



# Church Lay Counseling

RISK MANAGEMENT GUIDEBOOK

## IMPORTANT INFORMATION

The information in this publication is intended to help ministry leaders better understand issues regarding lay counseling and assist them in developing a lay counseling program for their churches. We believe that you will find the materials in this publication valuable, either as a starting point in developing a new program or in reviewing and updating an existing program.

We recognize that every ministry is different, and policies and procedures must address the particular needs of each organization. This publication is designed to provide practical risk management information. It does not constitute legal advice between an attorney and a client. The law varies in different jurisdictions, and the information discussed in this publication may not be applicable to the law in your state. If specific legal advice is required, consultation with an attorney is recommended.

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# INTRODUCTION

## BECOMING A COMMUNITY OF CARE

Today, more and more people are feeling isolated, overwhelmed, and hurt by a variety of life circumstances. Jesus Christ, the “Wonderful Counselor,” served people by meeting practical needs. He spoke words of hope and healing. Now more than ever, church leaders recognize that the local church must serve as a safe place for spiritual care and Biblical guidance for life’s problems and decisions.

## LAY COUNSELING BOOSTS SPIRITUAL CARE RESOURCES

Biblically—and practically—spiritual care of the church flock should not fall solely to the pastor. To meet growing needs for spiritual counseling, many local churches are developing lay counseling ministries in order to apply the principles of Galatians 6:2, “Carry each other’s burdens, and in this way you will fulfill the law of Christ.”

Across America, church lay counseling ministries are flourishing and people are finding hope and healing. Lay counseling ministries can:

- Build fellowship and accountability in churches

- Serve as an effective and valuable outreach ministry to the community
- Greatly help pastors by serving as an additional resource for counseling needs in their churches

## COUNSELING MINISTRIES REQUIRE SPECIAL PLANNING

Organizing a church lay counseling program calls for prayer and planning. It also includes implementing a risk management program to safeguard the church and the people involved in church-sponsored lay counseling programs. Church leaders need to become aware of legal risks and responsibilities associated with counseling and take preventative steps to protect the ministry from unnecessary legal liability.

Generally, lawsuits against churches have increased over the past few years. By developing lay counseling procedures, your church can help protect counselees and counselors. In the process, it also may avoid unnecessary litigation and its emotionally and financially destructive effects on the church and the people involved.



# CHURCH LAY COUNSELING, SPIRITUAL CARE MINISTRIES

Lay counseling and spiritual care ministries usually involve lay helpers assisting people who are in need of hope, care, and direction to provide guidance, insight, and encouragement based on Biblical principles. In doing so, the local church attends to its flock as it is encouraged to do in Hebrews 10:24, “And let us consider how we may spur one another on toward love and good deeds.”

A lay counseling ministry gives local church members and attenders the opportunity to meet with a lay counselor for spiritual counseling. People seeking guidance from lay counselors have a variety of needs, including marriage and parenting issues, fear, anger, addictions, grief, and other issues related to the challenges of life.

Lay counselors should be adequately prepared for this ministry. To be effective, the church must take the lead in developing lay counseling ministry guidelines, and then provide ongoing, regular lay counselor training and supervision. The primary tools for the lay counselor are the Bible and prayer.

### VARIETY IS THE ‘SPICE’ OF A SPIRITUAL CARE MINISTRY

Churches are also organizing and supervising an increasing number of spiritual care ministries in which laypersons facilitate informal care programs. Look in any church bulletin today, and you are likely to find references to one or more of the following care ministries:

- **Topical Support Group Ministries** relating to grief, divorce, parenting teens, or coping with being victims of past abuse. These support groups naturally foster an opportunity for informal transparent discussion, encouragement, and prayer among individuals of like interests.
- **Recovery Programs** that provide teaching and testimonies of people who have gone through struggles relating to various addictions and obtained victory through faith.
- **Marriage Mentoring Ministries** that enable trained couples within the local church

to informally meet with other couples for mentoring on issues such as communication, parenting, blended families, and forgiveness.

- **Children and Youth Care Ministries** that provide specially designed support group programs for minors struggling with divorce, a new blended family, loneliness, and other issues.
- **“Shut-In” and Hospital Visitation Programs** through which caregivers reach out to the sick, disabled, and homebound.

These examples of spiritual care ministries do not necessarily include any formalized pastoral or lay counseling component. They do provide for natural discussion of personal matters on an informal basis. It’s likely that issues of abuse, confidentiality of information, suicide, or threats to other people may arise in these discussions.

### RISK MANAGEMENT SAFEGUARDS SPIRITUAL CARE MINISTRIES

Regardless of whether your church organizes and supervises lay counseling or informal spiritual care ministry programming, church leaders need to consider legal and ethical risk management issues as they coordinate these ministries.

