

CANON LAW AND APOTEMNOPHILIA

May a Catholic physician comply with a patient request for the amputation of a healthy arm or leg without running afoul of Church law? ¹ This question is increasingly relevant because of the growing emphasis on patient autonomy and the willingness of some physicians to carry out any action requested by the patient so long as the action is permitted under the laws of the state. Prescinding from whether patients seeking elective amputations are suffering from an identifiable psychiatric disorder, physicians may be inclined to carry out an act of elective amputation if they think that it might relieve some degree of the patient's psychological or emotional distress.

There are significant moral objections to elective amputation, and Catholic physicians (indeed, *all* physicians—as Fr. Austriaco shows in the preceding article) should not be a party to such procedures. Here, I will approach the question primarily from the perspective of canon law.² Although underappreciated, the canons of ecclesiastical discipline provide guidance for concrete moral decision-making by the faithful.

The question of Catholic medical cooperation in an elective amputation is a narrow one under canon 1397 of the 1983 Code, which expressly criminalizes “mutilation” and imposes a mandatory penalty that is left to the discretion of the canonical judge. Given the strict interpretation required for all penal provisions,³ a Catholic physician may perform apotemnophilic surgery without violating canon law, but only because canon 1397 specifically criminalizes only mutilation committed “by force or fraud.” Neither force nor fraud is likely to be proved when a patient has voluntarily sought medical assistance to secure the amputation of a healthy body part.

Although the 1983 Code does not *criminalize* elective amputation, I believe that a Catholic physician may not cooperate in these procedures for reasons grounded ultimately in sound moral theology, but more immediately because such participation would be contrary to a Catholic's canonical duty always to act consistently with the obligations of communion as set out in canon 209 § 1.⁴ Before outlining the canonical objections to Catholic physician cooperation in elective amputation, however, we should recall the Church's tradition regarding such surgeries.

Church Objections

For Catholics, the Church's objections to seeking or providing nontherapeutic amputations are easy to set out. Limitations on the autonomy with which one may regard one's body date back at least to St. Paul who wrote,

“Do you not know that your body is a temple of the Holy Spirit . . . and that you are not your own?” (1 Cor. 6:19). Notwithstanding that modern scientific advances have made more feasible surgeries that hitherto were avoided in part for fear of medical complications, Church teaching steadfastly rejects elective mutilation: “Christian doctrine establishes, and the light of human reason makes it most clear, that private individuals have no other power over the members of their bodies than that which pertains to their natural ends; and they are not free to destroy or mutilate their members, or in any other way render themselves unfit for their natural functions, except when no other provision can be made for the good of the whole body.”⁵

Beyond the magisterium's recalling of a few basic principles derived from Scripture and tradition, however, it has been left to moral theologians to work out the details related to mutilation (and, to a lesser extent, to canonists concerned for the proper application of certain norms on “irregularities” for holy orders). At times, some of these discussions became embroiled in tedious minutiae, for example, by parsing the particulars of mutilation *qua* “sin” or “impediment.”⁶ But it is not necessary for us to settle these debates in order to conclude that the elective amputation of a healthy body part is, under any sound Catholic school of moral analysis, an illicit act. Because elective amputations still occur, however, the question of Catholic medical cooperation in them needs attention.

Our question may now be squarely put: to the degree that various procedures would constitute “mutilations” as understood by Catholic moral teaching (and prescinding from whether those requesting these procedures are fully culpable for their requests), would Catholic medical professionals who might provide such procedures be acting at odds, not with a penal prohibition from Book VI of the Code, but with the positive obligation in Book II of the Code that requires Catholics “in their own manner of acting . . . to maintain communion with the Church” per canon 209?

Canon 209

Canon 209 traces its origins to the call of the Second Vatican Council for *all* the Christian faithful to assume personal responsibility for the evangelization of the world.⁷ The task of evangelization, which is to animate the whole life of Christian men and women, can of its nature only be carried out by those living in communion with the Church; this fact in turn supports the Legislator's call to all the faithful to maintain communion with the Church throughout their daily life.

