Complexity of Economic Relations in an Interdependent World

251. The global economy is made up of national economies of industrialized countries of the North and the developing countries of the South, together with the network of economic relations that link them. It constitutes the framework in which the solidarity we seek on a national level finds its international expression. Traditional Catholic teaching on this global interdependence emphasizes the dignity of the human person, the unity of the human family, the universally beneficial purpose of the goods of the earth, the need to pursue the international common good, as well as the common good of each nation, and the imperative of distributive justice. The United States plays a leading role in the international economic system, and we are concerned that U.S. relations with all nations—Canada, Japan, European countries and our other trading partners, as well as the socialist countries—reflect this teaching and be marked by fairness and mutual respect.

252. Nevertheless, without in the least discounting the importance of these linkages, our emphasis on the preferential option for the poor moves us to focus our attention mainly on U.S. relations with the Third World. Unless conscious steps are taken toward protecting human dignity and fostering human solidarity in these relationships, we can look forward to increased conflict and inequity, threatening the fragile economies of these relatively poor nations far more than our own relatively strong one. Moreover, equity requires, even as the fact of interdependence becomes more apparent, that the *quality* of interdependence be improved, in order to eliminate "the scandal of the

shocking inequality between the rich and the poor"(98) in a world divided ever more sharply between them.

253. Developing countries, moreover, often perceive themselves more as *dependent* on the industrialized countries, especially the United States, because the international system itself, as well as the way the United States acts in it, subordinates them. The prices at which they must sell their commodity exports and purchase their food and manufactured imports, the rates of interest they must pay and the terms they must meet to borrow money, the standards of economic behavior of foreign investors, the amounts and conditions of external aid, etc., are essentially determined by the industrialized world. Moreover, their traditional cultures are increasingly susceptible to the aggressive cultural penetration of Northern (especially U.S.) advertising and media programming. The developing countries are junior partners at best.

254. The basic tenets of church teaching take on a new moral urgency as we deepen our understanding of how disadvantaged large numbers of people and nations are in this interdependent world. Half the world's people, nearly 2.5 billion, live in countries where the annual per capita income is $400 or less.(99) At least 800 million people in those countries live in absolute poverty, "beneath any rational definition of human decency."(100) Nearly half a billion are chronically hungry, despite abundant harvests worldwide.(101) Fifteen out of every 100 children born in those countries die before the age of 5, and millions of the survivors are physically or mentally stunted. No aggregate of individual examples could portray adequately the appalling inequities within those desperately poor countries and between them and our own. And their misery is not the inevitable result of the march of history or of the intrinsic nature of particular cultures, but of human decisions and human institutions.

255. On the international economic scene three main sets of actors warrant particular attention: individual nations, which retain great influence; multilateral institutions, which channel money, power, ideas, and influence; transnational corporations and banks, which have grown dramatically in number, size, scope and strength since World War II.(102) In less identifiable ways trade unions, popular movements, private relief and development agencies and regional groupings of nations also affect the global economy. The interplay among all of them sets the context for policy choices that determine whether genuine interdependence is promoted or the dependence of the disadvantaged is deepened.

256. In this arena, where fact and ethical challenges intersect, the moral task is to devise rules for the major actors that will move them toward a just international order. One of the most vexing problems is that of reconciling the transnational corporations' profit orientation with the common good that they, along with governments and their multilateral agencies, are supposed to serve.

257. The notion of interdependence erases the fading line between domestic and foreign policy. Many foreign policy decisions (for example, on trade, investment, and immigration) have direct and substantial impact on domestic constituencies in the United States. Similarly, many decisions thought of as domestic (for example, on farm policy, interest rates, the federal budget, or the deficit) have important consequences for other countries. This increasingly recognized link of domestic and foreign issues poses new empirical and moral questions for national policy.

2. The Challenge of Catholic Social Teaching

258. Catholic teaching on the international economic order recognizes this complexity, but does not provide specific solutions. Rather, we seek to ensure that moral considerations are taken into account. All of the elements of the moral perspective we have outlined above have important implications for international relationships. (1) The demands of *Christian love* and *human solidarity* challenge all economic actors to choose community over chaos. They require a definition of political community that goes beyond national sovereignty to policies that recognize the moral bonds among all people. (2) *Basic justice* implies that all peoples are entitled to participate in the increasingly interdependent global economy in a way that ensures their freedom and dignity. When whole communities are effectively left out or excluded from equitable participation in the international order, basic justice is violated. We want a world that works fairly for all. (3) *Respect for human rights*, both political and economic, implies that international decisions, institutions, and policies must be shaped by values that are more than economic. The creation of a global order in which these rights are secure for all must be a prime objective for all relevant actors on the international stage. (4) *The special place of the poor* in this moral perspective means that meeting the basic needs of the millions of deprived and hungry people in the world must be the number one objective of international policy.

259. These perspectives constitute a call for fundamental reform in the international economic order. Whether the problem is preventing war and building peace or addressing the needs of the poor, Catholic teaching emphasizes not only the individual conscience, but also the political, legal, and economic structures through which policy is determined and issues are adjudicated.(103) We do not seek here to evaluate the various proposals for international economic reform or deal here with economic relations between the United States and other industrialized countries. We urge, as a basic and overriding consideration, that both empirical and moral evidence, especially the precarious situation of the developing countries, calls for the renewal of the dialogue between the industrialized countries of the North and the developing countries of the South, with the aim of reorganizing international economic relations to establish greater equity and help meet the basic human needs of the poor majority.(104)

260. *Here, as elsewhere, the preferential option for the poor is the central priority for policy choice*. It offers a unique perspective on foreign policy in whose light U.S. relationships, especially with developing countries, can be reassessed. Standard foreign policy analysis deals with calculations of power and definitions of national interest; but the poor are, by definition, not powerful. If we are to give appropriate weight to their concerns, their needs, and their interests, we have to go beyond economic gain or national security as a starting point for the policy dialogue. We want to stand with the poor everywhere, and we believe that relations between the United States and developing nations should be determined in the first place by a concern for basic human needs and respect for cultural traditions.

3. The Role of the United States in the Global Economy: Constructive Choices

261. As we noted in *The Challenge of Peace*, recent popes have strongly supported the United Nations as a crucial step forward in the development and organization of the human community; we share their regret that no international political entity now exists with the responsibility and power

to promote the global common good, and we urge the United States to support UN efforts to move in that direction. Building a just world economic order in the absence of such an authority demands that national governments promote public policies that increase the ability of poor nations and marginalized people to participate in the global economy. Because no other nation's economic power yet matches ours, we believe that this responsibility pertains especially to the United States; but it must be carried out in cooperation with other industrialized countries as in the case of halting the rise of the dollar. This is yet another evidence of the fact of interdependence. Joint action toward these goals not only promotes justice and reduces misery in the Third World, but also is in the interest of the United States and other industrialized nations.

262. Yet in recent years U.S. policy toward development in the Third World has become increasingly one of selective assistance based on an East-West assessment of North-South problems, at the expense of basic human needs and economic development. Such a view makes national security the central policy principle.(105) Developing countries have become largely testing grounds in the East-West struggle; they seem to have meaning or value mainly in terms of this larger geopolitical calculus. The result is that issues of human need and economic development take second place to the political-strategic argument. This tendency must be resisted.

263. Moreover, U.S. performance in North-South negotiations often casts us in the role of resisting developing-country proposals without advancing realistic ones of our own.(106) North-South dialogue is bound to be complex, protracted, and filled with symbolic and often unrealistic demands; but the situation has now reached the point where the rest of the world expects the United States to assume a reluctant, adversarial posture in such discussions. The U.S. approach to the developing countries needs urgently to be changed; a country as large, rich, and powerful as ours has a moral obligation to lead in helping to reduce poverty in the Third World.

264. We believe that U.S. policy toward the developing world should reflect our traditional regard for human rights and our concern for social progress. In economic policy, as we noted in our pastoral letter on nuclear war, the major international economic relationships of aid, trade, finance, and investment are interdependent among themselves and illustrate the range of interdependence issues facing U.S. policy. All three of the major economic actors are active in all these relationships. Each relationship offers us the possibility of substantial, positive movement toward increasing social justice in the developing world; in each, regrettably, we fall short. It is urgent that immediate steps be taken to correct these deficiencies.

265. a. *Development Assistance*: The official development assistance that the industrialized and the oil-producing countries provide the Third World in the form of grants, low-interest/long-term loans, commodities, and technical assistance is a significant contribution to their development. Although the annual share of U.S. gross national product (GNP) devoted to foreign aid is now less than one-tenth of that of the Marshall Plan, which helped rebuild devastated but advanced European economies, we remain the largest donor country. We still play a central role in these resource transfers, but we no longer set an example for other donors. We lag proportionately behind most other industrial nations in providing resources and seem to care less than before about development in the Third World. Our bilateral aid has become increasingly militarized and security-related and our contributions to multilateral agencies have been reduced in recent years.(107) Not all of these changes are justifiable. The projects of the International Development Agency, for example, seem to be worthy of support.

266. This is a grave distortion of the priority that development assistance should command. We are dismayed that the United States, once the pioneer in foreign aid, is almost last among the

seventeen industrialized nations in the Organization for Economic Cooperation and Development (OECD) in percentage of GNP devoted to aid. Reduction of the U.S. contribution to multilateral development institutions is particularly regrettable, because these institutions are often better able than the bilateral agencies to focus on the poor and reduce dependency in developing countries.(108) This is also an area in which, in the past, our leadership and example have had great influence. A more affirmative U.S. role in these institutions, which we took the lead in creating, could improve their performance, send an encouraging signal of U.S. intentions and help reopen the dialogue on the growing poverty and dependency of the Third World.

267. b. *Trade*: Trade continues to be a central component of international economic relations. It contributed in a major way to the rapid economic growth of many developing countries in the 1960s and 1970s and will probably continue to do so, though at a slower rate. The preferential option for the poor does not, by itself, yield a trade policy; but it does provide a frame of reference. In particular, an equitable trading system that will help the poor should allocate its benefits fairly and ensure that exports from developing countries receive fair prices reached by agreement among all trading partners. Developing nations have a right to receive a fair price for their raw materials that allows for a reasonable degree of profit.

268. Trade policy illustrates the conflicting pressures that interdependence can generate: claims of injustice from developing countries denied market access are countered by claims of injustice in the domestic economies of industrialized countries when jobs are threatened and incomes fall. Agricultural trade and a few industrial sectors present particularly acute examples of this.

269. We believe the ethical norms we have applied to domestic economic questions are equally valid here.(109) As in other economic matters, the basic questions are: Who benefits from the particular policy measure? How can any benefit or adverse impact be equitably shared? We need to examine, for example, the extent to which the success in the U.S. market of certain imports is derived from exploitative labor conditions in the exporting country, conditions that in some cases have attracted the investment in the first place. The United States should do all it can to ensure that the trading system treats the poorest segments of developing countries' societies fairly and does not lead to human rights violations. In particular the United States should seek effective special measures under the General Agreement on Tariffs and Trade (GATT)(110) to benefit the poorest countries.

270. At the same time, U.S. workers and their families hurt by the operation of the trading system must be helped through training and other measures to adjust to changes that advance development and decrease poverty in the Third World. This is a very serious, immediate, and intensifying problem. In our judgment, adjustment assistance programs in the United States have been poorly designed and administered and inadequately funded. A society and an economy such as ours can better adjust to trade dislocations than can poverty-ridden developing countries.

271. c. *Finance*: Aid and trade policies alone, however enlightened, do not constitute a sufficient approach to the developing countries; they must also be looked at in conjunction with international finance and investment. The debtor-creditor relationship well exemplifies both the interdependence of the international economic order and its asymmetrical character, i.e., the *dependence* of the developing countries. The aggregate external debt of the developing countries now approaches $1 trillion,(111) more than one-third of their combined GNP; this total doubled between 1979 and 1984, and continues to rise. On average, the first 20 percent of export earnings goes to service that debt without significantly reducing the principal; in some countries debt service

is nearly 100 percent of such earnings, leaving scant resources available for the countries' development programs.

272. The roots of this very complex debt crisis are both historic and systemic. *Historically*, the three major economic actors share the responsibility for the present difficulty because of decisions made and actions taken during the 1970s and 1980s. In 1972 the Soviet Union purchased the entire U.S. grain surplus, and grain prices trebled. Between 1973 and 1979, the Organization of Petroleum Exporting Countries raised the price of oil eightfold and thereafter deposited most of the profits in commercial banks in the North. In order to profit from the interest-rate spread on these deposits, the banks pushed larger and larger loans on eager Third World borrowers needing funds to purchase more and more expensive oil. A second doubling of oil prices in 1979 forced many of these countries to refinance their loans and borrow more money at escalating interest rates. A global recession beginning in 1979 caused the prices of Third World export commodities to fall and thus reduced their ability to meet the increasingly burdensome debt payments out of export earnings.

273. The global *system* of finance, development, and trade established by the Bretton Woods Conference in 1944—the World Bank, the International Monetary Fund (IMF), and the GATT—was created by the North to prevent a recurrence of the economic problems that were perceived to have led to World War II. Forty years later that system seems incapable, without basic changes, of helping the debtor countries—which had no part in its creation—manage their increasingly untenable debt situation effectively and equitably. The World Bank, largest of these institutions, has been engaged primarily in lending for specific projects rather than for general economic health. The IMF was intended to be a short-term lender that would help out with temporary balance of payments, or cash-flow problems; but in the current situation it has come to the fore as a monitor of commercial financial transactions and an evaluator of debtors' creditworthiness—and therefore the key institution for resolving these problems. The GATT, which is not an institution, had been largely supplanted as trade monitor for the developing countries by UNCTAD,(112) in which the latter have more confidence.

