

STUDY GUIDE – II

Legal Issues of Religious Counseling

COU431

- 1) Define clergy privileged communication.
- 2) Each state determines the elements necessary to invoke the privilege. However, there generally are five such elements. What are they?
- 3) In privileged communication, what is meant by “the confessor’s confidential intent?”
- 4) To whom does the privilege belong? Or, who may claim the privilege?
- 5) What does the state of Georgia say specifically about clergy privileged communication?
- 6) There are basically two kinds of laws that limit clergy privileged communications. What are they?
- 7) CARL have emerged as the prime statutes limiting clergy privileged communications. What does CARL stand for?
- 8) What is a broad definition of child abuse as defined by the state of New Jersey (which is typical of other states)?
- 9) What is clergy’s responsibility in reporting cases of child abuse?
- 10) Distinguish between *mandatory* and *permissive* reporters. Under which does clergy generally come?
- 11) What is clergy’s liability if he falsely reports child abuse?
- 12) Privileged communication is limited by child abuse laws. However, there is an exception to this limitation. What is it?
- 13) What is meant by the spiritual healing “exception” to child abuse laws?
- 14) What does the state of Georgia statutory law say specifically about the exception of spiritual healing as it relates to child abuse?
- 15) Identify the three arenas where religious counselors are particularly susceptible to suit.
- 16) Courts are basing decisions of religious counselor liability on three intentional torts. What are they?
- 17) There are two questions a clergyman must answer in determining whether to breach confidentiality or not. What are they?
- 18) A breach of confidentiality to the counselee is probably acceptable if the religious counselor meets one of four conditions. What are they?
- 19) There are two basic factors in determining whether a counselor is recognized by the state as specifically trained to treat the suicidal patient. What are they?
- 20) Identify four possible steps toward prevention of a lawsuit.
- 21) Identify three situations which malpractice insurance is likely to cover.

True or False

- 22) In order to claim clergy privileged communication, one must be professionally identified as a “clergy person.”
- 23) A New Jersey court had decided that a Roman Catholic nun could claim privileged communication.

- 24) The Supreme Court of Iowa determined that Presbyterian elders could claim privilege communication because church policy specified their duties which qualified them as ministers.
- 25) For the privilege to be recognized, the one confessing to the clergy must expect his or her confession to be held in confidence.
- 26) In order to invoke privileged communication, a clergyperson must be acting in his or her professional capacity as a clergy person or other religious leader.
- 27) To effect privilege, the content of the communication must be specifically directed toward spiritual goals recognized by the clergy's religious body.
- 28) The right of privileged communication must be requested before it is granted.
- 29) "Communication" is limited to the spoken word not written documents.
- 30) Usually divulging privileged communications does not carry criminal penalties.
- 31) Breach of privileged communication can be grounds for a defamation suit.
- 32) Some states require all of their citizens to report suspected child abuse.
- 33) In the state of Alabama, clergy or other religious professionals are mandatory reporters if they are called upon to render aid to any child.
- 34) Some states do not criminalize the failure to report child abuse for *mandatory* reporters.
- 35) Clergy has legal status as permissive reporters in every state.
- 36) The clergy person is immune from liability if she or he reports, in good faith, suspected child abuse that turns out to be false.
- 37) Reports of child abuse, based upon second-hand information, will cause the reporter legal problems if the report turns out to be false.
- 38) When a family is counseled, and it is determined that one member was not essential to the counseling session, that one member's presence would waive the entire family's claim to privilege.
- 39) Courts are suspicious of advice of religious counselors that essentially harms the counselee.
- 40) Some states require disclosure of child abuse when the counselee is the victim but not if the counselee is the abuser.
- 41) Although the majority of states do not include clergy as mandatory reporters, virtually every state authorizes the *voluntary* disclosure of child abuse.
- 42) A pastor has the authority to investigate or to discount a complaint of child abuse.
- 43) If a pastor does not believe the child, the incident does not have to be reported.
- 44) A breach of confidentiality to the counselee is probably acceptable if the religious counselor has the client's permission.
- 45) No court has found a pastor liable for breaching confidentiality to save another from harm, and it is unlikely that such a suit would be successful.
- 46) No court has found a pastor liable for failing to warn someone of imminent harm based on knowledge learned from the confidential counseling session.
- 47) A state normally recognizes religious counselors as being competent to treat suicidal patients.
- 48) The most important preventative measure is, by far, for the religious counselor to take greater responsibility for the legal aspect of his/her ministry.
- 49) Normally, insurance will cover only civil suits.
- 50) Insurance generally will not cover deliberate acts but will cover events that are unexpected and beyond one's control.