

PRACTITIONER LAB SERIES



CRAFTING INFORMED CONSENT

for Energy and Holistic Practitioners



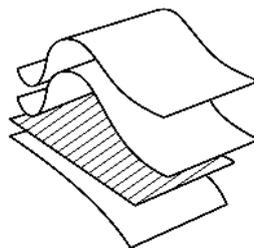
Practice policies and procedures to protect yourself, your practice and your clients

» Disclaimer

This ebook is meant to raise questions, educate and create discussion and dialogue around the ethical and legal issues of teaching, learning, studying or practicing alternative and complementary energy healing modalities. Nothing in this article is being offered as legal advice or legal counsel. You are advised to seek an attorney for any of your professional legal issues, concerns or needs.

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» Introduction

Informed consent in the field of energy medicine and holistic practices is extremely important for risk mitigation as well as client trust. Informed consent not only protects the client but also protects the practitioner. By obtaining informed consent, the practitioner possesses proof of the consent.

» What is Informed Consent?



Informed Consent is a process in which a healthcare provider or practitioner educates their clients about the risks, benefits and alternatives of a given procedure or intervention. As a result, this allows your clients to participate in directing the choices about their healthcare.

For example, anyone who is about to undergo a medical procedure must give consent before treatment begins. Although the exact laws vary from state to state, informed consent usually means you have been provided with all information about the procedure or treatment you're about to undergo, and that you've made your decision based on that information.

In this ebook, we will specifically go over the difference between a signed Informed Consent Form verses verbal consent.



» Why We Need Informed Consent



A client's Informed Consent is a legal agreement that needs to comply with applicable state laws but it also needs to be drafted specifically for the practitioner's practice. By having a client read and discuss your Informed Consent Form, it helps to establish that the client is competent and has voluntarily agreed to engage in your services. **When a provider offers information and explanations of what will occur and the client gives full consent in writing, litigation is much less likely to occur.**

Some states have laws requiring a health care or alternative and complementary practitioner to obtain from each client a signed Informed Consent Agreement which contains specific language. Here is an example:

In June of 2013, Colorado passed a bill called the Colorado Natural Health Consumer Protection Act which states: Any practitioner providing alternative and complementary health care services who is advertising or charging a fee for services is required to disclose the following in a plainly worded written statement to all clients:

- Your name, business address, telephone number, and other contact information
- The fact that you are not licensed, certified or registered by the state as a healthcare professional
- The nature of the services you provide
- A listing of any degrees, training, experience, credentials or other qualifications that you hold regarding the services you provide
- A statement that the client should discuss any recommendations made by you with their primary care medical professional
- A statement indicating whether you carry Liability Insurance or not

In Colorado, practitioners are now required by law to obtain a written, signed acknowledgment from the client stating they have received the above information. A copy of the acknowledgement must be given to the client and the practitioner must keep a copy in their records for two years after the last date of service. Failure to do this means violating the law.

This is an example of a completed Informed Consent form, and it's follow-up requirements.

It is important to recognize that this particular law is a huge step forward for all Energy Medicine professionals because it recognized that it is a right of the individual to receive treatment from non-licensed practitioners, and it is a right for the practitioners to practice. It also recognizes that Informed Consent is a standard and expected part of any health care practice.

Now let's take a closer look at what goes into an Informed Consent. We will cover the goals, risks, benefits, the structure and the 12 key elements of an Informed Consent form.

» Informed Consent Goals



The most important goal of an Informed Consent form is to give your clients an opportunity to be an *informed* participant in their health care decisions. An Informed Consent will also offer some protection from liability while clearly defining and establishing client-practitioner boundaries. An informed Consent requires clear communication in a way that the client understands.

It is generally accepted that Complete Informed Consent includes a discussion of the following elements:

- Information about the practitioner and their training and skills
- The nature of the services provided including effectiveness and safety
- The relevant risks and benefits related to the treatment
- A statement indicating whether or not you carry Liability Insurance
- Assessment of patient understanding
- The acceptance of the intervention by the patient

In addition, insurance companies may require a Release of Liability Clause to be included in a written Informed Consent document in order for the practitioner to obtain Professional Liability Insurance.