274. This crisis, however, goes beyond the system; it affects people. It afflicts and oppresses large numbers of people who are already severely disadvantaged. That is the scandal: It is the poorest people who suffer most from the austerity measures required when a country seeks the IMF "seal of approval" which establishes its creditworthiness for a commercial loan (or perhaps an external aid program). It is these same people who suffer most when commodity prices fall, when food cannot be imported or they cannot buy it, and when natural disasters occur. Our commitment to the preferential option for the poor does not permit us to remain silent in these circumstances. Ways must be found to meet the immediate emergency—moratorium on payments, conversion of some dollar-denominated debt into local-currency debt, creditors' accepting a share of the burden by partially writing down selected loans, capitalizing interest, or perhaps outright cancellation.

275. The poorest countries, especially those in sub-Saharan Africa which are least developed, most afflicted by hunger and malnutrition, and most vulnerable to commodity price declines, are in extremely perilous circumstances.(113) Although their aggregate debt of more than $100 billion (much of it owed to multilateral institutions), is about one-quarter that of Latin America, their collateral (oil, minerals, manufactures, grain, etc.) is much less adequate, their ability to service external debt much weaker and the possibility of their rescheduling it very small. For low-income countries like these, the most useful immediate remedies are longer payment periods, lower interest rates, and modification of IMF adjustment requirements that exacerbate the already straitened

circumstances of the poor.(114) Especially helpful for some African countries would be cancellation of debts owed to governments, a step already taken by some creditor nations.

276. Better off debtor countries also need to be able to adjust their debts without penalizing the poor. Although the final policy decisions about the allocation of adjustment costs belong to the debtor government, internal equity considerations should be taken into account in determining the conditions of debt rescheduling and additional lending; for example, wage reductions should not be mandated, basic public services to the poor should not be cut, and measures should be required to reduce the flight of capital. Since this debt problem, like most others, is systemic, a case-by-case approach is not sufficient: lending policies and exchange-rate considerations are not only economic questions, but are thoroughly and intensely political.

277. Beyond all this, the growing external debt that has become the overarching economic problem of the Third World also requires systemic change to provide immediate relief and to prevent recurrence. The Bretton Woods institutions do not adequately represent Third World debtors, and their policies are not dealing effectively with problems affecting those nations. These institutions need to be substantially reformed and their policies reviewed at the same time that the immediate problem of Third World debt is being dealt with. The United States should promote, support, and participate fully in such reforms and reviews. Such a role is not only morally right, but is in the economic interest of the United States; more than a third of this debt is owed to U.S. banks. The viability of the international banking system (and of those U.S. banks) depends in part on the ability of debtor countries to manage those debts. Stubborn insistence on full repayment could force them to default—which would lead to economic losses in the United States. In this connection, we should not overlook the impact of U.S. budget and trade deficits on interest rates. These high interest rates exacerbate the already difficult debt situation. They also attract capital away from investment in economic development in Third World countries.

278. d. *Foreign Private Investment*: Although direct private investment in the developing countries by U.S.-based transnational corporations has declined in recent years, it still amounts to about $60 billion and accounts for sizable annual transfers. Such investment in developing countries should be increased, consistent with the host country's development goals and with benefits equitably distributed. Particular efforts should be made to encourage investments by medium-sized and small companies, as well as to joint ventures, which may be more appropriate to the developing country's situation. For the foreseeable future, however, private investment will probably not meet the infrastructural needs of the poorest countries—roads, transportation, communications, education, health, etc.— since these do not generally show profits and therefore do not attract private capital. Yet without this infrastructure, no real economic growth can take place.

279. Direct foreign investment, risky though it may be for both the investing corporation and the developing country, can provide needed capital, technology, and managerial expertise. Care must be taken lest such investment create or perpetuate dependency, harming especially those at the bottom of the economic ladder. Investments that sustain or worsen inequities in a developing country, that help to maintain oppressive elites in power, or that increase food dependency by encouraging cash cropping for export at the expense of local needs, should be discouraged. Foreign investors, attracted by low wage rates in less developed countries, should consider both the potential loss of jobs in the home country and the potential exploitation of workers in the host country.(115) Both the products and the technologies of the investing firms should be appropriate to the developing country, neither catering just to a small number of high-income consumers, nor establishing capital-intensive processes that displace labor, especially in the agricultural sector.(116)

280. Such inequitable results, however, are not necessary consequences of transnational corporate activity. Corporations can contribute to development by attracting and training high-caliber managers and other personnel, by helping organize effective marketing systems, by generating additional capital, by introducing or reinforcing financial accountability, and by sharing the knowledge gained from their own research and development activities. Although the ability of the corporations to plan, operate, and communicate across national borders without concern for domestic considerations makes it harder for governments to direct their activities toward the common good, the effort should be made; the Christian ethic is incompatible with a primary or exclusive focus on maximization of profit. We strongly urge U.S. and international support of efforts to develop a code of conduct for foreign corporations that recognizes their quasi-public character and encourages both development and the equitable distribution of their benefits. Transnational corporations should be required to adopt such a code and to conform their behavior to its provisions.

281. e. *The World Food Problem—A Special Urgency*: These four resource transfer channels—aid, trade, finance, and investment—intersect and overlap in all economic areas, but in none more clearly than in the international food system. The largest single segment of development assistance support goes to the agricultural sector and to food aid for short-term emergencies and vulnerable groups; food constitutes one of the most critical trade sectors; developing countries have borrowed extensively in the international capital markets to finance food imports; and a substantial portion of direct private investment flows into the agricultural sector.

282. The development of U.S. agriculture has moved the United States into a dominant position in the international food system. The best way to meet the responsibilities this dominance entails is to design and implement a U.S. food and agriculture policy that contributes to increased food security—that is, access by everyone to an adequate diet. A world with nearly half a billion hungry people is not one in which food security has been achieved. The problem of hunger has a special significance for those who read the Scriptures and profess the Christian faith. From the Lord's command to feed the hungry, to the Eucharist we celebrate as the Bread of Life, the fabric of our faith demands that we be creatively engaged in sharing the food that sustains life. There is no more basic human need. The gospel imperative takes on new urgency in a world of abundant harvests where hundreds of millions of people face starvation. Relief and prevention of their hunger cannot be left to the arithmetic of the marketplace.(117)

283. The chronic hunger of those who live literally from day to day is one symptom of the underlying problem of poverty; relieving and preventing hunger is part of a larger coordinated strategy to attack poverty itself. People must be enabled either to grow or to buy the food they need without depending on an indefinite dole; there is no substitute for long-term agricultural and food-system development in the nations now caught in the grip of hunger and starvation. Most authorities agree that the key to this development is the small farmers, most of whom are prevented from participating in the food system by the lack of a market incentive resulting from the poverty of the bulk of the populations and by the lack of access to productive agricultural inputs, especially land, resulting mainly from their own poverty. In these poor, food-deficit countries, no less than in our own, the small family farm deserves support and protection.

284. But recognizing the long-term problem does not dissolve the short-term obligation of the world's major food-exporting nation to provide food aid sufficient to meet the nutritional needs of poor people and to provide it not simply to dispose of surpluses but in a way that does not discourage local food production. There can be no successful solution to the problem of hunger in

the world without U.S. participation in a cooperative effort that simultaneously increases food aid and launches a long-term program to help develop food self-reliance in food-deficit developing countries.

285. Hunger is often seen as being linked with the problem of population growth, as effect to cause. While this relationship is sometimes presented in oversimplified fashion, we cannot fail to recognize that the earth's resources are finite and that population tends to grow rapidly. Whether the world can provide a truly human life for twice as many people or more as now live in it (many of whose lives are sadly deficient today) is a matter of urgent concern that cannot be ignored.(118)

286. Although we do not believe that people are poor and hungry primarily because they have large families, the Church fully supports the need for all to exercise responsible parenthood. Family size is heavily dependent on levels of economic development, education, respect for women, availability of health care, and the cultural traditions of communities. Therefore, in dealing with population growth we strongly favor efforts to address these social and economic concerns.

287. Population policies must be designed as part of an overall strategy of integral human development. They must respect the freedom of parents and avoid coercion. As Pope Paul VI has said concerning population policies:

It is true that too frequently an accelerated demographic increase adds its own difficulties to the problems of development: the size of the population increases more rapidly than available resources, and things are found to have reached apparently an impasse. From that moment the temptation is great to check the demographic increase by means of radical measures. It is certain that public authorities can intervene, within the limit of their competence, by favoring the availability of appropriate information and by adopting suitable measures, provided that these be in conformity with the moral law and that they respect the rightful freedom of married couples. Where the inalienable right to marriage and procreation is lacking, human dignity has ceased to exist. (119)

4. U.S. Responsibility for Reform in the International Economic System

288. The United States cannot be the sole savior of the developing world, nor are Third World countries entirely innocent with respect to their own failures or totally helpless to achieve their own destinies. Many of these countries will need to initiate positive steps to promote and sustain development and economic growth—streamline bureaucracies, account for funds, plan reasonable programs, and take further steps toward empowering their people. Progress toward development will surely require them to take some tough remedial measures as well: prevent the flight of capital, reduce borrowing, modify price discrimination against rural areas, eliminate corruption in the use of funds and other resources, and curtail spending on inefficient public enterprises. The pervasive U.S. presence in many parts of our interdependent world, however, also creates a responsibility for us to increase the use of U.S. economic power—not just aid—in the service of human dignity and human rights, both political and economic.

289. In particular, as we noted in our earlier letter, *The Challenge of Peace*, the contrast between expenditures on armaments and on development reflects a shift in priorities from meeting human needs to promoting "national security" and represents a massive distortion of resource allocations. In 1982, for example, the military expenditures of the industrialized countries were seventeen times larger than their foreign assistance; in 1985 the United States alone budgeted more

than twenty times as much for defense as for foreign assistance, and nearly two-thirds of the latter took the form of military assistance (including subsidized arms sales) or went to countries because of their perceived strategic value to the United States.(120) *Rather than promoting U.S. arms sales, especially to countries that cannot afford them, we should be campaigning for an international agreement to reduce this lethal trade.*

290. In short, the international economic order, like many aspects of our own economy, is in crisis; the gap between rich and poor countries and between rich and poor people within countries is widening. The United States represents the most powerful single factor in the international economic equation. But even as we speak of crisis, we see an opportunity for the United States to launch a worldwide campaign for justice and economic rights to match the still incomplete, but encouraging, political democracy we have achieved in the United States with so much pain and sacrifice.

291. To restructure the international order along lines of greater equity and participation and apply the preferential option for the poor to international economic activity will require sacrifices of at least the scope of those we have made over the years in building our own nation. We need to call again upon the qualities of leadership and vision that have marked our history when crucial choices were demanded. As Pope John Paul II said during his 1979 visit to the United States, "America, which in the past decades has demonstrated goodness and generosity in providing food for the hungry of the world, will, I am sure, be able to match this generosity with an equally convincing contribution to the establishing of a world order that will create the necessary economic and trade conditions for a more just relationship between all the nations of the world."(121)

292. We share his conviction that most of the policy issues generally called economic are, at root, moral and therefore require the application of moral principles derived from the Scriptures and from the evolving social teaching of the Church and other traditions.(122) We also recognize that we are dealing here with sensitive international issues that cross national boundaries. Nevertheless, in order to pursue justice and peace on a global scale, *we call for a U.S. international economic policy designed to empower people everywhere and enable them to continue to develop a sense of their own worth, improve the quality of their lives, and ensure that the benefits of economic growth are shared equitably.*

E. Conclusion

293. None of the issues we have addressed in this chapter can be dealt with in isolation. They are interconnected, and their resolution requires difficult trade-offs among competing interests and values. The changing international economy, for example, greatly influences efforts to achieve full employment in the United States and to maintain a healthy farm sector. Similarly, as we have noted, policies and programs to reduce unemployment and poverty must not ignore a potential inflationary impact. These complexities and trade-offs are real and must be confronted, but they are not an excuse for inaction. They should not paralyze us in our search for a more just economy.

294. Many of the reforms we have suggested in this chapter would be expensive. At a time when the United States has large annual deficits some might consider these costs too high. But this discussion must be set in the context of how our resources are allocated and the immense human and social costs of failure to act on these pressing problems. We believe that the question of providing adequate revenues to meet the needs of our nation must be faced squarely and realistically. Reforms in the tax code which close loopholes and generate new revenues, for

example, are among the steps that need to be examined in order to develop a federal budget that is both fiscally sound and socially responsible. The cost of meeting our social needs must also be weighed against the $300 billion a year allocated for military purposes. Although some of these expenditures are necessary for the defense of the nation, some elements of the military budget are both wasteful and dangerous for world peace.(123) Careful reductions should be made in these areas in order to free up funds for social and economic reforms. In the end, the question is not whether the United States can provide the necessary funds to meet our social needs, but whether we have the political will to do so

FOOTNOTES

Chapter III

1 *Octogesima Adveniens*, 26-41; and *On Human Work*, 7, 13.

2 *Program of Social Reconstruction*, 33-40.

