



Client Informed Consent Agreements

Why it's Advisable to Include a Release of Liability Clause

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The purpose of this article is to educate energy healing practitioners about the need to include a Release of Liability Clause in their Client Informed Consent Agreement. This issue has caught the attention of the Healing Touch Community because in order to obtain [Professional Liability Insurance](#) through the Healing Touch Professional Association, the insurance company requires applicants to have their clients sign an Informed Consent which contains the following Release of Liability Clause:

"Except in the case of gross negligence or malpractice, I or my representative(s) agree to fully release and hold harmless (Name of Practitioner) from and against any and all claims or liability of whatsoever kind or nature arising out of or in connection with my session(s)."

Over the many years I have been advising practitioners and organizations about legal issues in the practice of energy therapies, many initially are resistant to anything legal. What I have experienced is that once legal issues are addressed and appropriate risk management tools are implemented, the client moves from a place of resistance and fear to one of empowerment.

Many practitioners are unaware that a Client Informed Consent document is a **legal agreement** that not only needs to comply with applicable state laws but it also needs to be legally sound and drafted specifically for the practitioner's practice. This is perfectly understandable since in general, healing arts practitioners do not have a legal background. However, I want to assure the reader that what is being required

by the insurance company is standard and customary. Even if the insurance company was not requiring that a Release of Liability Clause be included in the practitioner's Client Informed Consent Agreement, I would still advise that it be included from a risk management perspective.

Before getting into the specifics of why it is advisable to include a Release of Liability Clause in a Client Informed Consent Agreement, it is important to remember that energy-based healing methods are considered a subgroup within the field of Complementary and Alternative Medicine (CAM). Therefore, I think it may be helpful to take a step back and look at how CAM is viewed, by not only some segments of the public, but also by the "powers that be"...meaning, the courts, regulatory agencies, and licensing boards. Because the foundation of western medicine is evidenced-based and CAM methods are still considered "experimental," they are perceived as "on the fringe." So even though we know energy therapies tend to be non-invasive and gentle - to the "powers that be" - they are considered potentially dangerous and harmful. For the insurance company this means it should do everything possible to protect itself from the risk of financial loss and having to pay claims. This is why the insurance company is requiring applicants to have their clients sign an Informed Consent Agreement which contains a Release of Liability Clause. It is good business practice and an essential risk management tool.

Like the insurance company, it is advisable for energy healing practitioners to do everything possible to protect themselves and their practices from the risks of financial loss. One of the purposes of a Client Informed Consent Agreement is to protect the practitioner from liability for the informed treatment risks of a treatment or program to which the client agrees to be subjected to (e.g., medical treatment, therapy, energy healing, research study, training program). Consequently, a legally sound Client Informed Consent Agreement that contains Assumption of Risk and Release of Liability Clauses is one of the best risk management tools available for an energy healing practitioner.

Does a Release of Liability Clause work? The answer to this is "yes" and "no." State laws govern the enforce-

ability of Release of Liability Clauses and in most states they are enforceable but not in all. In most states, a well-written, properly drafted Client Informed Consent Agreement which contains a Release of Liability Clause, voluntarily signed by an adult, can provide energy healing practitioners with protection from liability. It is advisable to use a Release of Liability Clause even in states in which the courts have held that they are not enforceable because they may help establish a primary assumption of risk defense.

While we love doing our healing work with clients and tend to focus on that aspect of our practices, it is important to remember your practice is a business. Like it or not, we all must operate within the current legal and regulatory system that governs helping professionals in the health care industry. Implementing risk management tools is the best way to protect and empower your practice and honor your clients.

In conclusion, a few key points to remember :

- Seek professional advice in creating your Client Informed Consent Agreement.
- Do not use a generic form, get it out of a book, or borrow a Client Informed Consent Agreement from another practitioner which can increase your legal vulnerabilities. It should be written and designed specifically for your practice. You are unique!
- If you purchase [Professional Liability Insurance](#) make sure you include a Release of Liability Clause in your Client Informed Consent Agreement in order to meet the requirements of the insurance company. Without it you will not have coverage.
- Have solid business practices in place and implement risk management tools to protect and empower your practice. €

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