To be sure, only a general obligation to maintain communion with the Church is set out in canon 209, and no effort is made in the law to enumerate the many ways that such communion can be preserved or severed. But I suggest that, at a minimum, canon 209 requires something more of Catholics than simply avoiding paradigmatic heretical or schismatic acts⁸; otherwise, penal canon law in those areas would have been sufficient to describe the boundaries of acceptable Catholic conduct.



6399 Drexel Road, Philadelphia, PA 19151-2511 www.ncbcenter.org

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Canon 209 provides Catholics with a means by which the vast complex of daily activities, to the extent that such activities affect one's relations with the Church and with other Christians, can be reflected upon in light of the obligation to maintain a living communion. Canon 209 may be seen as an expansion on the Ignatian adage "*sentire cum Ecclesia*" ("to think with the Church"), going beyond it to urge *acting* consonantly with the Church even in areas where specific rules for behavior have not been set down. To argue anything less is to argue that Catholics need to consider themselves accountable to ecclesiastical authority only in regard to their specifically religious conduct, while in the rest of their lives they are free to conduct themselves merely within the parameters of, say, civil law, social *mores*, or, at most, penal canon law.

When a Catholic lives his life in conscious communion with the Church, the example set by his conduct is much more effective in witnessing to the Gospel of Christ than are his mere words. Recitation of his identity as a Catholic and reiteration of his commitment to the teachings of Christ and his Church are belied when a Catholic's personal conduct is at odds with that identity and those teachings. Moreover, in an age that justly glories in the accomplishments of medical science and holds in esteem the men and women who work in these fields, the effect of Catholic medical professionals involved in elective amputations cannot help but give the impression that such procedures are good for at least some individuals and should be, at least to some degree, approved by the Church. In short, scandal—in the traditional sense of conduct that sets a bad example for others—is given by the participation of Catholic physicians in procedures that are demonstrably at odds with the teachings of the Church on the true dignity of the human person.

Catholic medical professionals who are approached for nontherapeutic destructive surgeries must assess such

requests in the realm of conscience as illuminated by doctrine and sound moral theology, and in the external forum as delineated by the canonical obligation to avoid actions that might harm one's obligation of communion with the Church. I believe that both sets of considerations, the moral and the canonical, militate strongly against Catholic medical professionals cooperating in elective amputation procedures.

Edward N. Peters, JD, JCD

Dr. Peters holds the Edmund Cardinal Szoka Chair at Sacred Heart Major Seminary in Detroit, Michigan, and was named a Referendarius of the Apostolic Signatura by Pope Benedict XVI. His Web site can be found at <http://www.canonlaw.info/>.

¹ Although my focus here is on the involvement of Catholic physicians and surgeons in elective amputations, the same basic considerations, *mutatis mutandis*, will affect the deliberations of administrators in Catholic hospitals who might be approached about such procedures.

² See generally *Code of Canon Law: Latin-English Edition*, new English translation (Washington, DC: Canon Law Society of America, 1999).

³ See, for example, canon 18, 1983 Code: "Laws which establish a penalty, restrict the free exercise of rights, or contain an exception from the law are subject to strict interpretation"; and "Regula Iuris" in *Sexto Decretalium Bonifacii VIII*, 49: "*In poenis benignior est interpretatio facienda.*"

⁴ "The Christian faithful, even in their own manner of acting, are always obliged to maintain communion with the Church."

⁵ Pius XI, *Casti connubii* (December 31, 1930), n. 71. See also *Dictionary Morale et Canonice*, vol. III, s.v. "mutilatio"; and *Catechism of the Catholic Church*, n. 2297.

⁶ For a helpful survey of the classical debate on mutilation see Gerald Kelly, "The Morality of Mutilation: Towards a Revision of the Treatise," *Theological Studies* 17.3 (1956): 322-344.

⁷ See, for example, Vatican Council II, *Lumen Gentium* (November 21, 1964), n. 13; *Gaudium et spes* (December 7, 1965), n. 1; and *Apostolicam actuositatem* (November 18, 1965), n. 3.

⁸ See canons 750-751 and 1364 of the 1983 Code.