Church leaders should ask themselves the following questions:

- Is the church aware of its legal and ethical risks regarding lay counseling and other spiritual care ministries of the church?
- Is church leadership involved in developing policies and procedures to legally, ethically, and Biblically address these risks?
- Are spiritual care and counseling policies and procedures regularly reviewed to ensure that they comply with changing legal requirements?
- Are pastoral staff members and lay counselors trained to understand these policies and procedures and to actively follow them?

If the answer to any of these questions is “no,” then church leaders should prayerfully reflect on what steps they can take to address these important points.

## CHAPTER 2

# CREATING A SAFE MINISTRY ENVIRONMENT

Creating a safe, secure environment for a spiritual care ministry calls for specific policies and procedures that protect your church, lay caregivers, and those who receive care.

The effectiveness of any church program begins with the understanding and support of church leadership. That's especially true of lay counseling and spiritual care ministries. For this reason, include church leaders in your planning process. Ensure that the governing body of your church not only understands the rationale for your ministry, but also fully supports and approves of spiritual care ministry policies and procedures before you implement a new program. It's also important to confirm that the policies and procedures you develop do not conflict with the church's by-laws or other governing documents.

### LAY COUNSELING PROGRAM BASICS

A lay counseling policy should include the following essential elements:

- A screening program that includes all employees and volunteers involved in a ministry's administration and counseling activities.
- Administrative guidelines that address confidentiality, abuse reporting, record-keeping, and other activities discussed more fully in this publication.
- Training for, and supervision of, lay counselors.
- A communications plan that informs church leaders, members, and attendees about the program.

These elements are described in detail in Chapters 3 through 6.

### EVALUATE RISK MANAGEMENT ASPECTS OF ANY SPIRITUAL CARE MINISTRY

It's important that you consult with an attorney as you prepare a lay counseling policy and forms. Your attorney should give you a legal evaluation of the risk management issues of any spiritual care ministry program that your church develops. With the help of legal counsel, church leaders should consider how lay counseling policy elements discussed in this publication may apply to other spiritual care ministries that the church sponsors.

The attorney your church selects should be familiar with various federal and state laws that have an impact on churches with spiritual care ministries. Very few attorneys concentrate in "church law," so you may want to seek attorney recommendations from other churches or trusted sources.

### CHECK WITH YOUR INSURANCE PROVIDER

There are several insurance policy liability coverages that are potentially relevant to your church's lay counseling ministry and other spiritual care ministries. As a church specialty insurer, Brotherhood Mutual designs insurance programs specifically for churches and other ministries. Insurance issues are discussed in Chapter 7.

### REVIEW YOUR PLAN REGULARLY; FOLLOW IT CAREFULLY

Laws change, as do the makeup and needs of a church. Review and update your lay counseling policy and forms annually, together with any other relevant spiritual care ministry policies and procedures. Church leaders should actively apply the church's lay counseling and spiritual care ministry policies and procedures.

## CHAPTER 3

# DEVELOPING A SCREENING PROGRAM

The success of your lay counseling ministry depends greatly on the character and quality of the counselors you select to staff the ministry. Developing screening guidelines that can be consistently applied will benefit your ministry in several ways:

- Allows church leaders to make sure that applicants are spiritually mature believers who are appropriate for the lay counseling ministry
- Heightens protection from incidents of sexual abuse
- Helps demonstrate to those seeking counsel—and to a court, if necessary—that your church has not been negligent in screening potential lay counselors

### CONSIDER YOUR CHURCH'S SPIRITUAL CARE NEEDS

Evaluate the demographics of your congregation. Consider the topical issues that lay counselors will likely be expected to handle. Develop a team of lay counselors who have the personal characteristics discussed below and can most effectively minister to the unique makeup of your church family.

### SELECTION CRITERIA

Consider the following characteristics in selecting potential lay counselors:

- Spiritual and emotional maturity
- Appropriate spiritual gifts, e.g., mercy, exhortation, wisdom, and teaching (Rom. 12, Eph. 4, and 1 Cor. 12)
- A desire to help and support hurting people
- A willingness to accept supervision and an ability to follow through with assigned tasks
- A commitment to serve for at least one year

Seek lay counselor recommendations from church staff and other church leaders who are familiar with the personality and gifting of people in the church.

### SCREENING PROCEDURES

Your job isn't done once you've established your selection criteria and identified individuals as potential lay counselors. The next step is developing screening procedures that will help you maintain the integrity of your ministry and ensure that qualified people are serving as lay counselors. Consider these elements as you establish screening guidelines:

- **Application form.** No one involved in a lay counseling ministry should be exempt from completing an application form. Everyone—including all employees involved in lay counseling administration and all applicants for volunteer lay counseling positions—should complete an application for the post they're seeking.
- **The "Six-Month" Rule.** As should be the case with all ministry volunteers at your church, lay counseling volunteers need to be members or regular attenders of the church for at least six months before being put into the position of lay counselor. Sexual predators often volunteer for ministries in which they can gain quick access to children, or other vulnerable individuals. Normally, they won't wait long to gain access. **Look for workers who have demonstrated maturity and good judgment.**
- **Reference Checks.** Require applicants to provide the names of at least two independent references, who can be asked to provide input on the applicant's lay counseling qualifications. You should contact references either in person or in writing before you allow an applicant to provide lay counseling.
- **Criminal Background Check.** Criminal background checks have become common elements in employee hiring—and should be a part of your church's overall hiring policy. To provide a safe environment for counselees, your church should also conduct a criminal background check for volunteers, especially those who will have access to children, youth, and any other vulnerable individuals.