3 See *The Challenge of Peace: God's Promise and Our Response*, 9-10.

4 *On Human Work*, 3.

5 U.S. Department of Labor, Bureau of Labor Statistics, *The Employment Situation: April 1986* (May 1986).

6 Full Employment Action Council, *Employment in America: Illusory Recovery in a Decade of Decline* (Washington, D.C., February 1985), 19. Calculations based on data from the U.S. Department of Labor's Bureau of Labor Statistics.

7 U.S. Department of Labor, Bureau of Labor Statistics; *The Employment Situation: August 1985* and U.S. Department of Labor, Employment and Training Administration, *Unemployment Insurance Claims*. Reference week of June 22, 1985.

8 *The Employment Situation: August 1985*.

9 Brenner, "Fetal, Infant and Maternal Mortality during Periods of Economic Instability," *International Journal of Health Services* (Summer, 1973); P.H. Ellison, "Neurology of Hard Times," *Clinical Pediatrics* (March 1977); S. V. Kasl and S. Cobb, "Some Mental Health Consequences of Plant Closings and Job Loss," in L. Ferman and J. P. Gordus, eds., *Mental Health and the Economy* (Kalamazoo, Mich.: W. E. Upjohn Institute for Employment Research, 1979), 255-300; L. E. Kopolow and F. M. Ochberg, "Spinoff from a Downward Swing," *Mental Health* 59 (Summer 1975); D. Shaw, "Unemployment Hurts More Than the Pocketbook," *Today's Health* (March 1978).

10 Richard M. Cohn, *The Consequences of Unemployment on Evaluation of Self*, Doctoral dissertation, Department of Psychology (University of Michigan, 1977); John A. Garraty, *Unemployment in History: Economic Thought and Public Policy* (New York: Harper and Row, 1978); Harry Maurer, *Not Working: An Oral History of the Unemployed* (New York: Holt, Rinehart and Winston, 1979).

11 M. Harvey Brenner, *Estimating the Social Cost of National Economic Policy* (U.S. Congress, Joint Economic Committee, 1976); see Brenner, *Mental Illness and the Economy* (Cambridge, Mass.: Harvard Univ. Press, 1973).

12 Congressional Budget Office, *Economic and Budget Outlook. FY 1986-FY 1990* (Washington, D.C.: February 1985), 75.

13 *Correlation of Unemployment and Federal Prison Population* (Washington, D.C.: U.S. Bureau of Prisons, March 1975); M. Yeager, "Unemployment and Imprisonment," *Journal of Criminal Law and Criminology* 70:4 (1979); *Testimony of M. H. Brenner in Unemployment and Crime* (U.S. Congress, *House Hearings*, 1977), 25.

14 Committee on the Evolution of Work, AFL-CIO, *The Future of Work* (Washington, D.C.: AFL-CIO, 1983), 11.

15 Congressional Budget Office, *Defense Spending and the Economy* (Washington, D.C.: Government Printing Office, 1983). See also Michael Edelstein, *The Economic Impact of Military Spending* (New York: Council on Economic Priorities, 1977) and Robert de Grasse Jr., *Military Expansion, Economic Decline* (New York: Council on Economic Priorities, 1983). See also U.S. Department of Labor, Bureau of Labor Statistics Report, "Structure of the U. S. Economy in 1980 and 1985," (Washington, D.C.: Government Printing Office, 1975) and Marion Anderson, *The Empty Pork Barrel* (Lansing, Mich.: Employment Research Associates, 1982).

16 U.S. Office of Management and Budget, *Historical Tables, Budget of the United States Government Fiscal Year 1986* (Washington, D.C.: Government Printing Office, 1985). Table 10.2, 10.2(3). See also, National Science Foundation Report, "Characteristics of Experienced Scientists and Engineers," (1978), *Detailed Statistical Tables* (Washington, D.C.: Government Printing Office, 1978).

17 "Statistical Supplement to International Comparison of Unemployment," Bureau of Labor Statistics (May 1984): 7. Unpublished.

18 Isabel V. Sawhill and Charles F. Stone state the prevailing view among economists this way: "High employment is usually defined as the rate of unemployment consistent with no additional inflation, a rate currently believed by many, but not all, economists to be in the neighborhood of 6 percent." "The Economy: The Key to Success," in John L. Palmer and Isabel V. Sawhill, eds., T*he Reagan Record: An Assessment of America's Changing Domestic Priorities* (Cambridge, Mass.: Bollinger, 1984), 72. See also Stanley Fischer and Rudiger Dornbusch, *Economics* (New York: McGraw-Hill, 1983), 731-743.

19 W.L. Birch, "Who Creates Jobs?" *The Public Interest* 65 (Fall): 3-14.

20 Martin Neil Baily and Arthur M. Okun, eds., *The Battle Against Unemployment and Inflation*, third edition (New York: Norton, 1982); and Martin Neil Baily, "Labor Market Performance, Competition and Inflation," in Baily, ed., *Workers, Jobs and Inflation* (Washington, D.C.: The Brookings Institution, 1982). See also, Lawrence Klein, "Reducing Unemployment Without Inflation"; and James Tobin, "Unemployment, Poverty, and Economic Policy," testimony before the Subcommittee on Economic Stabilization, U.S. House of Representatives Committee on Banking, Finance and Urban Affairs (March 19, 1985), serial no. 99-5, (Washington, D.C.: Government Printing Office, 1985), 15-18 and 31-33.

21 Tobin, "Unemployment, Poverty, and Economic Policy"; and Klein, "Reducing Unemployment Without Inflation."

22 Robert H. Haveman, "Toward Efficiency and Equity through Direct Job Creation," *Social Policy* 11:1 (May/June 1980): 48.

23 William H. McCarthy, *Reducing Urban Unemployment: What Works at the Local Level* (Washington, D.C.: National League of Cities, October 1985); William Schweke, "States that Take the Lead on a New Industrial Policy," in Betty G. Lall, ed., *Economic Dislocation and Job Loss* (New York: Cornell University, New York State School of Industrial and Labor Relations, 1985), 97-106; David Robinson, *Training and Jobs Programs in Action: Case Studies in Private Sector Initiatives for the Hard to Employ* (New York: Committee for Economic Development, 1978). See also ch. IV of this pastoral letter.

24 Rudy Oswald, "The Economy and Workers' Jobs, The Living Wage and a Voice," in John W. Houck and Oliver F. Williams, eds., *Catholic Social Teaching and the U.S. Economy: Working Papers for a Bishops' Pastoral* (Washington, D.C.: University Press of America, 1984), 77-89. On the subject of shortening the work week, Oswald points out that in the first 40 years of this century, the average workweek fell from 60 hours to 40 hours. However, the standard workweek has been unchanged now for almost 50 years.

25 U.S. Bureau of the Census, Current Population Reports, Series P-60, No. 149, *Money Income and Poverty Status of Families in the United States: 1984* (Washington, D.C.: Government Printing Office, 1985).

26 Massachusetts Department of Public Health, *Massachusetts Nutrition Survey* (Boston, Mass.: 1983).

27 There is considerable debate about the most suitable definition of poverty. Some argue that the government's official definition understates the number of the poor, and that a more adequate definition would indicate that as many as 50 million Americans are poor. For example, they note that the poverty line has sharply declined as a percent of median family income—from 48 percent in 1959 to 35 percent in 1983. Others argue that the official indicators should be reduced by the amount of in-kind benefits received by the poor, such as food stamps. By some calculations that would reduce the number counted as poor to about 12 million. We conclude that for present purposes the official government definition provides a suitable middle ground. That definition is based on a calculation that multiplies the cost of USDA's lowest-cost food plan times three. The definition is adjusted for inflation each year.

Among other reasons for using the official definition is that it allows one to compare poverty figures over time. For additional readings on this topic see: L. Rainwater, *What Money Buys: Inequality and the Social Meanings of Income* (New York: Basic Books, 1975), id., *Persistent and Transitory Poverty: A New Look* (Cambridge, Mass.: Joint Center for Urban Studies, 1980); M. Orshansky, "How Poverty Is Measured," *Monthly Labor Review* 92 (1969): 37-41; M. Anderson, Welfare (Stanford, Calif.: Hoover Institution Press, 1978); and Michael Harrington, *The New American Poverty* (New York: Holt, Rinehart and Winston, 1984), 81-82.

28 Of those in poverty, 3 million work year-round and are still poor. Of the 22.2 million poor who are 15 years or older, more than 9 million work sometime during the year. Since 1979, the largest increases of poverty in absolute terms have been among those who work and are still poor. U.S. Bureau of the Census, *Money, Income and Poverty.*

29 U.S. Bureau of the Census, *Current Population Reports*, series P-60, no. 149, 19. Blacks make up about 12 percent of the entire population but 62 percent of the long-term poor. Only 19 percent of the overall population live in families headed by women, but they make up 61 percent of the long-term poor. Twenty-eight percent of the nation's total population resides in non-metropolitan areas, but 34 percent of the nation's poor live in these areas.

30 G. J. Duncan et al., *Years of Poverty, Years of Plenty: The Changing Economic Fortunes of American Workers and Their Families* (Ann Arbor, Mich.: Institute for Social Research, University of Michigan, 1984). This book is based on the Panel Study of Income Dynamics, a survey of 5,000 American families conducted annually by the Survey Research Center of the University of Michigan. See G. J. Duncan and J. N. Morgan, *Five Thousand American Families—Patterns of Economic Progress vol. III* (Ann Arbor: University of Michigan, 1975).

31 Congressional Research Service and Congressional Budget Office, *Children in Poverty* (Washington, D.C.: May 22, 1985), 57. This recent study also indicates that children are now the largest age group in poverty. We are the first industrialized nation in the world in which children are the poorest age group. See Daniel Patrick Moynihan, *Family and Nation* (New York: Harcourt, Brace, Jovanovich, 1986), 112.

32 Children's Defense Fund, *American Children in Poverty* (Washington, D.C. 1984).

33 This trend has been commonly referred to as the "feminization of poverty." This term was coined by Dr. Diana Pierce in the 1980 Report to the President of the National Advisory Council on Economic Opportunity to describe the dramatic increase in the proportion of the poor living in female-headed households.

34 U.S. Bureau of the Census, Technical Paper 55, Estimates *of Poverty Including the Value of Non-Cash Benefits: 1984* (Washington, D.C., August 1985), 5, 23.

35 Barbara Raskin and Heidi Hartmann, *Women's Work, Men's Work, Sex Segregation on the Job*, National Academy of Sciences (Washington, D.C.: National Academy Press, 1986).

36 U.S. Bureau of the Census, series P-23, no. 124, *Special Study Child Support and Alimony: 1981 Current Population Report* (Washington, D.C. 1981).

37 U.S. House of Representatives Subcommittee on Oversight and Public Assistance and Unemployment Compensation, Committee on Ways and Means, *Background Material on Poverty*, Washington, D.C., October, 1983. See also Committee on Ways and Means, U.S. House of Representatives, *Children in Poverty*, 3.

38 The National Urban League, *The Status of Black America 1984* (New York, January 1984).

39 Ibid.

40 NCCB, *Brothers and Sisters to Us Pastoral Letter on Racism in Our Day* (Washington, D.C.: United States Catholic Conference, 1979).

41 Federal Reserve Board, "Survey of Consumer Finances, 1983: A Second Report," reprint from the *Federal Reserve Bulletin* (Washington, D.C.: December 1984), 857-868. This survey defines net worth as the difference between gross assets and gross liabilities. The survey's estimates include all financial assets, equity in homes and other real property, as well as all financial liabilities such as consumer credit and other debts.

42 Ibid., 863-864.

43 U.S. Bureau of the Census, series P-60, no. 149, 11.

44 Income-distribution figures give only a static picture of income shares. They do not reflect the significant movement of families into and out of different income categories over an extended period of time. See *Years of Poverty, Years of Plenty*, 13. It should also be noted that these figures reflect pretax incomes. However, since the national tax structure is proportional for a large segment of the population, it does not have a significant impact on the distribution of income. See Joseph Pechman, *Who Paid Taxes, 1966-85?* (Washington, D.C.: The Brookings Institution, 1985), 51.

45 Lars Osberg, *Economic Inequality in the United States* (New York: M. E. Sharpe Inc., 1984), 24-28.

46 U.S. Bureau of the Census, series P-60. no. 149, 11.

47 "Poverty in the United States: Where Do We Stand Now?" *Focus* (University of Wisconsin: Institute for Research on Poverty, Winter 1984)/ See also Danzinger and Gottschalk, "The Poverty of Losing Ground," *Challenge*

28:2 (May/June 1985). As these studies indicate, the slowing of the economy after 1969 tended to push more people into poverty, a trend that was offset to a great extent by the broadening of federal benefit programs. Likewise, the cutbacks in federal programs for the poor in recent years have contributed to the increase in poverty. For other analyses of the causes and cures of poverty see Charles Murray, *Losing Ground: American Social Policy 1950-1980* (New York: Basic Books Inc., 1984); Ben J. Wattenberg, *The Good News Is the Bad News Is Wrong* (New York: Simon and Shuster, 1984); and Michael Harrington, *The New American Poverty* (New York: Holt, Rinehart and Winston, 1984).

48 *Family and Nation*, 111-113.

49 Committee on Ways and Means, *Children in Poverty*. Calculation based on Tables 6-1 and 6-2, 180-181; and estimates of social insurance transfers on 221-222.

