

Annotated Example Memo: Abbreviated Option #2 (Discussion Only)

To: Jane Jones

From: Sam Smith

Memo Heading

Date: March 9, 2012

Re: Healers of the Faith Case File 12-1123;
Statutory requirements of healers to report elder abuse

Confidential and Privileged Attorney Work Product

You asked me to research whether a Florida spiritual healer who is a contractor with our client, Healers of the Faith, must report suspected elder abuse and what consequences can occur if the healer does not report. In Florida, a spiritual healer must report suspected elder abuse and is criminally liable if she does not. The healer is immune from civil liability, however, for any good faith reports.

Issue and Brief Answer in first paragraph.

During a visit to an elderly client with dementia, the spiritual healer observed the client with hand-shaped bruises on her arm and a fear of her son. Florida specifically requires a “practitioner who relies solely on spiritual means for healing” to immediately report a reasonable suspicion that an adult is being significantly physically or emotionally impaired by the acts of a relative when that adult’s mental disability limits his or her self-care. Fla. Stat. § 415.1034(1)(a)(3) (Fla. Legis., current through Jan. 1, 2011) (available at

Description of the legally significant facts.

General statement, summary and description of the law, moving from more general to more specific and including specific citations for each legal assertion.

<http://www.leg.state.fl.us/statutes>) (describing duty of spiritual healer); Fla. Stat. § 415.102(1), (27) (2011) (Fla. Legis., current through Jan. 1, 2011) (available at <http://www.leg.state.fl.us/statutes>) (defining “abuse” and “vulnerable adult”). If a spiritual healer fails to report a case of suspected abuse, the healer has committed a second-degree misdemeanor, punishable by up to 60 days of imprisonment and a fine of \$500. *Id.* at §§ 415.111 (describing criminal liability), 775.082 (describing imprisonment), 775.083 (describing fine). Nothing in the statutes allows a code of ethics to trump the healer’s reporting duty. A healer making an elder abuse report in good faith, however, is immune from civil liability. *Id.* at § 415.1036(1).

The Director should advise the healer that she should use the Florida Abuse Hotline or website to report the suspected abuse. As a spiritual healer, she falls within the specifically mentioned groups of people that have an obligation to report elder abuse. Because the elderly woman has severe dementia, which is a mental disability, she meets the definition of having an impairment that limits her self-care. And, because the healer has a reasonable suspicion of abuse based on her observations of the woman’s physical injury and her fear of her son, the healer could face criminal penalties, including imprisonment and fines, if

Application of the law to the facts using key words, facts of the client’s case, and explanation.

she fails to report. The healer should not worry, however, about facing a civil suit by the woman or her son because her observations of abuse and her sincere beliefs show that her report would be in good faith.

The Florida Abuse Hotline number is 1-800-962-2873; if the healer wishes to report online, the address is

<http://www.dcf.state.fl.us/programs/>

[abuse/report.shtml](http://www.dcf.state.fl.us/programs/abuse/report.shtml). If you would like me to provide additional research and analysis about the potential vicarious liability of the Sisterhood or the Director or to investigate whether the Director has a separate duty to report, please advise, and I will be happy to do so.

Suggestion/offer for additional research or assistance.