Depending on your state, the availability of different types of criminal background check

sources may vary. Many churches have been able to streamline the administrative process for background checks by using the services of a background-screening provider. Your insurance company or your attorney may be able to recommend a qualified screening provider.

- **Personal Interview.** Consider developing a uniform set of questions that will help you gain greater understanding of the potential lay counselor's character and background. Interviews also offer a good opportunity to educate the potential lay counselor about the time commitments, training schedule, and other expectations for someone on your church's lay counseling team. Church leaders may desire to administer various spiritual gifts or psychological tests as a part of the interview process.
- **Annual Renewal Application.** Lay counseling administrators and counselors should complete a brief renewal application form annually. This annual inquiry will help uncover potentially serious situations involving existing workers. It should include the legal risk management questions from the initial application form. If problems have developed, it's crucial that your ministry be aware of them as soon as possible.

Once your screening process is in place and functioning, consider asking for feedback from those who have completed the process. You may want to create a special survey to gather their input. Ask them about the effectiveness of your screening process and encourage them to make suggestions for improving the process. You should constantly assess how your screening process is operating and make changes as you identify more effective ways of conducting employee screening.

## WHAT QUESTIONS SHOULD APPLICATION FORMS COVER?

A lay counseling application form should include the following essential elements:

- An applicant's personal and spiritual life
- Church membership, attendance history
- The applicant's testimony of faith
- An explanation of why the applicant seeks to serve in the lay counseling ministry
- Legal risk management questions that inquire about:
  - Sexual misconduct, including accusations, convictions, guilty pleas, no-contest pleas
  - Convictions, guilty pleas, or no contest pleas to criminal offenses of any kind
  - Traits/tendencies that could pose a threat to others



# CREATING A WRITTEN LAY COUNSELING POLICY

Managing legal risk is part of ministry today. Taking a proactive approach to managing legal risks helps church leaders to be good stewards of the resources entrusted to them. It makes good sense to develop a lay counseling policy in accordance with well-established risk management principles.

### ADDRESS ADMINISTRATIVE GUIDELINES

Church leaders should determine whom the ministry will serve. For example: will lay counseling be available to church members and attenders only, or will it also be open to the community at large? Will the church allow lay counselors to work with minors? Church leaders also should determine what issues the lay counseling ministry will address and what issues will be beyond the competence or scope of the lay counseling ministry, both ethically and legally.

Knowing your state law is critical in organizing a lay counseling ministry in your church. With the help of your church's attorney, church leaders should consider the following legal issues as they develop a lay counseling policy and related forms:

- **State Mental Health Licensing Laws.** State mental health licensing laws vary from state to state. Generally, pastors employed in a church are free to provide pastoral counseling to church members and are exempt from state licensing. States differ, however, in their exemption from licensing for lay persons who will provide lay counseling on behalf of a church. Some state mental health licensing laws set restrictions relating to:
  1. Licensing exemptions if you charge a fee for counseling
  2. Providing or advertising pastoral and lay counseling services to the general public
  3. Using certain titles or descriptions of service
- **Confidentiality.** If a person being counseled discloses private, confidential information to a pastor or lay counselor in a non-public setting, the counselor must not divulge the information. There are some specific exceptions: it's legally required; it can be legally justified; or it is specifically authorized by the counselee or the counselee's parent or guardian, if the counselee is a minor.
- **State-Mandated Child Abuse and Elder Abuse Reporting Laws.** It is absolutely critical that your church's leaders, staff, and lay counselors understand the legal requirements for abuse reporting in your state, and comply with the law immediately whenever they identify such situations. All lay counselors should know which church leader to contact immediately if they suspect any state-mandated reporting matter. Each year, Richard Hammar, an expert on keeping kids safe from abuse, produces a report for churches on the most relevant provisions of child abuse reporting laws in each state. The report is included annually in the May/June issue of Church Law & Tax Report, available through Christianity Today International's Web site, [store.churchlawandtax.com/mandatory-child-abuse-reporting-laws/](http://store.churchlawandtax.com/mandatory-child-abuse-reporting-laws/).
- **Record Keeping.** Counseling files should be confidentially maintained in a safe and secure place. Any counselee information on computer hard drives, or other electronic storage devices should be secure from unauthorized access. Counseling files or other private information contained in any portable electronic devices, such as laptop computers, should be encrypted. The files should be considered the property of the church, not any individual pastor or lay counselor. Counseling records should remain private, released only when the counselee has granted permission to release or when disclosure is legally required. Procedures for retaining and releasing these records should be created with the aid of a local attorney.
- **Guarding Against Sexual Misconduct.** A church must take steps to deter sexual misconduct and false allegations of sexual misconduct in lay counseling settings. Consider establishing the following guidelines:
  1. Prohibit any minister or lay counselor from providing counseling privately with a counselee of the opposite gender.

