

Legal Issues of Religious Counseling

Review of Lesson One

Three categories of behavior leading to suits:

- 1) Quality of care.
- 2) Failure to disclose information; disclosure.
- 3) Sexual misconduct.

Statutory Law

- 1) Laws passed by legislatures.
- 2) General; ambiguous.

Case Laws

- 1) Decisions by the judiciary system.
- 2) Laws applied to specific fact patterns.
- 3) Interpret statutory laws.
- 4) Doctrine of *stare decisis* (interpreting law in light of previous decisions).

First Amendment

Two religious clauses:

- 1) The Free Exercise Clause
- 2) Freedom from Establishment Clause

The religion clauses of the U. S. Constitution play heavily into the wide range of legal opinions reviewing clergy behavior.

Freedom from Discrimination

- 1) Fourteenth Amendment.
- 2) Civil Rights Act of 1964.

Doctrine of Religious Immunity

- 1) Based on 2 religion clauses.
- 2) Court has no authority to regulate religious matters.

Limits on Free Exercise Clause – Compelling State Interest.

- 1) Protection of children.

- 2) Education of children.

The Establishment Clause

- 1) The legislature cannot pass law or allow a practice which favors one particular religion.
- 2) The Lemon Test.
 - a) Have a secular purpose.
 - b) Not have primary effect of advancing or inhibiting religion.
 - c) Not result in excessive entanglement between religion and government.

Jimmy Swaggart Ministries argument against sales tax on their merchandise.

- 1) Would place undue burden on freedom to exercise their religious activities.
- 2) Would require excessive entanglement of government.