

**TITLE III EXPOSURE DRAFT dated as of 1/1/08**

The Title IV Task Force II welcomes your comments. Please send your comments to the Task Force's email address: [TIVTF.topic@faithgroups.com](mailto:TIVTF.topic@faithgroups.com), and be sure to note on the subject line that you are writing about Title III.

**Resolution \_\_\_\_\_ Proposed Impairment Canon**

*Resolved*, the House of \_\_\_\_\_ concurring, that a new Canon 17 be added to Title III, to read as follows:

1 **CANON 17: Of Proceedings Pertaining to Impairment**

2 **Sec. 1** Whenever a Member of the Clergy becomes incapacitated and incapable of  
3 performing the duties of their ministerial office, due to medical, psychological or  
4 psychiatric condition, information relating to such condition shall be investigated at the  
5 instigation of the Bishop. If the incapacitated Member of the Clergy is a Bishop, the  
6 information shall be investigated at the instigation of the Presiding Bishop.

7 **Sec. 2** The investigation shall be conducted under the direction of a panel appointed by  
8 the Bishop or Presiding Bishop, as appropriate. For investigations involving Priests and  
9 Deacons, the panel shall include at least three persons, a majority being Members of the  
10 Clergy. For investigations involving bishops, the panel shall include at least three  
11 persons, a majority being bishops. The panel may take and direct whatever action it  
12 deems necessary and proper to determine whether the Member of the Clergy is so  
13 incapacitated, including the examination of the Member of the Clergy by qualified  
14 experts designated by the panel and using forms prepared for the purpose by the Church  
15 Pension Fund. If, upon due consideration of the matter, the panel concludes that the  
16 Member of the Clergy suffers from impairment or incapacity sufficient that the Member  
17 of the Clergy is incapable of or unable to carry out the duties of their office and ministry,  
18 the panel shall recommend to the Bishop or Presiding Bishop the issuance of an order  
19 transferring the Member of the Clergy to Impairment Status for an indefinite period and  
20 until further order of the Bishop or Presiding Bishop.

21 **Sec. 3** All proceedings conducted under this Canon shall be confidential.

22 **Sec. 4** If it is alleged in the course of a disciplinary proceeding that a Member of the  
23 Clergy is unable to defend or participate in the proceeding due to a medical,  
24 psychological or psychiatric condition, the disciplinary panel shall recommend to the  
25 Bishop that the Member of the Clergy be transferred to Impairment Status pending a  
26 determination of the impairment. The panel appointed by the Bishop or Presiding Bishop  
27 pursuant to this Canon, shall thereupon determine whether the claim of inability to defend  
28 is valid. If the panel finds that the Member of the Clergy is sufficiently incapacitated as  
29 to be unable to defend the disciplinary proceeding, the disciplinary proceeding shall be  
30 deferred and the Member of the Clergy retained on Impairment Status until the Bishop or

31 Presiding Bishop on recommendation from the panel subsequently considers a request to  
32 restore the Member of the Clergy to Active Status. If the request to restore to Active  
33 Status should be granted, the interrupted disciplinary proceedings may then resume. If  
34 the panel determines the claim of incapacity to defend is invalid, the disciplinary  
35 proceeding shall resume.

36 **Sec. 5** No Member of the Clergy transferred to Impairment Status may resume Active  
37 Status except by order of the Bishop or Presiding Bishop. Any Member of the Clergy  
38 transferred to Impairment Status shall be entitled to request transfer to Active Status once  
39 a year, or at whatever shorter intervals the panel may direct. Proceedings on a request for  
40 transfer to Active Status shall be conducted in the same manner as incapacity  
41 proceedings, including preservation of the confidentiality of the proceedings. The panel  
42 shall conduct an investigation and proceedings to determine whether the impairment has  
43 been removed, including a direction for the examination of the Member of the Clergy by  
44 qualified experts designated by the panel. In its discretion, the panel may direct that the  
45 expense of the examination be paid by the Member of the Clergy. The Member of the  
46 Clergy making the request for reinstatement to Active Status shall be required to disclose  
47 the name of each health care provider, hospital or other institution by whom, or in which  
48 the Member of the Clergy has been examined or treated related to the impairment since  
49 the transfer to Impairment Status. The Member of the Clergy shall provide to the panel a  
50 written consent to each listed provider to divulge information and records relating to the  
51 impairment if requested by the panel or the panel's appointed experts. The panel shall  
52 recommend to the Bishop or Presiding Bishop approval of the request for transfer to  
53 Active Status upon a showing by a preponderance of the evidence that the impairment  
54 has been removed.

55 **Sec. 6** For the purposes of this Canon, Active Status includes the full participation in the  
56 active Ministry to which the Member of the Clergy may be serving, unrestricted by  
57 administrative or disciplinary suspension or other limitation. Impairment Status is an  
58 administrative leave or suspension from the active Ministry. Determinations of  
59 impairment or incapacity under this Title shall have applicability only to proceedings  
60 under this Title and shall not have applicability to issues of disability in any other  
61 context, including, but not limited to, contexts involving disability insurance or disability  
62 benefits from the Church Pension Fund or any other provider of benefits.

### 63 **RELATED AMENDMENTS TO TITLE III**

#### 64 **Title III Canon 12.6(b) [Amend to Read]**

65 In the case of the permanent impairment of the Bishop of a Missionary Diocese, where  
66 the Bishop shall not have submitted a resignation of jurisdiction, the Presiding Bishop  
67 shall, upon certification of the said permanent impairment by a panel, as provided in  
68 Canon 17 of this Title, declare the jurisdiction vacant.

#### 69 **Title III Canon 12.8(p) [Change to Read]**

70 (p) When it is certified to the Presiding Bishop by a panel, as provided in Canon 17  
71 of this Title, that a Bishop Diocesan is incapable of authorizing the Bishop Coadjutor, if  
72 there is one, or a Bishop Suffragan, if there is one, or the Standing Committee, to act as  
73 the Ecclesiastical Authority, then, upon the advice of five Bishops of neighboring  
74 Dioceses selected by the Presiding Bishop, the Presiding Bishop shall declare the Bishop  
75 Coadjutor, or a Bishop Suffragan, if the Constitution and Canons of the Diocese so  
76 provide, or the Standing Committee to be the Ecclesiastical Authority for all purposes set  
77 forth in these Canons and to retain such canonical authority until a Presiding Bishop,  
78 acting upon a like certificate, declares the Bishop Diocesan competent to resume official  
79 duties.

80 (q) If it is certified to the Ecclesiastical Authority of a Diocese by a panel as  
81 described in Canon 17 of this Title, that the Bishop Coadjutor is permanently unable by  
82 reason of medical, psychological or psychiatric condition, to carry out the duties of  
83 Bishop Coadjutor, the Ecclesiastical Authority, upon advice of three Bishops of three  
84 neighboring Dioceses, may declare the right of succession of the Bishop Coadjutor is  
85 terminated and a new Bishop Coadjutor may then be elected as provided in  
86 Canon III.11.10.