2. Have a parent or second adult present when counseling a minor.
  3. Limit the hours when counseling will be available at the church.
  4. Limit counseling sessions to 45 minutes or an hour, and establish a set number of counseling sessions that an individual counselor can provide to an individual; six counseling sessions, for example.
  5. Counsel only in a specifically located office or room that has a window, and is within view of a secretary or another adult.
  6. Caution counselors about physical touching that might be misinterpreted.
- **Ethical Guidelines.** Lay counselors should understand and follow the church's guidelines for referral of counselees to physicians, mental health practitioners, or other professional caregivers. Lay counselors should not interfere with a counselee's medically prescribed drug regimen. Lay counselors should be instructed to immediately report to their manager any state-mandated abuse reporting issues, a counselee's suicidal threats, or a counselee's threat to harm another person. Your church's attorney should consider developing an Informed Consent form or Lay Counseling Agreement that includes such reporting as exceptions to confidentiality.

## LAY COUNSELING FORMS

The following forms are recommended for a church lay counseling ministry:

- **Informed Consent or Lay Counseling Agreement.** An Informed Consent form

or Lay Counseling Agreement sets forth the conditions under which the church will provide lay counseling; for example, confidentiality parameters, the limit on the number of counseling sessions available, and the ability of the counselor or counselee to terminate counseling sessions at any time. It should be clear that lay counselors will provide Biblical counseling, and that they are not providing guidance as licensed mental health practitioners. It's critical that potential counselees review, understand, and agree to these terms prior to the beginning of counseling. In situations where minors are being counseled, use a separate form that accommodates confidentiality issues that pertain to minors. If the counselee is a minor, the minor's parent or guardian should sign the Informed Consent form or Lay Counseling Agreement.

- **Intake Form.** This form contains standard background information about the counselee that may help the lay counselor better understand the counselee and provide appropriate Biblical guidance. Use a distinct, modified form for minors being counseled.
- **Counseling Progress Notes.** It's recommended that lay counselors maintain brief notes of all counseling sessions. Notes that are written in a timely manner will help a counselor accurately recall matters if the notes are ever needed for a legal purpose.

*Note: Consult your church's attorney periodically to update the church's lay counseling policy and forms.*

# LAY COUNSELOR TRAINING AND SUPERVISION

**Counselor training and supervision are essential for building and maintaining an effective lay counseling ministry. Well-organized training processes that address spiritual matters, counseling methods, and risk management issues greatly enhance the success of lay counselors and ministry supervisors. Most importantly, they ultimately benefit the people your lay counseling ministry serves.**

### MANAGING THE TRAINING AND SUPERVISION FUNCTION

Whoever manages your lay counseling ministry serves as “gate keeper” in helping protect counselors and the people they are counseling. The manager’s role is twofold:

- Assures that lay counselors are effectively trained to be able to provide competent spiritual care
- Maintains accountability and risk management oversight of the lay counseling sessions

A lay counseling manager should be either a pastor with extensive pastoral counseling experience, or a Christian licensed mental health practitioner. If a church employs a Christian licensed mental health practitioner for this role, the church should have an attorney draft a contract between the church and the practitioner, outlining the services and expectations for this position.

### TRAINING PROCEDURES

Training procedures can vary according to the scope of your program and the skills and abilities of the lay counselors you select to staff your ministry.

Lay counselor training programs may extend over a 6-9-month period, and should be held weekly or bi-weekly. Limit the class size to 8-12 individuals to assure quality interaction with the instructor. Once your program begins, training should be ongoing, preferably monthly.

At the conclusion of the initial program training, counselors should sign a statement

acknowledging that they have read, understand, and will abide by the church’s lay counseling policy.

A church should consider scheduling an annual meeting of lay counselors to review and reinforce understanding of the lay counseling policy. The manager can explain any modifications or potential modifications to the lay counseling policy and related supervisory procedures at that time.

### WHAT MODULES SHOULD LAY COUNSELOR TRAINING INCLUDE?

Lay counselor training should include the following essential elements:

- Routine problems that counselees will bring as “presenting problems” to the lay counselor
- Biblical guidance pertaining to typical counselee problems
- Opportunities to “role play” and practice lay counselor skills
- The church’s lay counseling policy, including a detailed discussion of legal and ethical issues in lay counseling
- Appropriate professional counseling and other referral sources and procedures

### PURPOSEFUL SUPERVISION

Purposeful supervision is an integral part of the church’s efforts to use “reasonable care” in the oversight of the spiritual care and risk management activities of the ministry. It also helps make it more difficult for abuse to occur, and easier to counter false allegations of abuse.