50 Paul Starr, *The Social Transformation of American Medicine* (New York: Basic Books Inc., 1982), 373.

51 U.S. Bureau of the Census, series P-60, no. 149, 11.

52 *Years of Poverty, Years of Plenty*, 13

53 Center on Social Welfare Policy and Law, *Beyond the Myths: The Families Helped by the AFDC Program* (New York 1985).

54 Ibid. This booklet cites Census Bureau data showing that in 1980 about 45 percent of those families who received AFDC also had earned income during that year, and that the average number of weeks worked during the year was 32.1.

55 Leonard Goodwin, *Causes and Cures of Welfare* (Lexington, Mass.: Lexington Books, 1983), ch. 1. See also Leonard Goodwin, "Can Workfare Work?," *Public Welfare* 39 (Fall 1981): 19-25.

56 *Beyond the Myths*. With respect to error and fraud rates in AFDC, this booklet notes that erroneous payments in the AFDC program account for less than 10 percent of the benefits paid. No more than 8.1 percent of the families on AFDC received overpayments as a result of client error. In less than 4.5 percent of all AFDC cases nationally are questions of fraud raised. Moreover, in over 40 percent of these cases, a review of the facts indicated that there was insufficient evidence to support an allegation of fraud.

57 P.G. Peterson, "No More Free Lunch for the Middle Class," *New York Times Magazine* (January 17, 1982).

58 Interfaith Action for Economic Justice, *End Results: The Impact of Federal Policies Since 1980 on Low-Income Americans* (Washington, D.C.) 2.

59 "The Poverty of Losing Ground," 32-38.

60 The tax reform legislation of 1986 did a great deal to achieve this goal. It removed from the federal income tax rolls virtually all families below the official poverty line.

61 Jonathan Kozol, *Illiterate America* (New York: Anchor Press/Doubleday, 1985).

62 *Peace on Earth*, 13.

63 These reports and studies include: E. Boyer, *High School: A Report on Secondary Education in America* (Princeton: Carnegie Foundation for the Advancement of Teaching, 1983); P. Cusick, *The American High School and the Egalitarian Ideal* (New York: Longman, 1983); J. I. Goodlad, *A Place Called School: Prospects for the Future* (New York: McGraw-Hill, 1983); the National Commission on Excellence in Education, *A Nation at Risk: The Imperative for Educational Reform* (Washington, D.C.: U.S. Department of Education, 1983); D. Ravitch, "The Troubled Crusade: *American Education*, 1945-1980" (New York: Basic Books, 1983); T.R. Sizer, *Horace's Compromise: The Dilemma of the American High School* (Boston: Houghton Mifflin, 1984); Task Force on Education for Economic Growth, *Action for Excellence: A Comprehensive Plan to Improve our Nation's Schools* (Denver: Education Commission of the States, 1983); and The Twentieth Century Fund Task Force on Federal Elementary and Secondary Education Policy, *Making the Grade* (New York: Twentieth Century Fund, 1983). For a discussion of the issues raised in these reports see *Harvard Educational Review* 54:1 (February 1984): 1-31.

64 The Vatican, *Charter of the Rights of the Family* (Washington, D.C.: United States Catholic Conference, 1983) Art. 10a. See also *On Human Work*, 19; Familiaris Consortio, 23, 81; and "Christian Solidarity Leads to Action," Address to Austrian workers (Vienna, September 1983) in *Origins* 13:16 (September 29, 1983): 275.

65 H. R. Rodgers Jr., *The Cost of Human Neglect: America's Welfare* (Armonk, N.Y.: W. E. Sharpe, Inc., 1982); C. T. Waxman, *The Stigma of Poverty*, second edition (New York: Pergamon Press, 1983), especially ch. 5; and S. A. Levitan and C. M. Johnson, *Beyond the Safety Net: Reviving the Promise of Opportunity in America* (Cambridge, Mass.: Ballinger, 1984).

66 *Children in Poverty*, p. 214.

67 U.S. House of Representatives Committee on Ways and Means, *Background Materials and Data on Programs Within the Jurisdiction of the Committee on Ways and Means* (Washington, D.C., February 22, 1985), 345-346.
68 Ibid., 347-348.

69 In 1982 similar recommendations were made by eight former secretaries of Health, Education, and Welfare (now Health and Human Services). In a report called "Welfare Policy in the United States," they suggested a number of ways in which national minimal standards might be set and strongly urged the establishment of a floor for all states and territories.

70 Committee on Ways and Means, *Background Materials and Data on Programs*

71 France adopted a "family" or "children's" allowance in 1932, followed by Italy in 1936, The Netherlands in 1939, the United Kingdom in 1945 and Sweden in 1947. Arnold Heidenheimer, Hugh Heclo and Carolyn Teich Adams, *Comparative Public Policy: The Politics of Social Choice in Europe and America* (New York: St. Martin's Press, 1975), 189, 199. See also Robert Kuttner, *The Economic Illusion* (Boston: Houghton Mifflin Co., 1984), 243-246, and Joseph Piccione, *Help for Families on the Front Lines: The Theory and Practice of Family Allowances* (Washington, D.C.: The Free Congress Research and Education Foundation, 1983).

72 Milton Friedman; *Capitalism and Freedom* (University of Chicago Press, 1962), 190-195.

73 The Current Financial Condition of Farmers and Farm Lenders, *Ag. Info. Bulletin no. 490* (Washington, D.C.: U.S. Department of Agriculture Economic Research Service, March, 1985), viii-x.

74 Data on farms and farm population are drawn from *Agricultural Statistics*, annual reports of the U. S. Department of Agriculture, Washington, D.C.

75 Irma T. Elo and Calvin L. Beale, *Rural Development, Poverty, and Natural Resources* (Washington, D.C.: National Center for Food and Agricultural Policy, *Resources for the Future*, 1985).

76 *National Food* Review, USDA, no. 29 (Winter/Spring 1985). In 1984 Americans were spending 15.1 percent of their disposable income on food. This is an average figure. Many low-income people spent a good deal more and others much less.

77 Luther Tweeten, Causes *and Consequences of Structural Change in the Farming Industry* (Washington, D.C.: National Planning Association, 1984), 7.

78 *Economic Indicators of the Farm Sector: Income and Balance Sheet Statistics, 1983, ECIFS 3-3* (Washington, D.C.: U.S. Department of Agriculture Economic Research Service, September 1984).

79 Marion Clawson, *Ownership Patterns of Natural Resources in America: Implications for Distribution of Wealth and Income* (Washington, D.C.: Resources for the Future, Summer 1983).

80 *Causes and Consequences*, 7; and *A Time to Choose: Summary Report on the Structure of Agriculture* (Washington, D.C.: U.S. Department of Agriculture, January 1981).

81 The nature of this transformation and its implications have been addressed previously by the USCC Committee on Social Development and World Peace in a February 1979 statement *The Family Farm* and again in May 1980 by the bishops of the Midwest in a joint pastoral letter *Strangers and Guests: Toward Community in the Heartland.*

82 *Soil Conservation in America: What Do We Have To Lose?* (Washington, D.C.: American Farmland Trust, 1984); E. Philiop LeVeen, "Domestic Food Security and Increasing Competition for Water," in Lawrence Busch and William B. Lacey, eds., *Food Security in the United States* (Boulder, Colo.: Westview Press, 1984), 52. See also *America's Soil and Water: Conditions and Trends* (Washington, D.C.: U.S. Department of Agriculture Soil Conservation Service, 1981).

83 *1982 Census of Agriculture.*

84 U.S. Commission on Civil Rights, *The Decline of Black Farming in America* (Washington, D.C.: U.S. Commission on Civil Rights, February 1982), esp. 65-69 regarding their property.

85 Ibid., 8.

86 U.S. Department of Labor, *Hearings Concerning Proposed Full Sanitation Standards*, document no. H-308 (Washington, D.C., 1984).

87 Ch. II, para. 112.

88 *A Time to Choose*, 148.

89 Luther Tweeten, "The Economics of Small Farms," *Science*, vol. 219 (March 4, 1983): 1041.

90 U.S. Department of Agriculture, *History of Agricultural Price-Support and Adjustment Programs, 1933-84*, Ag. Info. Bulletin no. 485 (Washington, D.C.: U.S. Department of Agriculture Economic Research Service, December 1984).

91 *The Distribution of Benefits from the 1982 Federal Crop Programs* (Washington, D.C.: U.S. Senate Committee on the Budget, November 1984).

92 "The Great Debate on Mandatory Production Controls" in Far*m Policy Perspectives: Setting the Stage for 1985 Agricultural Legislation*. (Washington, D.C.: Senate Committee on Agriculture, Nutrition, and Forestry, April 1984).

93 *A Time to Choose*, 91.

94 Richard Dunford, *The Effects of Federal Income Tax Policy on U.S. Agriculture*. (Washington, D.C.: Subcommittee on Agriculture and Transportation of the Joint Economic Committee of the Congress of the United States, December 21, 1984).

95 This proposal was put forward thirteen years ago in *Where Shall the People Live? A Special Message of the United States Catholic Bishops* (Washington, D.C.: USCC Office for Publishing and Promotion Services, 1972).

96 Thomas E. Miller, et al., *Economies of Size in U.S. Field Crop Farming* (Washington, D.C.: U.S. Department of Agriculture Economic Research Service, July 1981).

97 See ch. IV.

98 *Instruction on Certain Aspects of the Theology of Liberation*, 1:6. See also *Peace on* Earth, 130-131; and *On Human Work*, 11.

99 Overseas Development Council, *U.S. Policy and the Third World: Agenda 1985-86.*

100 Robert S. McNamara, *Address to the Board of Governors of the World Bank* (Washington, D.C.: World Bank, September 30, 1980).

101 U.N. Food and Agriculture Organization, *Dimensions of Need,* E 9 (Rome, 1982). The UN World Food Council uses this figure consistently, most recently at its 1lth annual meeting in Paris.

102 Joseph Greenwald and Kenneth Flamm, *The Global Factory* (Washington, D.C.: The Brookings Institution, 1985); see also Ronald Muller and Richard Barnet, Global Reach (New York: Simon and Schuster, 1974); Raymond Vernon, *The Economic and Political Consequences of Multinational Enterprise* (Cambridge, Mass.: Harvard University Press, 1972); the United Nations Center on Transnational Corporations maintains current data on these institutions.

103 *Peace on Earth*, 56-63.

104 *On the Development of Peoples*, 44 and 58-63; quoted also by Pope John Paul II, *Origins* 14:16 (October 4, 1984): 247.

105 President's Commission on Security and Economic Assistance (Carlucci Commission), *A Report to the Secretary of State* (Washington, D.C., November 1983).

106 For example: After a dozen years of negotiations, during which nearly all of the issues were resolved to U.S. satisfaction, the United States refused to sign the Law of the Seas treaty; only the United States failed to support the U.N. infant formula resolution; the United States has not ratified the two UN Covenants of Human Rights, etc.

107 U.S. Agency for International Development, *Congressional Presentation, Fiscal Year 1986, Main Volume* (Washington, D.C., 1985).

108 The clients of the International Development Association, the "soft loan window" of the World Bank, are the poorest countries. The United States insisted upon—and obtained—a 25 percent reduction in IDA's current (seventh) replenishment. Taking inflation into account, this meant a 40 percent drop in real terms at exactly the moment when developing-country debt levels are punishingly high and the prices of their export commodities are almost at rock bottom.

109 See ch. II.

110 The GATT—third of the Bretton Woods "institutions" (with the World Bank and the IMF) —is in fact a treaty, monitored and supported by a secretariat located in Geneva, Switzerland. Periodic “rounds” of negotiations among its several-score members, North and South, modify and extend its provisions and regulations.

111 Debt figures have been compiled from data published by the World Bank, the IMF; and the Bank for International Settlements.

112 The United Nations Conference on Trade and Development (UNCTAD) originated in Geneva in 1964 at a meeting convened by the UN to discuss trade, development and related problems of low-income countries. It established a quadrennial meeting and created permanent machinery in the UN to deal with these problems. A Trade and Development Board (TDB), with standing committees, meets every two years; and there is a small secretariat to staff it. UNCTAD is viewed as representing the developing countries' continuing effort to have a larger voice in international decisions affecting trade and development and to secure more favorable terms of trade.

113 *U.S. Policy and the Third World*, Table B-5.

114 When the IMF helps a country adjust to balance-of-payments problems (e.g., by assisting in the rescheduling of its external debt), it negotiates certain conditions with the debtor country in order to improve its immediate financial position. In general these require the borrowing country to earn and save more. The adjustments, usually referred to as "conditionally," tend to fall most heavily on the poor through reduction of government spending on consumer subsidies and public services, and often of wages.

115 North American Coalition for Human Rights in Korea, *Testimony before the U.S. Trade Representative*, June 24, 1985.

116 E.F. Schumacher, *Small Is Beautiful: Economics as if People Mattered* (New York: Harper and Row, 1973).

117 *On the Development of Peoples*, 44, 58-63.

118 Ibid., 37; *Pastoral Constitution*, 87.

119 *On the Development of Peoples*, 37.

120 Ruth Leger Sivard, *World Military and Social Expenditures 1983* (Washington, D.C.: World Priorities, 1983), 23.

121 Pontifical Commission *Justitia et Pax, The Social Teaching of John Paul II*, 6 (October 6, 1979).

122 *On the Development of Peoples*, 44, 58-63.