» Risk

Failure to obtain written Client Informed Consent Agreements can lead to claims of malpractice, negligence, misrepresentation, or other legal claims. Additionally, most Ethics Codes require Informed Consent Agreements.

By obtaining informed consent in *writing*, the practitioner possesses *proof* of the consent. Unless a client can provide proof that he or she was misinformed or was not competent to provide consent, the signed document can minimize risk for the practitioner should the matter end up in court. From a legality perspective, Informed Consent is there to protect you, your client, and your practice; without it, you fall into a gray area where you risk the escalation of an issue that could have otherwise been avoided.



RISK STRATEGY

In addition to the legal risks of working without Informed Consent, there are ethical risks involved as well.

Your Informed Consent form shows your clients that you are willing to be transparent and honest. By providing them with your background and what to expect from their treatment (both the positive and potential negative), you are empowering them to make a decision to trust you with their health, in exchange for trusting *them* with knowledge and information about your practice. Without this form, you are taking away the opportunity to build trust, to gain their confidence, and even the chance to start building a new provider-client relationship by terminating the opportunity for discussion.

In energy work, we often talk about the flow of energy through open passageways. Removing your Informed Consent, and the chance of a positive first impression with a new client, risks creating a closed passage as you progress to work together.



» Benefits

We've gone over the importance of these forms, and potential risks without them. What are some of the other benefits of working with your client and the Informed Consent document?

An Informed Consent can...

- Support clear communication with your clients and help you to manage their expectations for more consistently positive outcomes.
- Informed Consent dialogue helps establish the practitioner-client energetic connection and invites a client's fuller participation in the healing process. This consent is the foundation and framework for building a safe and ethical client-centered holistic practice where clients are honored and empowered
- Set boundaries for appropriate behavior from both client and practitioner
- Support client knowledge about their wellness and the practitioner's services

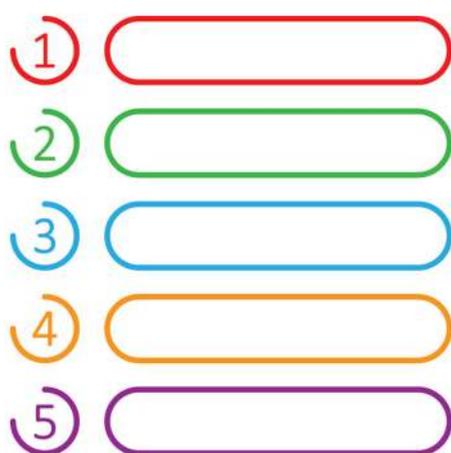
Because this discussion will most likely be the first encounter a practitioner has with a new client, it becomes very important that the information in a consent form is clear, open and written at an appropriate level for a client's understanding.

Often an Informed Consent discussion will reflect this initial conversation and the form will simply reflect the information that was given in the introductory session.

One very important thing to remember is to define and discuss boundaries.

Informed Consent helps create the opportunity to discuss and define important energetic, physical, and professional boundaries for clients and practitioners. This can include creating a healing plan, setting goals and discussing progress.

» Structure of the Form



The consent form should be written in language that is clear, non-technical and can be understood by a client. Avoid making the language too legal – we don't want to scare our clients; rather we want to build rapport and trust. Try to keep the form organized into specific topics. Also consider font size – not too small – which makes it friendlier. We are all aware of the associations that go along with “*the fine print.*”

Most consent forms are typed, single spaced and are one to two pages long. The document starts with a title and ends with a signature. Once a draft of the form is completed, have one of your peers read it. Test it with a few clients and adjust as needed.

Each practitioner knows their client base and can best determine what elements and pieces of information are well suited to their practice and most fully inform and meet their client's needs. The laws and regulations that might impact a practice vary by state and locality. If you have any questions or concerns, you should consult a local attorney in your area that specializes in health related law.