When someone requests lay counseling, managers should ask the individual to complete:

1. An Informed Consent form or Lay Counseling Agreement
2. An Intake Form

The potential counselee should be instructed to review and return the completed forms to the church.

The manager should review the completed forms before the first counseling session.

This procedure allows a manager to:

- Determine which lay counselor to assign to counsel the individual based on the counselor's training and experience
- Identify "red flags" indicating that the potential counselee needs immediate referral to a professional counselor, physician, or other professional person or outside agency
- Provide appropriate guidance to the lay counselor in advance of the first counseling session

### **HANDLING THE FIRST LAY COUNSELING MEETING**

Lay counselors should begin counseling sessions with new counselees with:

1. Prayer
2. A review of the terms of the Informed Consent form or Lay Counseling Agreement.

The lay counselor can answer any questions that the counselee may have.

Lay counselors should emphasize that they are providing Biblical counseling, and that they are not providing counseling as mental health practitioners.

Managers can help ensure the effectiveness of the lay counseling program and promote the success of lay counselors by:

- Encouraging counselors to prayerfully prepare for counseling sessions
- Instructing them to follow the church's lay counseling policy at all times
- Advising counselors to properly document all counseling sessions by taking notes for future reference
- Conducting regular meetings with counselors to:
  1. Provide counselors with a venue to discuss counselor concerns, identify counseling successes and/or potential issues that may have arisen during counseling sessions, and address other counseling, legal risk management, and ethical issues
  2. Guard against potential misconduct issues or the development of inappropriate attachments or relationships between the counselor and those being counseled
  3. Enable the manager to remain vigilant to situations that may require referral to a physician, mental health practitioner, or other professional caregiver

# EDUCATING MINISTRY LEADERS AND CHURCH MEMBERS

Informing church leaders and members of the congregation about a lay counseling program will be important to the successful implementation of your lay counseling program. As is the case with most other ministry initiatives, counseling managers will need to communicate with leaders and the congregation on a regular basis.

### DEVELOPING A COMMUNICATIONS PLAN

Effective communication will be key to gathering the congregational, staff, and ministry worker support needed to implement and maintain a successful lay counseling program. While developing your communications plan, consult your attorney for help in identifying any state or local legal requirements that you need to address in your communications.

Use the following framework for a communications plan to help you build a customized plan that fits your situation.

### WHO'S YOUR AUDIENCE?

Have a clear understanding of each audience in your congregation so you can customize your communications to meet specific group needs.

Potential audiences include:

- Church leaders (elders, church board, trustees, administrators)
- Ministerial and non-ministerial staff responsible for other church programs and ministries
- Paid and volunteer ministry supervisors, program coordinators, and workers
- Church school, day care, and preschool teachers and staff members
- Members and regularly attending non-members

### WHAT DO YOU TELL THEM?

Most of your communication efforts will include the same information, but what you emphasize or provide in greater detail will depend on the audience. Ministry program leaders need

detailed information so they can effectively support, implement, and administer the program. Potential lay counselors need to be aware of program goals and requirements in order to determine their interest in serving in such a program. The congregation needs more general information about the program, its benefits, and how they can personally connect with a lay counselor, if they desire.

General information you can provide to most audiences:

- Background information about lay counseling ministries
- Purpose of the program
- Benefits of the program
- Screening procedures
- Program procedures
- Qualifications for lay counselors
- How to receive counseling help

Details to consider for specific audiences:

- Leaders—details supporting the need for a lay counseling program, organization and staffing, identification of lay counselors and training procedures, program costs, risk management issues, and the communications plan
- Ministry and non-ministry church staff—how lay counseling potentially integrates with other ministry needs, program organization, staffing, supervision, lay counselor identification and training, and screening procedures
- Ministry volunteers and lay counselors—qualifications, program procedures, resources, supervision, protections for lay counselors, screening procedures, and training
- Members of the congregation—general information about the program (policy, benefits, screening procedures, confidentiality, and connecting to the program as a volunteer lay counselor or counseling recipient)



## HOW DO YOU TELL THEM?

Churches and ministries usually have several established avenues of communicating with their organization about ministry programs. Use a variety of methods to reach all potential audiences and develop other communication methods, as needed.

Consider these possible communication methods for specific church audiences:

- In-person, small group presentations—to church leadership, staff, ministry workers, parents
- Letter to members of the congregation, ministry workers
- Special meetings with congregational groups, ministry groups, etc.

- Pulpit announcements/presentations
- Congregational meetings
- Specially developed brochures, flyers
- Church bulletin
- Church newsletter
- Church Website
- Posters, strategically placed

## UPDATE AND COMMUNICATE REGULARLY

The time to begin communicating is before you implement your lay counseling program. Develop a schedule for ongoing communication—one communication will not be enough. Keep the members of your organization updated with any changes in the program.