123 See "Testimony on U.S. Arms Control Policy," *Origins* 14:10 (August 9, 1984): 154ff.

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CHAPTER IV

A NEW AMERICAN EXPERIMENT: PARTNERSHIP FOR THE PUBLIC GOOD

295. For over two hundred years the United States has been engaged in a bold experiment in democracy. The founders of the nation set out to establish justice, promote the general welfare, and secure the blessings of liberty for themselves and their posterity. Those who live in this land today are the beneficiaries of this great venture. Our review of some of the most pressing problems in economic life today shows, however, that this undertaking is not yet complete. Justice for all remains an aspiration; a fair share in the general welfare is denied to many. In addition to the particular policy recommendations made above, a long-term and more fundamental response is needed. This will call for an imaginative vision of the future that can help shape economic arrangements in creative new ways. We now want to propose some elements of such a vision and several innovations in economic structures that can contribute to making this vision a reality.

296. Completing the unfinished business of the American experiment will call for new forms of cooperation and partnership among those whose daily work is the source of the prosperity and justice of the nation. The United States prides itself on both its competitive sense of initiative and its spirit of teamwork. Today a greater spirit of partnership and teamwork is needed; competition alone will not do the job. It has too many negative consequences for family life, the economically vulnerable, and the environment. Only a renewed commitment by all to the common good can deal creatively with the realities of international interdependence and economic dislocations in the domestic economy. The virtues of good citizenship require a lively sense of participation in the commonwealth and of having obligations as well as rights within it.(1) The nation's economic health depends on strengthening these virtues among all its people and on the development of institutional arrangements supportive of these virtues.(2)

297. The nation's founders took daring steps to create structures of participation, mutual accountability, and widely distributed power to ensure the political rights and freedoms of all. We believe that similar steps are needed today to expand economic participation, broaden the sharing of economic power, and make economic decisions more accountable to the common good. As noted above, the principle of subsidiarity states that the pursuit of economic justice must occur on all levels of society. It makes demands on communities as small as the family, as large as the global society, and on all levels in between. There are a number of ways to enhance the cooperative participation of these many groups in the task of creating this future. Since there is no single innovation that will solve all problems, we recommend careful experimentation with several possibilities that hold considerable hope for increasing partnership and strengthening mutual responsibility for economic justice.

A. Cooperation within Firms and Industries

298. A new experiment in bringing democratic ideals to economic life calls for serious exploration of ways to develop new patterns of partnership among those working in individual firms and industries.(3) Every business, from the smallest to the largest, including farms and ranches, depends on many different persons and groups for its success: workers, managers, owners or

shareholders, suppliers, customers, creditors, the local community, and the wider society. Each makes a contribution to the enterprise, and each has a stake in its growth or decline. Present structures of accountability, however, do not acknowledge all these contributions or protect these stakes. A major challenge in today's economy is the development of new institutional mechanisms for accountability that also preserve the flexibility needed to respond quickly to a rapidly changing business environment.(4)

299. New forms of partnership between workers and managers are one means for developing greater participation and accountability within firms.(5) Recent experience has shown that both labor and management suffer when the adversarial relationship between them becomes extreme. As Pope Leo XIII stated, "Each needs the other completely: Capital cannot do without labor nor labor without capital."(6) The organization of firms should reflect and enhance this mutual partnership. In particular, the development of work patterns for men and women that are more supportive of family life will benefit both employees and the enterprises they work for.

300. Workers in firms and on farms are especially in need of stronger institutional protection, for their jobs and livelihood are particularly vulnerable to the decisions of others in today's highly competitive labor market. Several arrangements are gaining increasing support in the United States: profit sharing by the workers in a firm; enabling employees to become company stockholders; granting employees greater participation in determining the conditions of work; cooperative ownership of the firm by all who work within it; and programs for enabling a much larger number of Americans, regardless of their employment status, to become shareholders in successful corporations. Initiatives of this sort can enhance productivity, increase the profitability of firms, provide greater job security and work satisfaction for employees, and reduce adversarial relations.(7) In our 1919 Program of Social Reconstruction we observed "the full possibilities of increased production will not be realized so long as the majority of workers remain mere wage earners. The majority must somehow become owners, at least in part, of the instruments of production."(8) We believe this judgment remains generally valid today.

301. None of these approaches provides a panacea, and all have certain drawbacks. Nevertheless we believe that continued research and experimentation with these approaches will be of benefit. Catholic social teaching has endorsed on many occasions innovative methods for increasing worker participation within firms.(9) The appropriateness of these methods will depend on the circumstances of the company or industry in question and on their effectiveness in actually increasing a genuinely cooperative approach to shaping decisions. The most highly publicized examples of such efforts have been in large firms facing serious financial crises. If increased participation and collaboration can help a firm avoid collapse, why should it not give added strength to healthy businesses? Cooperative ownership is particularly worthy of consideration in new entrepreneurial enterprises.(10)

302. Partnerships between labor and management are possible only when both groups possess real freedom and power to influence decisions. This means that unions ought to continue to play an important role in moving toward greater economic participation within firms and industries. Workers rightly reject calls for less adversarial relations when they are a smoke screen for demands that labor make all the concessions. For partnership to be genuine it must be a two-way street, with creative initiative and a willingness to cooperate on all sides.

303. When companies are considering plant closures or the movement of capital, it is patently unjust to deny workers any role in shaping the outcome of these difficult choices.(11) In the heavy manufacturing sector today, technological change and international competition can be the occasion

of painful decisions leading to the loss of jobs or wage reductions. While such decisions may sometimes be necessary, a collaborative and mutually accountable model of industrial organization would mean that workers not be expected to carry all the burdens of an economy in transition. Management and investors must also accept their share of sacrifices, especially when management is thinking of closing a plant or transferring capital to a seemingly more lucrative or competitive activity. The capital at the disposal of management is in part the product of the labor of those who have toiled in the company over the years, including currently employed workers.(12) As a minimum, workers have a right to be informed in advance when such decisions are under consideration, a right to negotiate with management about possible alternatives, and a right to fair compensation and assistance with retraining and relocation expenses should these be necessary. Since even these minimal rights are jeopardized without collective negotiation, industrial cooperation requires a strong role for labor unions in our changing economy.

304. Labor unions themselves are challenged by the present economic environment to seek new ways of doing business. The purpose of unions is not simply to defend the existing wages and prerogatives of the fraction of workers who belong to them, but also to enable workers to make positive and creative contributions to the firm, the community, and the larger society in an organized and cooperative way.(13) Such contributions call for experiments with new directions in the U.S. labor movement.

305. The parts played by managers and shareholders in U.S. corporations also need careful examination. In U.S. law, the primary responsibility of managers is to exercise prudent business judgment in the interest of a profitable return to investors. But morally this legal responsibility may be exercised only within the bounds of justice to employees, customers, suppliers, and the local community. Corporate mergers and hostile takeovers may bring greater benefits to shareholders, but they often lead to decreased concern for the well-being of local communities and make towns and cities more vulnerable to decisions made from afar.

306. Most shareholders today exercise relatively little power in corporate governance.(14) Although shareholders can and should vote on the selection of corporate directors and on investment questions and other policy matters, it appears that return on investment is the governing criterion in the relation between them and management. We do not believe this is an adequate rationale for shareholder decisions. The question of how to relate the rights and responsibilities of shareholders to those of the other people and communities affected by corporate decisions is complex and insufficiently understood. We, therefore, urge serious, long-term research and experimentation in this area. More effective ways of dealing with these questions are essential to enable firms to serve the common good.

B. Local and Regional Cooperation

307. The context within which U.S. firms do business has direct influence on their ability to contribute to the common good. Companies and indeed whole industries are not sole masters of their own fate. Increased cooperative efforts are needed to make local, regional, national, and international conditions more supportive of the pursuit of economic justice.

308. In the principle of subsidiarity, Catholic social teaching has long stressed the importance of small and intermediate-sized communities or institutions in exercising moral responsibility. These mediating structures link the individual to society as a whole in a way that gives people greater freedom and power to act.(15) Such groups include families, neighborhoods, church

congregations, community organizations, civic and business associations, public interest and advocacy groups, community development corporations and many other bodies. All these groups can play a crucial role in generating creative partnerships for the pursuit of the public good on the local and regional level.

309. The value of partnership is illustrated by considering how new jobs are created. The development of new businesses to serve the local community is key to revitalizing areas hit hard by unemployment.(16) The cities and regions in greatest need of these new jobs face serious obstacles in attracting enterprises that can provide them. Lack of financial resources, limited entrepreneurial skill, blighted and unsafe environments, and a deteriorating infrastructure create a vicious cycle that makes new investment in these areas more risky and therefore less likely.

310. Breaking out of this cycle will require a cooperative approach that draws on all the resources of the community.(17) Community development corporations can keep efforts focused on assisting those most in need. Existing business, labor, financial, and academic institutions can provide expertise in partnership with innovative entrepreneurs. New cooperative structures of local ownership will give the community or region an added stake in businesses and even more important give these businesses a greater stake in the community.(18) Government on the local, state, and national levels must play a significant role, especially through tax structures that encourage investment in hard hit areas and through funding aimed at conservation and basic infrastructure needs. Initiatives like these can contribute to a multilevel response to the needs of the community.

311. The Church itself can work as an effective partner on the local and regional level. First-hand knowledge of community needs and commitment to the protection of the dignity of all should put Church leaders in the forefront of efforts to encourage a community-wide cooperative strategy. Because churches include members from many different parts of the community, they can often serve as mediator between groups who might otherwise regard each other with suspicion. We urge local church groups to work creatively and in partnership with other private and public groups in responding to local and regional problems.

C. Partnership in the Development of National Policies

312. The causes of our national economic problems and their possible solutions are the subject of vigorous debate today. The discussion often turns on the role the national government has played in creating these problems and could play in remedying them. We want to point to several considerations that could help build new forms of effective citizenship and cooperation in shaping the economic life of our country.

313. First, while economic freedom and personal initiative are deservedly esteemed in our society, we have increasingly come to recognize the inescapably social and political nature of the economy. The market is always embedded in a specific social and political context. The tax system affects consumption, saving and investment. National monetary policy, domestic and defense programs, protection of the environment and worker safety, and regulation of international trade all shape the economy as a whole. These policies influence domestic investment, unemployment rates, foreign exchange, and the health of the entire world economy.

314. The principle of subsidiarity calls for government intervention when small or intermediate groups in society are unable or unwilling to take the steps needed to promote basic justice. Pope John XXIII observed that the growth of more complex relations of interdependence among citizens

has led to an increased role for government in modern societies.(19) This role is to work *in partnership with* the many other groups in society, helping them fulfill their tasks and responsibilities more effectively, not replacing or destroying them. The challenge of today is to move beyond abstract disputes about whether more or less government intervention is needed, to consideration of creative ways of enabling government and private groups to work together effectively.

315. It is in this light that we understand Pope John Paul II's recommendation that "society make provision for overall planning" in the economic domain.(20) Planning must occur on various levels, with the government ensuring that basic justice is protected and also protecting the rights and freedoms of all other agents. In the Pope's words:

> In the final analysis this overall concern weighs on the shoulders of the state, but it cannot mean one-sided centralization by the public authorities. Instead what is in question is a just and rational coordination within the framework of which the initiative of individuals, free groups, and local work centers and complexes must be safeguarded. (21)

316. We are well aware that the mere mention of economic planning is likely to produce a strong negative reaction in U.S. society. It conjures up images of centralized planning boards, command economies, inefficient bureaucracies, and mountains of government paperwork. It is also clear that the meaning of "planning" is open to a wide variety of interpretations and takes very different forms in various nations.(22) The Pope's words should not be construed as an endorsement of a highly centralized form of economic planning, much less a totalitarian one. His call for a "just and rational coordination" of the endeavors of the many economic actors is a call to seek creative new partnership and forms of participation in shaping national policies.

317. There are already many forms of economic planning going on within the U.S. economy today. Individuals and families plan for their economic future. Management and labor unions regularly develop both long- and short-term plans. Towns, cities, and regions frequently have planning agencies concerned with their social and economic future. When state legislatures and the U.S. Congress vote on budgets or on almost any other bill that comes before them, they are engaged in a form of public planning. Catholic social teaching does not propose a single model for political and economic life by which these levels are to be institutionally related to each other. It does insist that reasonable coordination among the different parts of the body politic is an essential condition for achieving justice. This is a moral precondition of good citizenship that applies to both individual and institutional actors. In its absence no political structure can guarantee justice in society or the economy. Effective decisions in these matters will demand greater cooperation among all citizens. To encourage our fellow citizens to consider more carefully the appropriate balance of private and local initiative with national economic policy, we make several recommendations.

318. *First, in an advanced industrial economy like ours, all parts of society, including government, must cooperate in forming national economic policies*. Taxation, monetary policy, high levels of government spending, and many other forms of governmental regulation are here to stay. A modern economy without governmental interventions of the sort we have alluded to is inconceivable. These interventions, however, should help, not replace, the contributions of other economic actors and institutions and should direct them to the common good. The development of effective new forms of partnership between private and public agencies will be difficult in a situation as immensely complex as that of the United States in which various aspects of national policy seem to contradict one another.(23) On the theoretical level, achieving greater coordination will make demands on those with the technical competence to analyze the relationship among

different parts of the economy. More practically, it will require the various subgroups within our society to sharpen their concern for the common good and moderate their efforts to protect their own short-term interests.

