



**Client**

**Testimonials**

# What You Need to Know About Using Client Testimonials on Your Website



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Most energy healing practitioners publish client testimonials on their websites for the purpose of advertising and promoting their healthcare services. However, most of these practitioners are not aware that the use of testimonials in advertising must comply with Federal Trade Commission (FTC) laws and regulations, specifically Section 5 of the FTC Act (15 U.S.C. 45). The FTC is the nation's consumer protection agency and is federally authorized to protect consumers and to prevent fraud, deception, and unfair business practices in the marketplace. In addition, many states have consumer protection laws with which energy healing practitioners must also comply when publishing client testimonials on their websites.

For the past decade I have been advising practitioners and organizations about the legal and regulatory issues in the practice of energy healing methods. Many in the field are initially resistant to anything legal and it is not uncommon for clients to remark that dealing with laws and regulations feels uncomfortable. What I have experienced is that once legal issues are addressed and appropriate risk management strategies are put into place, the client moves from a place of resistance and fear to one of empowerment.

In this article I will discuss the basic legal requirements the FTC mandates for testimonials. This article

also includes sample problematic testimonials and how they can be reworded to decrease their potential legal liability. In addition, I will briefly cover how testimonials can also subject a non-licensed energy healing practitioner to being charged with practicing a licensed profession without a license such as medicine or psychology. Lastly, this article includes recommended essential risk management strategies for energy healing practitioners who publish client testimonials on their websites.

It is important to be aware that a few years ago the FTC put together a special task force to review websites offering healthcare products or services that make questionable claims of curative ability; are exaggerated, or unproven. The FTC is specifically targeting "newly discovered" therapies that claim to help cure a wide range of ailments. This would include the energy-based methods that are part of the field of energy medicine and energy psychology. The FTC is checking websites looking at several items:

- The type of modality, technique, or therapy offered by the practitioner
- The qualifications of the practitioner
- The claims of effectiveness
- Violations in the use of restricted language such as non-licensed practitioners using the word "treatment" or "pain" on their websites



- Lack of scientific proof for the modality, technique, or therapy

Many energy healing practitioners think they are safe because their websites are similar to all the others. This is unwise because over 95% of websites, featuring the services of energy healing practitioners, carry significant legal risks. Remember - licensing boards, regulatory agencies, and the courts have a negative perception of energy healing methods and consider them to be unsubstantiated and suspect. In addition, practitioners mistakenly believe client testimonials published on their websites are protected by the

To give you a practical idea about what I am referring, here is an example of a legally problematic client testimonial if it were to be published on a non-licensed energy healing practitioner's website:

*"I have been obese for many years but after getting energy healing treatments from Suzie I'm no longer obese." - Jane Doe*

This testimonial has two major problems. First, because obesity is considered a medical condition, the testimonial would be considered to be a claim that the practitioner has cured a medical condition.

### *"The FTC is specifically targeting "newly discovered" therapies that claim to help cure a wide range of ailments."*

First Amendment. This is not necessarily the case. For example, if a client claims in a testimonial that an energy healing method cured his/her diabetes, FTC laws and regulation governing advertising would supersede the client's First Amendment free speech rights and your right, as an energy healing practitioner, to publish it on your website.

First, let's state the obvious; from an ethical perspective client testimonials should be true. From a legal perspective and under FTC regulations, client testimonials must be true. Additionally, under FTC regulations, the FTC views client testimonials as claims and satisfied customers are not sufficient to support a health claim. Under the law you must have proof to back up express and implied claims on your website. In addition, health claims must be supported by **"competent and reliable scientific evidence."** Scientific evidence must be evaluated by qualified people and studies must be conducted using methods that experts in the field accept as accurate. Needless to say, the websites of energy healing practitioners containing health claims, by and large, do not meet the FTC's standard of being supported by competent and reliable scientific evidence.

The FTC would require scientific evidence that Suzie's energy healing method successfully treats obesity. Second, because the testimonial uses the word "treatment", the practitioner faces of the risk of being charged with practicing medicine without a license. Here is a better way to phrase the above testimonial in order to reduce the potential legal risks:

*"I have dealt with weight issues for many years, but after working with Suzie, my eating habits have improved and I am better able to choose foods that support my goals. I feel great and people compliment me on my appearance." - Jane Doe.*

Here is another example of a legally problematic testimonial if it were to be published on the website of a complementary and alternative medicine clinic that is under the direction of a licensed physician:

*"I was really sick when my friend told me about the Complete Health Restoration Program. I had been dealing with the daily struggle of a progressive disease called Ankylosing Spondylitis. The inflammation, pain and hardening of my connective tissues progressed every night as I slept. After the first round of treatments, I started to thrive. I could feel the reversal*



*of the disease process.” - Jane Doe*

Since the program is being offered under the direction of a licensed physician, the clinic is not subject to being charged with practicing medicine without a license. However, these statements could be construed by the FTC as a claim that The Completion Health Restoration Program cured a disease. Therefore, in order to make such a claim, the FTC would require competent and reliable scientific proof. Here is a better way to phrase the above testimonial in order to reduce the potential legal risks, including adding a testimonial disclaimer:

We recognize that testimonials are selective and are not fully representative of everyone’s experience. We can not guarantee any specific results and the following testimonial does not constitute a warranty or prediction regarding the outcome of an individual using our services for any particular issue. Still, we share this to give a sense of what this client has experienced.