# THE IMPORTANCE OF INSURANCE IN MANAGING RISK

Insurance plays a key role in managing risk related to lay counseling as well as to church operations generally. Church leaders should be zealous in understanding the risks involved in their ministries and familiarize themselves with insurance products that provide financial protection for their church. Insurance companies pay for risk-associated losses that a church may experience but could not easily afford if it had to pay for the loss solely from church contributions and savings.

### THE IMPORTANCE OF AN INSURANCE AUDIT

Annually or biannually, churches should conduct an insurance audit. Church demographics, legal risks, and insurance products change constantly, making an insurance audit a necessary part of the church's broader financial management program. As part of the audit, church leaders should review the church's activities, church size and assets, and loss prevention options with their insurance agent and attorney to determine reasonable coverage amounts.

It's also important for church leaders to know whether the church's insurance policy or policies provide coverage on an "occurrence" or "claims-made" basis.

- Occurrence policies cover injuries that occur during the policy period, regardless of when a claim or lawsuit is filed against the church.
- Claims-made policies cover injuries that occur during the policy period, as long as the claim is made within the insurance company's claims reporting period.

Churches should seek the advice of their insurance agent about this important coverage distinction, and especially before changing from one type of insurance policy to another.

### CHOOSING AN AGENT AND INSURER

Insurance companies are generally represented by one of two types of insurance agents—captive and independent:

- Captive agents represent a single insurance provider exclusively and sell only that insurer's products.

- Independent agents typically represent multiple insurance providers and, generally, sell a variety of products.

Choosing an independent agent offers you more insurance coverage options. Whoever you choose as your insurance agent, be sure he or she is knowledgeable about the church insurance market. The counsel of a competent insurance agent can help church leaders stay aware of changing insurance products and competitive premium pricing. In addition, competent agents can make sure that there are no gaps in coverage, especially when church leaders decide to change insurance providers. Your insurance agent should work with your attorney to ensure that the church's insurance coverage fits optimally within the broader context of legally protecting the church from liability.

When choosing an insurer, it's important to remember that there's more to making an insurance decision than simply looking at the cost of coverage (the premium). The best insurance value may not always be reflected by the lowest price. Remember to look at the breadth of coverage, the service record, and value-added benefits that come with the policy before selecting an insurance company to protect your ministry.

As a provider of insurance exclusively to churches and related ministries, Brotherhood Mutual is dedicated to, and understands, a church's unique operations and requirements. Our agents receive special training and offer other services that alert churches to the hazards and liabilities that often threaten church ministries. Insurers dedicated to the church market also are more likely to provide risk management materials for churches—articles, checklists, guidebooks, and other publications—than other insurers that market to the general public.

### INSURANCE LIABILITY COVERAGE

The following insurance coverages are relevant to a church lay counseling ministry:

## GENERAL LIABILITY POLICY

Generally, this policy provides coverage for bodily injury and property damage that results from negligent acts of the insured (could be the church or other insured individuals—ministers, church leaders, ministry volunteers, etc.) A general liability policy also can include coverage for medical payments and personal or emotional injury (for example, claims caused by defamation of character or invasion of privacy, etc.).

## COUNSELING ACTS LIABILITY COVERAGE

Insurance companies usually offer counseling acts liability coverage as an optional coverage endorsement to a general liability policy. This special coverage provides liability protection against claims of bodily, emotional, or personal injury that result from the counseling acts of church pastoral or lay counselors. If volunteer lay counselors are part of your church's counseling ministry, it's important that you protect them with adequate insurance coverage. If your church provides professional counseling services on a fee basis, ask if your insurance company provides optional fee-based counseling coverage.

## SEXUAL ACTS LIABILITY COVERAGE

Sexual Acts Liability Coverage protects against claims resulting from the alleged sexual misconduct of individuals involved in church activities and while performing their ministry duties. It also may provide specific coverage for certain damages resulting from an error in reporting a sexual act to law enforcement authorities. Usually, this coverage is offered as an optional coverage endorsement to a general liability policy.

## DIRECTORS AND OFFICERS LIABILITY COVERAGE

People who sue a church often also name members of the church board as additional named defendants. While some federal and state laws may provide limited statutory immunity from liability for church officers, directors, and volunteers in some specific situations, there remains a significant risk that this immunity will not apply to a given situation. Usually offered as an optional coverage endorsement to a general liability policy, Directors and Officers Liability

Coverage should provide liability protection and legal defense for most financial damage claims that result from leadership decisions made on behalf of the organization.

## EXCESS/UMBRELLA LIABILITY COVERAGE

Generally, this optional coverage expands the financial limits of protection beyond those that certain primary liability insurance policies allow. Insurance companies may offer this coverage as an optional coverage endorsement to a general liability policy.

## PROFESSIONAL LIABILITY INSURANCE POLICY

Pastors and licensed counselors may have their own professional liability insurance policy. Coverage usually includes protection from claims made against them in their professional counseling duties for which they are licensed, certified, or trained. They should compare the coverage offered in their own professional liability insurance policy with the coverage included in their church's insurance policy.

