



Religious Law and Consultation Newsletter

Upcoming Webcasts

Legacy Trusts
November 21, 2017

**Screening Candidates for
Religious Life**
February 2018

Canon Law 101 (series)
February 2018

**Councils, Chapters and Virtual
Participation**
May 2018

Mission and Catholic Identity
August 2018

Time:

Tuesdays, 2:00 pm ET, 11:00 am
PT

[For more information and to
Register](#)

Format: Live, On-Demand or CD-
ROM

Cost: \$65 for Live or On-Demand;
\$75 for CD-ROM

Past programs are available [here](#).

Contact

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Legacy Trusts

Religious institutes must ensure that their assets are used in keeping with their congregational needs, their historical ministries and their charism. How does a community ensure that this will happen? We have begun to use terms like Living Will and Legacy Planning for communities that are coming to completion, but what does this mean when applied to a religious institute?

Miriam-Webster defines estate planning as

- *arranging for the disposition and management of one's estate at death through the use of wills, trusts, insurance policies, and other devices.*

A Living Will is one of these other devices. Technically, the term does not apply directly to a religious institute or society.

However, it can be used analogously to describe a process of ensuring that a community's assets are used for the community and for its mission. Some use the term 'Living Will' to describe those documents in which a community makes its plans explicit. These may simply be statements of intention, or they may be trusts that will actually carry out their intentions.

Canonically, an institute or society must use its assets for the care of the brothers/sisters and for its mission. Civilly, the institute's or society's corporation will also limit the purposes for which the assets may be used as will state and federal law.

For institutes that are coming to their historical completion, this issue requires careful planning. Priority is given to the care of the sisters/brothers of the institute or society. There may also be assets that remain after the last brother/sister has died, which could be used for the community's historical ministries.

Canon 123 speaks to the distribution of goods after the community has completed its life. The distribution is first governed by the proper law of the institute. If there is no indication then assets go to the "juridic person immediately superior", subject always to the intention of the donors and the founders. The founders of the religious institute would likely have

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an intention that the goods of the institute be dedicated to the purposes for which the institute was founded. It is possible that the donors may have also expressed a specific intention in the donation. These two, the intention of the donor and that of the founders is to be honored. However, if there is no intention expressed, then the goods would go to the superior juridic person, either the congregation, if it is a province, or the bishop or Rome, if its a congregation.

A trust is a specific kind of legal relationship or agreement that exists between person or organization who creates it and the person or organization who manages it, and the beneficiary. Trusts have been used for holding the retirement assets of religious institutes and societies for decades. The trust document defines who holds what for whom and how. These same trusts may be used by communities in legacy planning. In one possible way of doing this, the "for whom" section names eldercare as its primary purpose, and adds secondary legacy purposes, in keeping with the historical ministries of the institute or society.

* * *

As with so many aspects of religious life and stewardship of the community's goods, Legacy Planning requires careful discernment as well as professional assistance to do this well. November's webcast will explore principles and give concrete examples. [Register here.](#)

Please let me know if I can be of assistance to your community.

Sincerely,
Amy Hereford

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