

# **Protecting Yourself with Official Forms**

## *A Special Statement to Pastors Who Counsel*

By Dr. Robert Tippie, PhD  
January 1, 2008

### **The Past is Gone**

In days gone by, pastors were basically unencumbered by the legalities of making counselees sign statements prior to counseling. A couple or an individual would come into the pastor's office, the pastor would counsel the individual, and that would be the end of the matter.

Those days are gone. Today a pastor must do everything in his or her power to protect themselves from litigation – even when that litigation may seem so trivial. We live in a society wherein lawyers and other licensed professional counselors dislike pastoral care. Some of those individuals (although not all of them) will do what they can to “prove” to the world that pastoral counseling is not a legitimate form of counseling. Oftentimes, the methodology used is in the lack of a “paper trail” created by the counseling pastor. This issue is easily resolved by creating that paper trail.

Admittedly, the concept of a pastor having individuals fill out and sign forms prior to counseling is foreign. At first, the practice will seem awkward. That doesn't matter. It must be done. I cannot overstress this issue. Pastoral counselors need to create a legal paper trail that can be accessed, if and when it is needed.

*MARET Premium Services* lists a number of documents that are absolutely essential for a pastor to use on a regular basis. Among the most important of those documents are a well-constructed *Confidentiality Statement* and an *Informed Consent Statement*.

A word of warning is in order: Even with these documents in place and signed, individuals may attempt to accuse a pastor of violating the documents. Thus, the pastor needs to know the documents very well. The most glaring of those would be the *Confidentiality Statement*.

A *Confidentiality Statement* contains certain clauses that allow a pastor to break confidentiality. The pastor must understand when confidentiality may be broken. These factors must also be presented to the counselee so that they understand that confidentiality is not without its limitations.

For example, if a counselee threatens the life or safety of another individual, confidentiality must be violated or else the counselor can be held liable. If the counselee says that they are going to go home and kill their family, the counselor must violate the *Confidentiality Statement* and contact authorities. There is no choice. The same holds true if the counselor believes that the life of the counselee is at stake from suicide (this can be a real “touchy” issue).

A pastor who does any type of counseling (yes, any type) without these documents is practicing without a parachute and will probably eventually find themselves in a situation that could have been avoided. The answer is simple: Go to the *MARET Premium Services* site that contains the forms, read the information completely, and formulate *Statements* that fit your church's regulations and the regulations of your local and State laws.

Make the signing of these documents routine in all cases. No exceptions – absolutely no exceptions.

## **What the Future May Hold for Pastors**

Over the past years, pastors have slowly but methodically removed themselves from intensive counseling situations. They have opted to refer individuals to professional care. This institution came about through a complex set of criteria. Those included the rise of professional clinics which have been “fueled” by the insurance industry's over willingness to pay for psychological care as an extension of medical services. This is most evident in the HMO insurance sector.

However, the United States is rapidly approaching a significant health care crisis. Health care providers are becoming less and less willing to cover extensive psychological care. Insurance providers are cutting down the number of sessions allowed and they are also significantly raising the co-pays for those services. Often, the number of sessions allowed for specifically diagnosed problems will not result in substantial healing for the client.

These problems are only in their infancy. They will escalate each year – and, probably very rapidly. Individuals will not be able to pay for their mental health care through insurance benefits. Yet, they will continue to need those services. Thus, they will seek alternative methods of counseling that can help them resolve their issues.

It is my estimation that many individuals will turn again to the pastor for help – the place where counseling used to be common. The problem is that pastors have significantly relinquished more intensive counseling issues like extreme anxiety and depression.

Pastors would be remiss to simply “jump in” and begin counseling situations that they are unprepared to counsel. Yet, with the situation that is developing in the insurance industry, there is no doubt that individuals will return again to pastors for help.

The solution is simple: Pastors need to obtain training for specific issues that they will encounter. This does not necessarily mean that the pastor needs to return to formal education. It simply means that the pastor needs to obtain the knowledge and the specific techniques to deal with issues that they will face.

One of the primary reasons for the creation of *MARET Premium Services* is to provide high-end articles and MP3 files that will give pastors the knowledge and techniques that they need to perform the tasks that they will be called upon to perform.

## **Examples of Litigation**

One of the fallacies about the pastorate is that the individuals who come in to the pastor for counseling are “friends” of the church. Friends don't usually sue friends, so that means that there is nothing to worry about. This is not true. Sometimes things turn out badly with the pastor having little or no control of the situation.

One example of a potential point of litigation will be cited. There are many more and the pastor should make no assumptions that “friends don’t engage in litigation.”

Let’s assume that a pastor is counseling a marriage that is in significant trouble. The pastor has decided that he or she doesn’t need to have any form work signed – these individuals are long-term members of the church. There is no danger of litigation.

As the sessions progress, things continue to degrade. One individual decides to file for divorce. As part of the whole divorce process, the couple is referred to a mediator (by the Courts) in an attempt to save the marriage. One of the first questions that the licensed professional counselor – the mediator – asks is to be able to view the *Informed Consent Statement* that the couple signed prior to marriage counseling with the pastor. The problem is, the pastor did not have such a *Statement* signed.

It is possible – if things go really badly – that the mediator may recommend that the couple sue the pastor for conducting therapy without the permission of the couple. Essentially, the *Informed Consent Statement* gives the pastor permission to counsel within specifically laid out perimeters. If that document does not exist, there may be some grounds for litigation against the pastor for treatment without permission. A signed *Informed Consent Statement* would have prevented the potential litigation.

## **Preventing Litigation**

To summarize, pastors need to cover themselves when they counsel. They need to use appropriate form work that creates a paper trail that prevents the counselee from returning on them later with litigation. I know. This is not how it used to be just a few years ago. Unfortunately, this is the growing trend.

Cover yourself with forms. And, just as importantly, completely understand the *Confidentiality Statement* that you create. There are times confidentiality can be broken. Know when that is. If it cannot be broken, don’t do it – even though it may be your greatest temptation.