*“I began using the Complete Health Restoration Program, a complementary and alternative medicine approach to wellness, to help me to deal with inflammation and chronic and debilitating pain. After several treatments, I started to feel better and am now able to move more freely.” - Jane Doe*

What are the consequences of having a complaint filed against you by the FTC based on the contents of your website, including testimonials? At the very least you will incur significant legal fees in answering a complaint filed by the FTC and at worst you could be subject to a substantial fine. As an example, in an actual case, in 1998 the FTC brought a complaint against Dr. Roger Callahan, a pioneer in the field of energy psychology who developed Thought Field Therapy (TFT). A Decision and Order was published by the FTC (Docket No. C-3797). The FTC determined that Dr. Callahan’s Addiction Breaking System using TFT lacked competent and reliable scientific evidence among other things. Dr. Callahan and his attorneys entered into a consent order and he was fined Fifty

Thousand Dollars (\$50,000) and was subject to a number of restrictions. Obviously all energy healing practitioners want to avoid violating FTC rules and regulations.

In addition to FTC laws and regulations and state consumer protection statutes, all practitioners using energy healing methods are subject to legal problems if the testimonials on their websites describe their services in violation of the “practice definition” of any laws that apply to licensed healthcare professionals. One of the most obvious healthcare professionals would be a physician, but it also includes state laws governing psychologists, social workers, professional counselors, marriage and family therapists, body workers, nurses, and potentially even dietitians, if you provide any kind of nutritional advice. If any licensing board perceives that the services described in a testimonial is the practice of a licensed profession, it subjects the energy healing practitioner to being charged with the crime of practicing a licensed profession without a license.

To illustrate this point, here is an example of a legally problematic testimonial if it were to be published on a non-licensed energy healing practitioner’s website:

*“I suffered from depression and Post Traumatic Stress Disorder (PTSD) after being discharged from the military but after getting energy healing treatments from Derek; I am no longer suffering from depression or PTSD.” - John Doe*

This testimonial has two major problems. First, depression and PTSD are considered DSM V psychological disorders that, as a general rule, can only be treated by licensed mental healthcare professionals. Therefore, the practitioner faces the risk of being charged with practicing psychology without a license. Second, the testimonial is also considered to be a claim that the practitioner has cured DSM V psychological disorders. The FTC would require scientific evidence that Derek’s energy healing method successfully treats depression and PTSD. Here is a better way to phrase the above testimonial in order to reduce



the potential legal risks:

*"I have dealt with a lack of purpose and a tremendous amount of stress after being discharged from the military. After working with Derek using an innovative energy-based technique, I have experienced a greater sense of peace and well-being and feel more positive." - John Doe*

As you can see, there is much to consider before publishing a client testimonial on your website. Due to the complexity of the legal and regulatory requirements regarding client testimonials, it is a good idea

*"... there is much to consider before publishing a client testimonial on your website."*

to seek professional help. The nuance of the words chosen can make a significant difference as to whether or not you are subjecting yourself to potential legal liability. For example, you do not want to use the word "pain" because it is considered a medical condition, unless you are a licensed healthcare provider. If you are an unlicensed practitioner, it is better to use the words "physical discomfort" instead of "pain".

There are several risk management strategies listed below that I recommend you consider implementing if you have a website and publish client testimonials.

- Follow FTC rules and regulations regarding advertising and also comply with the consumer protection laws in your state. You can also become familiar with FTC regulations regarding testimonials by studying the FTC's Guides Concerning the Use of Endorsements and Testimonials in Advertising <http://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-publishes-final-guides-governing-endorsements-testimonials/091005revisedendorsementguides.pdf>.
- If you are a non-licensed energy healing practitioner know, understand, and be in compliance with

the laws and regulations in your state regarding licensed professions. For example, you do not want the description of your services on your website or in a client testimonial to be perceived as practicing medicine or psychology. Being in compliance protects you from being charged with the crime of practicing a licensed profession without a license.

- Obtain written permission from a client to use a testimonial. Licensed practitioners should research their regulations and rules to determine if they have requirements for testimonials. Some

states do not allow licensed healthcare providers to use testimonials. Other states do allow them but have specific requirements. For example, in New Jersey, licensed clinical social workers must have a written and notarized permission agreement in order to use a client's testimonial in marketing materials, including a website.

- Conduct a risk management audit of your website and other marketing materials and make sure you have a legally sound website disclaimer drafted specifically for the contents of your website. A generic or borrowed website disclaimer will not protect you. The cost of engaging the services of a risk management consultant or lawyer who has the expertise in energy healing methods to help you with your website is an excellent investment.

Please remember the information contained in this article is not intended to create fear but to broaden your knowledge base; to help empower you as an energy healing practitioner and to provide you with valuable risk management strategies about which to take advantage to protect your practice and reduce your potential legal liability. It is my hope that the information shared with you in this article has been helpful. 