### LAY COUNSELING CLAIM EXAMPLE

The following example is a common issue in church counseling. A well-meaning lay counselor shares a confidential communication from a counseling session with a third party in the context of "asking for prayer."

A lay counselor forgets the church's Informed Consent form requirements for confidential communications with counselees. He reveals to a counselee's friend that the counselee is struggling with pornography and is in need of prayer.

The friend prays for the counselee at a prayer meeting attended by the counselee's wife. As a result of learning about her husband's issue, the couple's marriage becomes strained and she leaves him. The counselee later learns that the lay counselor conveyed confidential information to his friend and sues the lay counselor and the church for personal injury resulting from the breach of confidence. This claim should be covered by Counseling Acts Liability Coverage.

# PROCEDURAL SUGGESTIONS AND SAMPLE FORMS

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## CHECKLIST FOR DEVELOPING A LAY COUNSELING MINISTRY

	YES	NO
1. Have you determined lay counseling ministry goals within the parameters of your state laws with the guidance of an attorney?		
2. Have you obtained full support of ministry development from church leadership?		
3. Have you determined who will serve as manager of the lay counseling ministry?		
4. Have you developed a lay counseling policy and accompanying forms with the help of an attorney?		
5. Have the policy and forms been developed to ensure compliance with state law and the church's governing documents?		
6. Have you secured appropriate insurance coverage for the lay counseling ministry?		
7. Have you developed a communications plan to address the information needs of various audiences within the congregation, including potential lay counselors?		
8. Have you selected and screened potential lay counselors?		
9. Have you provided training for the initial group of lay counselors?		
10. Is the lay counseling ministry manager prepared to provide ongoing training and supervision to lay counselors?		



## SAMPLE LAY COUNSELING POLICY FRAMEWORK

At a minimum, a lay counseling policy should include the following elements:

- 1. Screening** of all employees involved in lay counseling administration and all volunteer lay counselors. The screening process should include application forms, interviews, reference checks, and criminal background checks.
- 2. Administrative guidelines addressing the following potential issues:**
  - a. State mental health licensing laws
  - b. Confidentiality of information
  - c. Procedures for state-mandated abuse reporting
  - d. Record keeping
  - e. Guarding against sexual misconduct
  - f. Ethical guidelines
- 3. Training and supervision guidelines for the lay counseling ministry manager** to follow in providing adequate oversight to lay counselors.
- 4. A communications plan** that informs church leaders and members of the congregation about the lay counseling program.

Lay counselors should sign a statement acknowledging that they have read, understand, and will abide by the church's lay counseling policy.

*Note: Specific state laws may apply to lay counseling and other spiritual care ministry programs. These requirements vary by state. You should work with an attorney familiar with laws that apply to your church's lay counseling ministry program.*

## SAMPLE LAY COUNSELOR APPLICATION FORM\*

### PERSONAL

Name: \_\_\_\_\_ Daytime telephone: \_\_\_\_\_

Address: \_\_\_\_\_

Why do you want to serve in the lay counseling ministry?

What do you believe are your spiritual gifts?

### TESTIMONY

Please briefly share your testimony of faith:

### BACKGROUND INFORMATION\*\*

Have you ever participated in sexual misconduct? Have you ever been accused of, pleaded guilty or no contest to, or been convicted of abuse or any sexual misconduct?

\_\_\_\_\_ Yes \_\_\_\_\_ No If Yes, please explain:

\_\_\_\_\_  
\_\_\_\_\_

Have you ever been convicted of or pleaded guilty or no contest to any criminal offense of any kind?

\_\_\_\_\_ Yes \_\_\_\_\_ No If Yes, please explain:

\_\_\_\_\_  
\_\_\_\_\_

Do you possess any traits/tendencies that could pose a threat to others?

\_\_\_\_\_ Yes \_\_\_\_\_ No If Yes, please explain: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*\*Specific state laws may apply to lay counseling and other spiritual care ministry programs. These requirements vary by state. You should work with an attorney familiar with laws that apply to your church's lay counseling ministry program.*

*\*\* Because of the accusatory nature of these questions, and to the extent that a crime does not pose a threat to counselees, you may not be able to ask these specific questions in your state. Check with your attorney.*

*This is a sample document only. Your organization is responsible for compliance with all applicable laws. Accordingly, this form should not be used or adopted by your organization without first being reviewed and approved by an attorney. Brotherhood Mutual Insurance Company assume no liability in the preparation and distribution of this sample form.*

## SAMPLE LAY COUNSELOR APPLICATION FORM\* (CONTINUED)

### CHURCH ACTIVITY

What church or churches have you been a member of and/or attended in the past five years?  
Please describe.

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### REFERENCES

*(Please provide at least two references, neither of which is related to you.)*

Name /Relationship	Address	Phone
<hr/>	<hr/>	<hr/>
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### LAY COUNSELOR RELEASE

I recognize that (name of organization) is relying on the accuracy of the information I provide on the Lay Counselor Application Form. Accordingly, I attest and affirm that the information I have provided is absolutely true and correct.

