

February 7, 2009

Mr. Lawrence B. Abrams, III, Esq.
Rhoads and Sinon LLP
One South Market Square
P.O. Box 1146
Harrisburg, PA 17108-1146

Dear Mr. Abrams:

For the last several months, among the pastors of the Lower Susquehanna Synod, Evangelical Lutheran Church in America, there have been anxious discussions concerning the solemnization of marriages in the Commonwealth of Pennsylvania. The anxiety is centered on Title 23 "Domestic Relations," § 1503 "Persons qualified to solemnize marriages."

As I have it, § 1503 (a) reads, in part, "General rule.--The following are authorized to solemnize marriages between persons that produce a marriage license issued under this part... (6) A minister, priest or rabbi of any regularly established church or congregation."

Some pastors are wondering if clergy not under call to a congregation, such as retired pastors, pastors under special call as chaplains, or as synodical or institutional officials, or pastors on leave from call to any pastoral service, are prohibited from solemnizing marriages in the Commonwealth. In short, are our ordained pastors, regardless of their field of service, authorized to solemnize marriages?

As I have it, § 1503 (b) reads, "Religious organizations.--Every religious society, religious institution or religious organization in this Commonwealth may join persons together in marriage when at least one of the persons is a member of the society, institution or organization, according to the rules and customs of the society, institution or organization."

Some pastors are wondering if this paragraph means they may not marry a couple if neither person is a member of the congregation served by the pastor. In brief, may our ordained pastors solemnize a marriage of any couple who presents a valid marriage license, even if neither person is a member of that pastor's congregation?

As you might imagine, many pastors are seeking assurance that the marriages at which they preside are not only in good order in the Church's eyes, but also legal in the Commonwealth's eyes.

Several area newspapers have published accounts of rulings by county courts regarding the legality of Internet-ordained clergy solemnizing marriages. Doubtless these articles have played a role stimulating out pastors' anxieties.

Is it possible for your office to provide the Lower Susquehanna Synod with an interpretation of these paragraphs, which statement we might then share with our pastors to provide guidance for them?

Sincerely,
(The Rev.) Melvin E. Dick
Assistant to the Bishop
Lower Susquehanna Synod, ELCA



March 18, 2009

**Re: Lower Susquehanna Synod of the Evangelical Lutheran Church in America
Persons Qualified to Solemnize Marriages Under PA Law**

The Rev. Melvin E. Dick
Assistant to the Bishop
Lower Susquehanna Synod of the ELCA
900 South Arlington Avenue, Suite 208
Harrisburg, PA 17109

Dear Pastor Dick:

We received your correspondence of February 7, 2009, a copy of which is attached, requesting our advice on the effect of recent court opinions on the authority of rostered, ordained Lutheran pastors to solemnize marriages under the law of Pennsylvania.

The applicable statute provides: "The following are authorized to solemnize marriages between persons that produce a marriage license under this part: . . . [a] minister . . . of any regularly established church or congregation." 23 Pa. Cons. Stat. Ann. §1503(a)(6) (West Supp. 2008). In a recent memorandum decision from the Bucks County Court of Common Pleas, Judge C. Theodore Fritsch Jr., in granting a Motion to Confirm the Validity of a Marriage, wrote that the subject statute "clearly permits a minister of either any regularly established church or of any regularly established congregation, to perform a marriage." *In re O'Neill*, No. 08-01620-29-1, slip op. at 6 (Ct. Com. Pl., Bucks County, Dec. 31, 2008) (footnote omitted). The Judge found that the word "church" in the statutory context refers to religion and faith in the broader sense thus authorizing a minister "of any regularly established religious body or faith to solemnize a marriage in Pennsylvania." *Id.* at 7. We are not aware of any reason why this would not include all ordained ministers in good standing within the Evangelical Lutheran Church in America (the "ELCA").

We call to your attention that no appellate court in Pennsylvania has affirmed either the opinion of Judge Fritsch or our opinion. That said, it is our advice that ordained Lutheran pastors who are rostered with the Lower Susquehanna Synod of the Evangelical Lutheran Church in America and thus current and in good standing with the ELCA, are authorized under the Pennsylvania Marriage Law, specifically section 1503(a)(6), to solemnize marriages between persons that produce a Pennsylvania marriage license in this Commonwealth.

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Of course, whether or not a Lutheran pastor agrees to marry a particular licensed couple is always in the pastor's discretion, and whether or not a wedding ceremony may be celebrated in any particular church building is under the control of the congregation's council.

We very much appreciate your confidence in us.

Very truly yours,

RHOADS & SINON LLP

By: 
Lawrence B. Abrams, Esquire

Enclosure

cc: Philip H. Harris, Esq., General Counsel