319. *Second, the impact of national economic policies on the poor and the vulnerable is the primary criterion for judging their moral value*. Throughout this letter we have stressed the special place of the poor and the vulnerable in any ethical analysis of the U.S. economy. National economic policies that contribute to building a true commonwealth should reflect this by standing firmly for the rights of those who fall through the cracks of our economy: the poor, the unemployed, the homeless, the displaced. Being a citizen of this land means sharing in the responsibility for shaping and implementing such policies.

320. *Third, the serious distortion of national economic priorities produced by massive national spending on defense must be remedied.* Clear-sighted consideration of the role of government shows that government and the economy are already closely intertwined through military research and defense contracts. Defense-related industries make up a major part of the U.S. economy and have intimate links with both the military and civilian government; they often depart from the competitive model of free-market capitalism. Moreover, the dedication of so much of the national budget to military purposes has been disastrous for the poor and vulnerable members of our own and other nations. The nation's spending priorities need to be revised in the interests of both justice and peace.(24)

321. We recognize that these proposals do not provide a detailed agenda. We are also aware that there is a tension between setting the goals for coherent policies and actually arriving at them by democratic means. But if we can increase the level of commitment to the common good and the virtues of citizenship in our nation, the ability to achieve these goals will greatly increase. It is these fundamental moral concerns that lead us as bishops to join the debate on national priorities.

D. Cooperation at the International Level

322. If our country is to guide its international economic relationships by policies that serve human dignity and justice, we must expand our understanding of the moral responsibility of citizens to serve the common good of the entire planet. Cooperation is not limited to the local, regional, or national level. Economic policy can no longer be governed by national goals alone. The fact that the "social question has become worldwide"(25) challenges us to broaden our horizons and enhance our collaboration and sense of solidarity on the global level. The cause of democracy is closely tied to the cause of economic justice. The unfinished business of the American experiment includes the formation of new international partnerships, especially with the developing countries, based on mutual respect, cooperation, and a dedication to fundamental justice.

323. The principle of subsidiarity calls for government to intervene in the economy when basic justice requires greater social coordination and regulation of economic actors and institutions. In global economic relations, however, no international institution provides this sort of coordination and regulation. The UN system, including the World Bank, the International Monetary Fund and the General Agreement on Tariffs and Trade, does not possess the requisite authority. Pope John XXIII called this institutional weakness a "structural defect" in the organization of the human community. The structures of world order, including economic ones, "no longer correspond to the objective requirements of the universal common good."(26)

324. Locked together in a world of limited material resources and a growing array of common problems, we help or hurt one another by the economic policies we choose. All the economic agents in our society, therefore, must consciously and deliberately attend to the good of the whole human family. We must all work to increase the effectiveness of international agencies in addressing global problems that cannot be handled through the actions of individual countries. In particular we repeat our plea made in *The Challenge of Peace* urging "that the United States adopt a stronger supportive leadership role with respect to the United Nations."(27) In the years following World War II, the United States took the lead in establishing multilateral bodies to deal with postwar economic problems. Unfortunately, in recent years this country has taken steps that have weakened rather than strengthened multilateral approaches. This is a shortsighted policy and should be reversed if the long-term interests of an interdependent globe are to be served.(28) In devising more effective arrangements for pursuing international economic justice, the overriding problem is how to get from where we are to where we ought to be. Progress toward that goal demands positive and often difficult action by corporations, banks, labor unions, governments, and other major actors on the international stage. But whatever the difficulty, the need to give priority to alleviating poverty in developing countries is undeniable; and the cost of continued inaction can be counted in human lives lost or stunted, talents wasted, opportunities foregone, misery and suffering prolonged, and injustice condoned.

325. Self-restraint and self-criticism by all parties are necessary first steps toward strengthening the international structures to protect the common good. Otherwise, growing interdependence will lead to conflict and increased economic threats to human dignity. This is an important long-term challenge to the economic future of this country and its place in the emerging world economic community

FOOTNOTES

Chapter IV

1 *Octogesima Adveniens*, 24.

2 For different analyses along these lines with quite different starting points see Martin Carnoy, Derek Shearer and Russell Rumberger, *A New Social Contract* (New York: Harper and Row, 1983); Amatai Etzioni, *An Immodest Agenda: Reconstructing America Before the 21st Century* (New York: McGraw-Hill, 1983); Charles E. Lindblom, *Politics and Markets* (New York: Basic Books, 1977), esp. 346-348; George C. Lodge, *The New American Ideology* (New York: Alfred A. Knopf, 1975); Douglas Sturm, "Corporations, Constitutions and Covenants," *Journal of the American Academy of Religion*, 41 (1973): 331-55; Lester Thurow, *The Zero-Sum Society* (New York: Basic Books, 1980), esp. ch. 1; Roberto Mangabeira Unger, *Knowledge and Politics* (New York: Free Press, 1975); George F. Will, *Statecraft as Soulcraft: What Government Does* (New York: Simon and Schuster, 1982), esp. ch. 6.

3 *Pastoral Constitution*, 68. See *Mater et Magistra*, 75-77.

4 Charles W. Powers provided a helpful discussion of these matters in a paper presented at a conference on the first draft of this letter sponsored by the Harvard University Divinity School and the Institute for Policy Studies, Cambridge, Massachusetts, March 29-31, 1985.

5 See John Paul II, "The Role of Business in a Changing Workplace," 3, *Origins* 15 (February 6, 1986): 567.

6 *Rerum Novarum*, 28. For an analysis of the relevant papal teachings on institutions of collaboration and partnership, see John Cronin, Catholic Social Principles: The Social Teaching of the Catholic Church Applied to American Economic Life (Milwaukee: Bruce, 1950), ch. VII; Oswlad von Nell-Breuning, Reorganization of Social Economy: The Cosical Encyclical Developed and Explained, trans. Bernard W. Dempsey (Milwaukee: Bruce, 1936), chs. X-XII; Jean-Yves Calvez and Jacques Perrin, The Church and Social Justice, trans. J. R. Kirwan (Chicago: Regnery, 1961), ch. XIX.

7 Michael Conte, Arnold S. Tannenbaum and Donna McCulloch, *Employee Ownership*, Research Report Series, Institute for Social Research (Ann Arbor, Mich.: University of Michigan, 1981); Robert A. Dahl, *A Preface to Economic Democracy* (Berkeley, Calif.: University of California Press, 1985); Harvard Business School, "The Mondragon Cooperative Movement," case study prepared by David P. Ellerman (Cambridge, Mass.: Harvard Business School, n.d.); Robert Jackall and Henry M. Levin, eds., *Worker Cooperatives in America* (Berkeley, Calif.: University of California Press, 1984); Derek Jones and Jan Svejnar, eds., *Participatory and Self-Managed Firms: Evaluating Economic Performance* (Lexington, Mass.: D.C. Heath, 1982); Irving H. Siegel and Edgar Weinberg, *Labor-Management Cooperation: The American Experience* (Kalamazoo, Mich.: W.E. Upjohn Institute for Employment Research, 1982); Stuart M. Speiser, "Broadened Capital Ownership—The Solution to Major Domestic and International Problems," *Journal of Post-Keynesian Economics VIII* (1985): 426-434; Jaroslav Vanek, ed., *Self-Management: Economic Liberation of Man* (London: Penguin, 1975); Martin L. Weitzman, *The Share Economy* (Cambridge, Mass.: Harvard University Press, 1984).

8 *Program of Social Reconstruction in Justice in the Marketplace*, 381.

9 *Mater et Magistra*, 32, 77, 85-103; *On Human Work*, 14.

10 For examples of worker-owned and operated enterprises supported by the Campaign for Human Development's revolving loan fund see CHD's *Annual Report* (Washington, D.C.: United States Catholic Conference).

11 *Quadragesimo Anno* states the basic norm on which this conclusion is based: "It is wholly false to ascribe to property alone or to labor alone whatever has been obtained through the combined effort of both, and it is wholly unjust for either, denying the efficacy of the other, to arrogate to itself whatever has been produced" (53).

12 *On Human Work*, 12.

13 Ibid., 20. This point was well made by John Cronin twenty-five years ago: "Even if most injustice and exploitation were removed, unions would still have a legitimate place. They are the normal voice of labor, necessary to organize social life for the common good. There is positive need for such organization today, quite independently of any social evils which may prevail. Order and harmony do not happen; they are the fruit of conscious and organized effort. While we may hope that the abuses which occasioned the rise of unions may disappear, it does not thereby follow that unions will have lost their function. On the contrary, they will be freed from unpleasant, even though temporarily necessary, tasks and able to devote all their time and efforts to a better organization of social life" *Catholic Social Principles*, 418. See also AFL-CIO Committee on the Evolution of Work, *The Future of Work* (Washington, D.C.: AFL-CIO, 1983).

14 For a classic discussion of the relative power of managers and shareholders see A.A. Berle and Gardiner C. Means, *The Modern Corporation and Private Property* (New York: Macmillan, 1932).

15 Peter L. Berger and Richard John Neuhaus, *To Empower People: The Role of Mediating Structures in Public Policy* (Washington, D.C.: American Enterprise Institute, 1977).

16 United States Small Business Administration, *1978 Annual Report* (Washington, D.C.: Government Printing Office, 1979).

17 For recent discussion from a variety of perspectives see: Robert Friedman and William Schweke, eds., *Expanding the Opportunity to Produce: Revitalizing the American Economy Through New Enterprise Development: A Policy Reader* (Washington, D.C.: Corporation for New Enterprise Development, 1981); Jack A. Meyer, *Meeting Human Needs: Toward a New Public Philosophy* (Washington, D.C.: American Enterprise Institute, 1982); Committee for Economic Development, *Jobs for the Hard-to-Employ: New Directions for a Public-Private Partnership* (New York: Committee for Economic Development, 1978); Gar Alperovitz and Jeff Faux, *Rebuilding America: A Blueprint for the New Economy* (New York: Pantheon Books, 1984).

18 Christopher Mackin, Strat*egies for Local Ownership and Control: A Policy Analysis* (Somerville, Mass.: Industrial Cooperative Association, 1983).

19 *Mater et Magistra*" 59 and 62.

20 *On Human Work*" 18.

21 Ibid.

22 For examples and analysis of different meanings of economic planning see Naomi Caiden and Aaron Wildavsky, *Planning and Budgeting in Poor Countries* (New York: Wiley, 1974); Robert Dahl and Charles E. Lindblom, *Politics, Economics and Welfare: Planning and Politico-Economic Systems Resolved Into Basic Social Processes* (Chicago: University of Chicago Press, 1976); Stephen S. Cohen, *Modern Capitalist Planning: The French Model* (Berkeley: University of California Press, 1977); Albert Waterston, *Development Planning: Lessons of Experience* (Baltimore: Johns Hopkins Press, 1965); *Rebuilding America*, chs. 14, 15.

23 For example, many students of recent policy point out that monetary policy on the one hand and fiscal policies governing taxation and government expenditures on the other have been at odds with each other, with larger public deficits and high interest rates as the outcome. See Alice M. Rivlin, ed., *Economic Choices 1984* (Washington, D.C.: The Brookings Institution, 1984), esp. ch. 2.

24 *The Challenge of Peace*, 270-271.

25 *On the Development of Peoples*, 3.

26 *Peace on Earth*, 134-135.

27 *The Challenge of Peace*, 268.

28 See Robert O. Keohane and Joseph S. Nye Jr., "Two Cheers for Multilateralism," *Foreign Policy* 60 (Fall 1985): 148-167.

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CHAPTER V
A COMMITMENT TO THE FUTURE

326. Because Jesus' command to love our neighbor is universal, we hold that the life of each person on this globe is sacred. This commits us to bringing about a just economic order where all, without exception, will be treated with dignity and to working in collaboration with those who share this vision. The world is complex and this may often tempt us to seek simple and self-centered solutions; but as a community of disciples we are called to a new hope and to a new vision that we must live without fear and without oversimplification. Not only must we learn more about our moral responsibility for the larger economic issues that touch the daily life of each and every person on this planet, but we also want to help shape the Church as a model of social and economic justice. Thus, this chapter deals with the Christian vocation in the world today, the special challenges to the Church at this moment of history, ways in which the themes of this letter should be followed up and a call to the kind of commitment that will be needed to reshape the future.

A. The Christian Vocation in the World Today

327. This letter has addressed many matters commonly regarded as secular; for example: employment rates, income levels, and international economic relationships. Yet, the affairs of the world, including economic ones, cannot be separated from the spiritual hunger of the human heart. We have presented the biblical vision of humanity and the Church's moral and religious tradition as a framework for asking the deeper questions about the meaning of economic life and for actively responding to them. But words alone are not enough. The Christian perspective on the meaning of economic life must transform the lives of individuals, families, in fact, our whole culture. The Gospel confers on each Christian the vocation to love God and neighbor in ways that bear fruit in the life of society. That vocation consists above all in a change of heart: a conversion expressed in praise of God and in concrete deeds of justice and service.