I authorize the organization to contact any person or entity listed on the Lay Counselor Application form, and I further authorize any such person or entity to provide the organization with information, opinions, and impressions relating to my background or qualifications.

I voluntarily release the organization and any such person or entity listed on the Lay Counselor Application Form from liability involving the communication of information relating to my background or qualifications. I further authorize the organization to conduct a criminal background investigation.

Should I be selected to be a lay counselor, I agree to abide by the policies and procedures of the organization and to protect the health and safety of the lay counselees assigned to my care at all times.

Printed Name: 

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Signature: 

---

 Date: 

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(Please read this document carefully before you sign it.)

*This is a sample document only. Your organization is responsible for compliance with all applicable laws. Accordingly, this form should not be used or adopted by your organization without first being reviewed and approved by an attorney. Brotherhood Mutual Insurance Company assume no liability in the preparation and distribution of this sample form.*

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## SAMPLE LAY COUNSELOR RENEWAL APPLICATION FORM\*

### PERSONAL

Name: \_\_\_\_\_ Daytime telephone: \_\_\_\_\_

Address: \_\_\_\_\_

Why do you want to continue serving in the lay counseling ministry? \_\_\_\_\_

### BACKGROUND INFORMATION\*\*

Since your initial application, have you participated in sexual misconduct? Since your initial application, have you been accused of, pleaded guilty or no contest to, or been convicted of abuse or any sexual misconduct?

\_\_\_\_\_ Yes \_\_\_\_\_ No If Yes, please explain: \_\_\_\_\_

Since your initial application, have you ever been convicted of or pleaded guilty or no contest to any criminal offense of any kind?

\_\_\_\_\_ Yes \_\_\_\_\_ No If Yes, please explain: \_\_\_\_\_

Since your initial application, have you identified any personal traits/tendencies that could pose a threat to others?

\_\_\_\_\_ Yes \_\_\_\_\_ No If Yes, please explain: \_\_\_\_\_

*\*Specific state laws may apply to lay counseling and other spiritual care ministry programs. These requirements vary by state. You should work with an attorney familiar with laws that apply to your church's lay counseling ministry program.*

*\*\* Because of the accusatory nature of these questions, and to the extent that a crime does not pose a threat to counselees, you may not be able to ask these specific questions in your state. Check with your attorney.*

### LAY COUNSELOR RENEWAL RELEASE

I recognize that (name of organization) is relying on the accuracy of the information I provide on the Lay Counselor Renewal Application Form. Accordingly, I attest and affirm that the information I have provided is absolutely true and correct.

I voluntarily release the organization and any such person or entity listed on the Lay Counselor Renewal Application Form from liability involving the communication of information relating to my background or qualifications. I further authorize the organization to conduct a criminal background investigation.

I agree to abide by the policies and procedures of the organization and to protect the health and safety of the lay counselees assigned to my care at all times.

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*(Please read this document before you sign it.)*

*This is a sample document only. Your organization is responsible for compliance with all applicable laws. Accordingly, this form should not be used or adopted by your organization without first being reviewed and approved by an attorney. Brotherhood Mutual Insurance Company assume no liability in the preparation and distribution of this sample form.*

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## SAMPLE REFERENCE RESPONSE INFORMATION FORM

To: \_\_\_\_\_  
Name of Ministry

From: \_\_\_\_\_  
Address

Re: \_\_\_\_\_  
Name of Lay Counselor Candidate

The individual named above has expressed an interest in working as a lay counselor in a spiritual care ministry in our church. The candidate has listed you as a reference. In order for our organization to properly evaluate the qualifications of this candidate as a lay counselor, we are asking that you complete this form with your honest opinions and impressions of the candidate.

Please return the completed form in the enclosed self-addressed envelope. Thank you for your help.

1. How long have you known this lay counselor ministry candidate? \_\_\_\_\_

2. In what capacity have you come to know this individual? (i.e. coworker, neighbor, friend, etc.) \_\_\_\_\_

3. In your opinion, is the above candidate fully qualified to work as a lay counselor in a spiritual care ministry? \_\_\_\_\_ Yes \_\_\_\_\_ No If no, please explain: \_\_\_\_\_

4. What concerns, if any, would you have in allowing this individual to work as a lay counselor? \_\_\_\_\_

5. Are you aware of anything in the candidate's background, personality, or behavior that could in any way pose a threat to children or adults who seek spiritual counseling? \_\_\_\_\_

\_\_\_\_\_ Yes \_\_\_\_\_ No If Yes, please explain: \_\_\_\_\_

Additional comments or explanations: \_\_\_\_\_

The above information is true and correct to the best of my knowledge.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*This is a sample document only. Your organization is responsible for compliance with all applicable laws. Accordingly, this form should not be used or adopted by your organization without first being reviewed and approved by an attorney. Brotherhood Mutual Insurance Company assume no liability in the preparation and distribution of this sample form.*

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## NOTES

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