1. Conversion

328. The transformation of social structures begins with and is always accompanied by a conversion of the heart.(1) As disciples of Christ each of us is called to a deep personal conversion and to "action on behalf of justice and participation in the transformation of the world."(2) By faith and baptism we are fashioned into a "new creature"; we are filled with the Holy Spirit and a new love that compels us to seek out a new profound relationship with God, with the human family, and with all created things.(3) Renouncing self-centered desires, bearing one's daily cross, and imitating Christ's compassion, all involve a personal struggle to control greed and selfishness, a personal commitment to reverence one's own human dignity and the dignity of others by avoiding self-indulgence and those attachments that make us insensitive to the conditions of others and that erode social solidarity. Christ warned us against attachments to material things, against total self-reliance, against the idolatry of accumulating material goods and seeking safety in them. We must take these teachings seriously and in their light examine how each of us lives and acts toward others. But personal conversion is not gained once and for all. It is a process that goes on through our entire

life. Conversion, moreover, takes place in the context of a larger faith community: through baptism into the Church, through common prayer, and through our activity with others on behalf of justice.

2. Worship and Prayer

329. Challenging U.S. economic life with the Christian vision calls for a deeper awareness of the integral connection between worship and the world of work. Worship and common prayer are the wellsprings that give life to any reflection on economic problems and that continually call the participants to greater fidelity to discipleship. To worship and pray to the God of the universe is to acknowledge that the healing love of God extends to all persons and to every part of existence, including work, leisure, money, economic and political power and their use, and to all those practical policies that either lead to justice or impede it. Therefore, when Christians come together in prayer, they make a commitment to carry God's love into all these areas of life.

330. The unity of work and worship finds expression in a unique way in the Eucharist. As people of a new covenant, the faithful hear God's challenging word proclaimed to them—a message of hope to the poor and oppressed—and they call upon the Holy Spirit to unite all into one body of Christ. For the Eucharist to be a living promise of the fullness of God's Kingdom, the faithful must commit themselves to living as redeemed people with the same care and love for all people that Jesus showed. The body of Christ which worshipers receive in Communion is also a reminder of the reconciling power of his death on the cross. It empowers them to work to heal the brokenness of society and human relationships and to grow in a spirit of self-giving for others.

331. The liturgy teaches us to have grateful hearts: to thank God for the gift of life, the gift of this earth and the gift of all people. It turns our hearts from self-seeking to a spirituality that sees the signs of true discipleship in our sharing of goods and working for justice. By uniting us in prayer with all the people of God, with the rich and the poor, with those near and dear, and with those in distant lands, liturgy challenges our way of living and refines our values. Together in the community of worship, we are encouraged to use the goods of this earth for the benefit of all. In worship and in deeds for justice, the Church becomes a "sacrament," a visible sign of that unity in justice and peace that God wills for the whole of humanity.(4)

3. Call to Holiness in the World

332. Holiness is not limited to the sanctuary or to moments of private prayer; it is a call to direct our whole heart and life toward God and according to God's plan for this world. For the laity holiness is achieved in the midst of the world, in family, in community, in friendships, in work, in leisure, in citizenship. Through their competency and by their activity, lay men and women have the vocation to bring the light of the Gospel to economic affairs, "so that the world may be filled with the Spirit of Christ and may more effectively attain its destiny in justice, in love, and in peace."(5)

333. But as disciples of Christ we must constantly ask ourselves how deeply the biblical and ethical vision of justice and love permeates our thinking. How thoroughly does it influence our way of life? We may hide behind the complexity of the issues or dismiss the significance of our personal contribution; in fact, each one has a role to play, because every day each one makes economic decisions. Some, by reason of their work or their position in society, have a vocation to be involved

in a more decisive way in those decisions that affect the economic well-being of others. They must be encouraged and sustained by all in their search for greater justice.

334. At times we will be called upon to say no to the cultural manifestations that emphasize values and aims that are selfish, wasteful, and opposed to the Scriptures. Together we must reflect on our personal and family decisions and curb unnecessary wants in order to meet the needs of others. There are many questions we must keep asking ourselves: Are we becoming ever more wasteful in a "throw-away" society? Are we able to distinguish between our true needs and those thrust on us by advertising and a society that values consumption more than saving? All of us could well ask ourselves whether as a Christian prophetic witness we are not called to adopt a simpler lifestyle, in the face of the excessive accumulation of material goods that characterizes an affluent society.

335. Husbands and wives, in particular, should weigh their needs carefully and establish a proper priority of values as they discuss the questions of both parents working outside the home and the responsibilities of raising children with proper care and attention. At times we will be called as individuals, as families, as parishes, as Church, to identify more closely with the poor in their struggle for participation and to close the gap of understanding between them and the affluent. By sharing the perspectives of those who are suffering, we can come to understand economic and social problems in a deeper way, thus leading us to seek more durable solutions.

336. In the workplace the laity are often called to make tough decisions with little information about the consequences that such decisions have on the economic lives of others. Such times call for collaborative dialogue together with prayerful reflection on Scripture and ethical norms. The same can be said of the need to elaborate policies that will reflect sound ethical principles and that can become a part of our political and social system. Since this is a part of the lay vocation and its call to holiness, the laity must seek to instill a moral and ethical dimension into the public debate on these issues and help enunciate the ethical questions that must be faced. To weigh political options according to criteria that go beyond efficiency and expediency requires prayer, reflection, and dialogue on all the ethical norms involved. Holiness for the laity will involve all the sacrifices needed to lead such a life of prayer and reflection within a worshiping and supporting faith community. In this way the laity will bridge the gap that so easily arises between the moral principles that guide the personal life of the Christian and the considerations that govern decisions in society in the political forum and in the marketplace.

4. Leisure

337. Some of the difficulty in bringing Christian faith to economic life in the United States today results from the obstacles to establishing a balance of labor and leisure in daily life. Tedious and boring work leads some to look for fulfillment only during time off the job. Others have become "workaholics," people who work compulsively and without reflection on the deeper meaning of life and their actions. The quality and pace of work should be more human in scale enabling people to experience the dignity and value of their work and giving them time for other duties and obligations. This balance is vitally important for sustaining the social, political, educational, and cultural structures of society. The family, in particular, requires such balance. Without leisure there is too little time for nurturing marriages, for developing parent-child relationships, and for fulfilling commitments to other important groups: the extended family, the community of friends, the parish, the neighborhood, schools, and political organizations. Why is it

one hears so little today about shortening the work week, especially if both parents are working? Such a change would give them more time for each other, for their children, and for their other social and political responsibilities.

338. Leisure is connected to the whole of one's value system and influenced by the general culture one lives in. It can be trivialized into boredom and laziness, or end in nothing but a desire for greater consumption and waste. For disciples of Christ, the use of leisure may demand being countercultural. The Christian tradition sees in leisure time to build family and societal relationships and an opportunity for communal prayer and worship, for relaxed contemplation and enjoyment of God's creation, and for the cultivation of the arts which help fill the human longing for wholeness. Most of all, we must be convinced that economic decisions affect our use of leisure and that such decisions are also to be based on moral and ethical considerations. In this area of leisure we must be on our guard against being swept along by a lack of cultural values and by the changing fads of an affluent society. In the creation narrative God worked six days to create the world and rested on the seventh (Gn 2:1-4). We must take that image seriously and learn how to harmonize action and rest, work and leisure, so that both contribute to building up the person as well as the family and community.

B. Challenges to the Church

339. The Church is all the people of God, gathered in smaller faith communities, guided and served by a pope and a hierarchy of bishops, ministered to by priests, deacons, religious, and laity, through visible institutions and agencies. Church is, thus, primarily a communion of people bonded by the Spirit with Christ as their Head, sustaining one another in love and acting as a sign or sacrament in the world. By its nature it is people called to a transcendent end; but, it is also a visible social institution functioning in this world. According to their calling, members participate in the mission and work of the Church and share, to varying degrees, the responsibility for its institutions and agencies.(6) At this moment in history, it is particularly important to emphasize the responsibilities of the whole Church for education and family life.

1. Education

340. We have already emphasized the commitment to quality education that is necessary if the poor are to take their rightful place in the economic structures of our society. We have called the Church to remember its own obligation in this regard and we have endorsed support for improvements in public education.

341. The educational mission of the Church is not only to the poor but to all its members. We reiterate our 1972 statement:

> Through education, the Church seeks to prepare its members to proclaim the Good News and to translate this proclamation into action. Since the Christian vocation is a call to transform oneself and society with God's help, the educational efforts of the Church must encompass the twin purposes of personal sanctification and social reform in the light of Christian values. (7)

Through her educational mission the Church seeks: to integrate knowledge about this world with revelation about God; to understand God's relationship to the human race and its ultimate destiny in the Kingdom of God; to build up human communities of justice and peace; and to teach the value of all creation. By inculcating these values the educational system of the Church contributes to society and to social justice. Economic questions are, thus, seen as a part of a larger vision of the human person and the human family, the value of this created earth, and the duties and responsibilities that all have toward each other and toward this universe.

342. For these reasons the Church must incorporate into all levels of her educational system the teaching of social justice and the biblical and ethical principles that support it. We call on our universities, in particular, to make Catholic social teaching, and the social encyclicals of the popes a part of their curriculum, especially for those whose vocation will call them to an active role in U.S. economic and political decision making. Faith and technological progress are not opposed one to another, but this progress must not be channeled and directed by greed, self-indulgence, or novelty for its own sake, but by values that respect human dignity and foster social solidarity.

343. The Church has always held that the first task and responsibility for education lies in the hands of parents: they have the right to choose freely the schools or other means necessary to educate their children in the faith.(8) The Church also has consistently held that public authorities must ensure that public subsidies for the education of children are allocated so that parents can freely choose to exercise this right without incurring unjust burdens. This parental right should not be taken from them. We call again for equitable sharing in public benefits for those parents who choose private and religious schools for their children. Such help should be available especially for low-income parents. Though many of these parents sacrifice a great deal for their children's education, others are effectively deprived of the possibility of exercising this right.

2. Supporting the Family

344. Economic life has a profound effect on all social structures and particularly on the family. A breakdown of family life often brings with it hardship and poverty. Divorce, failure to provide support to mothers and children, abandonment of children, pregnancies out of wedlock, all contribute to the amount of poverty among us. Though these breakdowns of marriage and the family are more visible among the poor, they do not affect only that one segment of our society. In fact, one could argue that many of these breakdowns come from the false values found among the more affluent—values which ultimately pervade the whole of society.

345. More studies are needed to probe the possible connections between affluence and family and marital breakdowns. The constant seeking for self-gratification and the exaggerated individualism of our age, spurred on by false values often seen in advertising and on television, contribute to the lack of firm commitment in marriage and to destructive notions of responsibility and personal growth.(9)

346. With good reason, the Church has traditionally held that the family is the basic building block of any society. In fighting against economic arrangements that weaken the family, the Church contributes to the well-being of society. The same must be said of the Church's teaching on responsible human sexuality and its relationship to marriage and family. Economic arrangements must support the family and promote its solidity.

3. The Church as Economic Actor

347. Although all members of the Church are economic actors every day in their individual lives, they also play an economic role united together as Church. On the parish and diocesan level,

through its agencies and institutions, the Church employs many people; it has investments; it has extensive properties for worship and mission. *All the moral principles that govern the just operation of any economic endeavor apply to the Church and its agencies and institutions; indeed the Church should be exemplary.* The Synod of Bishops in 1971 worded this challenge most aptly: "While the Church is bound to give witness to justice, she recognizes that anyone who ventures to speak to people about justice must first be just in their eyes. Hence, we must undertake an examination of the modes of acting and of the possessions and lifestyle found within the Church herself."(10)

348. Catholics in the United States can be justly proud of their accomplishments in building and maintaining churches and chapels, and an extensive system of schools, hospitals, and charitable institutions. Through sacrifices and personal labor our immigrant ancestors built these institutions. For many decades religious orders of women and men taught in our schools and worked in our hospitals with very little remuneration. Right now, we see the same spirit of generosity among the religious and lay people even as we seek to pay more adequate salaries.

349. We would be insincere were we to deny a need for renewal in the economic life of the Church itself and for renewed zeal on the part of the Church in examining its role in the larger context of reinforcing in U.S. society and culture those values that support economic justice.(11)

350. We select here five areas for special reflection: (1) wages and salaries, (2) rights of employees, (3) investments and property, (4) works of charity, and (5) working for economic justice.

351. We bishops commit ourselves to the principle that those who serve the Church—laity, clergy, and religious—should receive a sufficient livelihood and the social benefits provided by responsible employers in our nation. These obligations, however, cannot be met without the increased contributions of all the members of the Church. We call on all to recognize their responsibility to contribute monetarily to the support of those who carry out the public mission of the Church. Sacrificial giving or tithing by all the People of God would provide the funds necessary to pay these adequate salaries for religious and lay people; the lack of funds is the usual underlying cause for the lack of adequate salaries. The obligation to sustain the Church's institutions—education and health care, social service agencies, religious education programs, care of the elderly, youth ministry, and the like—falls on all the members of the community because of their baptism; the obligation is not just on the users or on those who staff them. Increased resources are also needed for the support of elderly members of religious communities. These dedicated women and men have not always asked for or received the stipends and pensions that would have assured their future. It would be a breach of our obligations to them to let them or their communities face retirement without adequate funds.

352. Many volunteers provide services to the Church and its mission which cannot be measured in dollars and cents. These services are important to the life and vitality of the Church in the United States and carry on a practice that has marked the history of the Church in this country since its founding. In this tradition, we ask young people to make themselves available for a year or more of voluntary service before beginning their training for more specific vocations in life; we also recommend expanding voluntary service roles for retired persons; we encourage those who have accepted this challenge.

353. All church institutions must also fully recognize the rights of employees to organize and bargain collectively with the institution through whatever association or organization they freely choose.(12) In the light of new creative models of collaboration between labor and management

described earlier in this letter, we challenge our church institutions to adopt new fruitful modes of cooperation. Although the Church has its own nature and mission that must be respected and fostered, we are pleased that many who are not of our faith, but who share similar hopes and aspirations for the human family, work for us and with us in achieving this vision. In seeking greater justice in wages, we recognize the need to be particularly alert to the continuing discrimination against women throughout Church and society, especially reflected in both the inequities of salaries between women and men and in the concentration of women in jobs at the lower end of the wage scale.

354. Individual Christians who are shareholders and those responsible within church institutions that own stocks in U.S. corporations must see to it that the invested funds are used responsibly. Although it is a moral and legal fiduciary responsibility of the trustees to ensure an adequate return on investment for the support of the work of the Church, their stewardship embraces broader moral concerns. As part-owners, they must cooperate in shaping the policies of those companies through dialogue with management, through votes at corporate meetings, through the introduction of resolutions, and through participation in investment decisions. We praise the efforts of dioceses and other religious and ecumenical bodies that work together toward these goals. We also praise efforts to develop alternative investment policies, especially those which support enterprises that promote economic development in depressed communities and which help the Church respond to local and regional needs.(13) When the decision to divest seems unavoidable, it should be done after prudent examination and with a clear explanation of the motives.

355. The use of church property demands special attention today. Changing demographic patterns have left many parishes and institutions with empty or partially used buildings. The decline in the number of religious who are teaching in the schools and the reduction in the number of clergy often result in large residences with few occupants. In this regard, the Church must be sensitive to the image the possession of such large facilities often projects, namely, that it is wealthy and extravagant in the use of its resources. This image can be overcome only by clear public accountability of its financial holdings, of its properties and their use, and of the services it renders to its members and to society at large. We support and encourage the creative use of these facilities by many parishes and dioceses to serve the needs of the poor.

356. The Church has a special call to be a servant of the poor, the sick, and the marginalized, thereby becoming a true sign of the Church's mission—a mission shared by every member of the Christian community. The Church now serves many such people through one of the largest private human services delivery systems in the country. The networks of agencies, institutions and programs provide services to millions of persons of all faiths. Still we must be reminded that in our day our Christian concerns must increase and extend beyond our borders, because everyone in need is our neighbor. We must also be reminded that charity requires more than alleviating misery. It demands genuine love for the person in need. It should probe the meaning of suffering and provoke a response that seeks to remedy causes. True charity leads to advocacy.

357. Yet charity alone is not a corrective to all economic social ills. All citizens, working through various organizations of society and through government, bear the responsibility of caring for those who are in need. The Church. too, through all its members individually and through its agencies, must work to alleviate injustices that prevent some from participating fully in economic life. Our experience with the Campaign for Human Development confirms our judgment about the validity of self-help and empowerment of the poor. The campaign, which has received the positive support of American Catholics since it was launched in 1970, provides a model that we think sets a

high standard for similar efforts. We bishops know of the many faithful in all walks of life who use their skills and their compassion to seek innovative ways to carry out the goals we are proposing in this letter. As they do this, they are the Church acting for economic justice. At the same time, we hope they will join together with us and their priests to influence our society so that even more steps can be taken to alleviate injustices. Grassroots efforts by the poor themselves, helped by community support, are indispensable. The entire Christian community can learn much from the way our deprived brothers and sisters assist each other in their struggles.

358. In addition to being an economic actor, the Church is a significant cultural actor concerned about the deeper cultural roots of our economic problems. As we have proposed a new experiment in collaboration and participation in decision making by all those affected at all levels of U.S. society, so we also commit the Church to become a model of collaboration and participation.

C. The Road Ahead

359. The completion of a letter such as this one is but the beginning of a long process of education, discussion, and action; its contents must be brought to all members of the Church and of society.

360. In this respect we mentioned the twofold aim of this pastoral letter: to help Catholics form their consciences on the moral dimensions of economic decision making and to articulate a moral perspective in the general societal and political debate that surrounds these questions. These two purposes help us to reflect on the different ways the institutions and ministers of the Church can assist the laity in their vocation in the world. Renewed emphasis on Catholic social teaching in our schools, colleges, and universities; special seminars with corporate officials, union leaders, legislators, bankers, and the like; the organization of small groups composed of people from different ways of life to meditate together on the Gospel and ethical norms; speakers' bureaus; family programs; clearinghouses of available material; pulpit aids for priests; diocesan television and radio programs; research projects in our universities—all of these are appropriate means for continued discussion and action. Some of these are done best on the parish level, others by the state Catholic conferences, and others by the National Conference of Catholic Bishops. These same bodies can assist the laity in the many difficult decisions that deal with political options that affect economic decisions. Where many options are available, it must be the concern of all in such debates that we as Catholics do not become polarized. All must be challenged to show how the decisions they make and the policies they suggest flow from the ethical moral vision outlined here. As new problems arise, we hope through our continual reflection that we will be able to help refine Catholic social teaching and contribute to its further development.

361. We call upon our priests, in particular, to continue their study of these issues so that they can proclaim the gospel message in a way that challenges the faithful but that also sustains and encourages their vocation in and to the world. Priestly formation in our seminaries will also have to prepare candidates for this role.

362. We wish to emphasize the need to undertake research into many of the areas this document could not deal with in depth and to continue exploration of those we have dealt with. We encourage our Catholic universities, foundations, and other institutions to assist in these necessary projects. The following areas for further research are merely suggestive, not exhaustive: the impact of arms production and large military spending on the domestic economy and on culture; arms production and sales as they relate to Third World poverty; tax reforms to express the preferential

option for the poor; the rights of women and minorities in the work force; the development of communications technology and its global influences; robotics, automation, and reduction of defense industries as they will affect employment; the economy and the stability of the family; legitimate profit versus greed; securing economic rights; environmental and ecological questions; future roles of labor and unions; international financial institutions and Third World debt; our national deficit; world food problems; "full employment" and its implementation; plant closings and dealing with the human costs of an evolving economy; cooperatives and new modes of sharing; welfare reform and national eligibility standards; income support systems; concentration of land ownership; assistance to Third World nations; migration and its effects; population policies and development; the effects of increased inequality of incomes in society.

D. Commitment to a Kingdom of Love and Justice

363. Confronted by this economic complexity and seeking clarity for the future, we can rightly ask ourselves one single question: How does our economic system affect the lives of people—*all* people? Part of the American dream has been to make this world a better place for people to live in; at this moment of history that dream must include everyone on this globe. Since we profess to be members of a "catholic" or universal Church, we all must raise our sights to a concern for the well-being of everyone in the world. Third World debt becomes our problem. Famine and starvation in sub-Saharan Africa become our concern. Rising military expenditures everywhere in the world become part of our fears for the future of this planet. We cannot be content if we see ecological neglect or the squandering of natural resources. In this letter we bishops have spoken often of economic interdependence; now is the moment when all of us must confront the reality of such economic bonding and its consequences, and see it as a moment of grace—a kairos—that can unite all of us in a common community of the human family. We commit ourselves to this global vision.

364. We cannot be frightened by the magnitude and complexity of these problems. We must not be discouraged. In the midst of this struggle it is inevitable that we become aware of greed, laziness, and envy. No utopia is possible on this earth; but as believers in the redemptive love of God and as those who have experienced God's forgiving mercy, we know that God's providence is not and will not be lacking to us today.

365. The fulfillment of human needs, we know, is not the final purpose of the creation of the human person. We have been created to share in the divine life through a destiny that goes far beyond our human capabilities and before which we must in all humility stand in awe. Like Mary in proclaiming her Magnificat, we marvel at the wonders God has done for us, how God has raised up the poor and the lowly and promised great things for them in the Kingdom. God now asks of us sacrifices and reflection on our reverence for human dignity—in ourselves and in others—and on our service and discipleship, so that the divine goal for the human family and this earth can be fulfilled. Communion with God, sharing God's life, involves a mutual bonding with all on this globe. Jesus taught us to love God and one another and that the concept of neighbor is without limit. We know that we are called to be members of a new covenant of love. We have to move from our devotion to independence, through an understanding of interdependence, to a commitment to human solidarity. That challenge must find its realization in the kind of community we build among us. Love implies concern for all—especially the poor—and a continued search for those social and economic structures that permit everyone to share in a community that is a part of a redeemed creation (Rom 8:21-23).

FOOTNOTES

Chapter V

1 *Reconciliation and Penance*, 13.

2 *Justice in the World*, 6.

3 *Medellin Documents: Justice* (1968), 4.

4 Dogmatic Constitution on the Church, 1; *Pastoral Constitution*, 42 and 45; *Constitution on the Liturgy*, 26; *Decree on the Church's Missionary Activity*, 5; *Liturgy and Social Justice*, ed. by Mark Searle, (Collegeville, Minn: Liturgical Press, 1980); National Conference of Catholic Bishops, *The Church at Prayer* (Washington, D.C.: United States Catholic Conference, 1983).

5 *Dogmatic Constitution on the Church*, 36.

6 *Justice in the World*, 41.

7 National Conference of Catholic Bishops, *To Teach as Jesus Did, A Pastoral Message on Education* (Washington, D.C.: United States Catholic Conference, 1972), 7.

8 Cf. Vatican Council II, *Declaration on Christian Education*, 3, 6. See also, *Charter of the Rights of the Family*, 5b; *Instruction on Christian Freedom and Liberation*, 94.

9 Pope John Paul II, *On the Family* (Washington, D.C.: United States Catholic Conference, 1981), 6. See also Robert N. Bellah, Richard Madsen, William M. Sullivan, Ann Swidler, Steven M. Tipton, *Habits of the Heart: Individualism and Commitment in American Life* (Berkeley: University of California Press, 1985); *The Family Today and Tomorrow: The Church Addresses Her Future* (Braintree, Mass.: Pope John XXIII Medical-Moral Research and Education Center, 1985).

10 *Justice in the World*, 40.

11 *Dogmatic Constitution on the Church*, 8.

12 National Conference of Catholic Bishops, *Health and Health Care* (Washington, D.C.: United States Catholic Conference, 1981), 50.

13 See ch. IV of this pastoral letter.

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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

LAURENCE KAPLAN, on behalf of himself, individually, and on behalf of all others similarly situated,	:	Civil Action No. 13-2941 (MAS)(TJB)
Plaintiff,	:	Honorable Michael A. Shipp United States District Judge
v.	:	
SAINT PETER'S HEALTHCARE SYSTEM, RETIREMENT PLAN COMMITTEE FOR THE SAINT PETER'S HEALTHCARE SYSTEM RETIREMENT PLAN, LESLIE D. HIRSCH, an individual, PAMELA TEUFEL, an individual, GARRICK STOLDT, an individual, LISA DRUMBORE, an individual, RONALD C. RAK, an individual, SUSAN BALLESTERO, an individual, and JOHN and JANE DOES, each an individual, 1-20,	:	**ORDER GRANTING MOTION TO DISMISS** (Electronically Filed Document)
Defendants.	:	

THIS MATTER having come before the Court by Sills Cummis & Gross P.C., attorneys for defendants Saint Peter's Healthcare System, Retirement Plan Committee for the Saint Peter's Healthcare System Retirement Plan, Leslie D. Hirsch, Pamela Teufel, Garrick Stoldt, Lisa Drumbore, Ronald C. Rak, and Susan Ballestero (collectively, the "Defendants"), on the Defendants' Motion to Dismiss the Amended Complaint pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6), and the Court having reviewed and considered the motion and submissions of the parties, and having heard oral argument, and it appearing to the Court that it lacks subject matter jurisdiction to hear the Amended Complaint's ERISA claims and that the Amended Complaint fails to state a claim against the Defendants on which relief may be granted, and for good cause shown;

IT IS on this day of , 2018,

ORDERED that the Defendants' Motion to Dismiss the Amended Complaint is GRANTED and that the Amended Complaint be and hereby is dismissed in its entirety with prejudice.

HON. MICHAEL A. SHIPP, U.S.D.J.

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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

LAURENCE KAPLAN, on behalf of himself, individually, and on behalf of all others similarly situated,	:	Civil Action No. 13-2941 (MAS)(TJB)
Plaintiff,	:	Honorable Michael A. Shipp United States District Judge
v.	:	
SAINT PETER'S HEALTHCARE SYSTEM, RETIREMENT PLAN COMMITTEE FOR THE SAINT PETER'S HEALTHCARE SYSTEM RETIREMENT PLAN, LESLIE D. HIRSCH, an individual, PAMELA TEUFEL, an individual, GARRICK STOLDT, an individual, LISA DRUMBORE, an individual, RONALD C. RAK, an individual, SUSAN BALLESTERO, an individual, and JOHN and JANE DOES, each an individual, 1-20,	:	**CERTIFICATION OF SERVICE** (Electronically Filed Document)
Defendants.	:	

JEFFREY J. GREENBAUM, of full age, certifies that on the 7th day of September 2018, I caused a copy of the foregoing Notice of Motion, Memorandum of Law, Certification of Garrick Stoldt, Certification of Monsignor John Fell, and proposed form of Order, all in support of Defendants' Motion to Dismiss the Amended Complaint Pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6) and Motion to Strike Pursuant to Fed. R. Civ. P. 12(f), to be served via CM/ECF on all counsel of record.

I certify under penalty of perjury that the foregoing is true and correct.

s/ Jeffrey J. Greenbaum
JEFFREY J. GREENBAUM

Dated: September 7, 2018