Let's look at some of the **typical elements of an Informed Consent**. Please note that you might not use each and every one of these. Pick and choose what fits your practice.

» Title section

You may include title of the form:

Consent for (modality name) or Client Consent for (business name)

If you have a blended practice with several modalities you may want to use your name or business name instead of listing a particular modality.

Example: Client Consent for Services or Healing Sessions with Lauri Smith

Or keep it more generic:

Example: Client Rights Consent Form: Please read and sign below.

Your name and contact information should be listed on the form and placed at either the top or bottom of the first page.

» Status and Scope of Practice



Status can be that you are a student or a graduate or certified practitioner of your particular modality. Your clients will most likely want to know essential information about you, your background in healing work, and your training and education.

A consent form offers specific information about the kinds of services you can legally and ethically provide as well as any limitations to your services. For example, if touch is outside the scope of your professional practice, or any other professional limitations you may have, inform the client of your training and limitations to your work.

» Discuss your Scope of Practice:

- If you are not in a medical profession that generally includes the therapeutic use of touch in its scope of practice, be certain to explain your legal status in your state and locality and to state your adherence to this Scope of Practice.
- If you do have a professional license, for example in the mental health field, explain how touch is either included or restricted in your Scope of Practice.
- ALL consent forms should provide a clear statement which declares that your specific modality is never meant to replace care from a qualified health provider or practitioner. Clearly state that you are not trained to diagnose illness, make recommendations involving pharmaceutical drugs or surgery, or handle medical emergencies unless you have specific training for these services (which would be included within your Scope of Practice).

» Describe your modality



Give a basic simple description and or definition of your modality. If you have a practice that uses more than one modality describe the ones you will be using with this client. Discuss the research and history of use of the modalities you use if helpful and appropriate.

Your clients might also want to know more about the nature of your particular modalities and why they are considered energetic, holistic, complementary and/or alternative.

» Description of a session or treatment

Inform and explain to the client all of the procedures which will be used and describe the order in which you will apply them. Discuss the length of a typical session and the environment of your treatment room. It is really important to describe the type of touch that is typical in a session. Any touch, other than a handshake, **requires clear permission** from the client before it is given. (For example, ask your client if you may place your hands on their feet, and explain why you would like to do so, and with their permission, you may proceed.)

» **Benefits and risk of your modality**

Describe the reasonably expected benefits if possible.

Describe any reasonable, known, and/or foreseeable risks or discomforts possible with any of the modalities.



» **Your educational training, credentials and experience**

Briefly list your energy medicine/holistic practice education, training and experience as they relate to the services you are providing. These can be listed as bullet points.

» **Confidentiality**

Include a statement describing the extent to which confidentiality of records identifying the client will be maintained, as well as exclusions to confidentiality. Keep in mind that it is your duty to keep health information private between you and your client (look up state and HIPAA regulations), and permission to share with another will be required should the need arise. You can offer this reassurance to your client in the Informed Consent form.



» **Other Possible Inclusions:**

- How you safeguard their files and how long you keep your files.
- If you allow your clients to see their files.
- Know your state and federal laws and HIPAA regulations regarding the release of confidential information to other parties
- Your requirements to report threat of serious harm to self or others

Stating the limitations of confidentiality at the beginning helps the client to know what to expect from their practitioner.

» Client Rights

Provide notice that the client may discontinue services, change consent, or leave at any time. Be sure to inform clients that if at any time they feel discomfort during treatment, they notify their practitioner so a change in the treatment can be made.

» Acknowledgement

Include a statement acknowledging that the client has read, discussed and understood the nature of your services and your Scope of Practice. Allow your client to ask any questions about the form of service, and be prepared with good responses.

This section is a great place to use statements like:

- I was informed...
- I understand...
- I hereby agree...
- It was explained to me....
- My questions have been answered...



CONSENT

» Liability Waiver

As mentioned before, **most insurance companies require a Release of Liability Clause to be included in a written Informed Consent document in order for the practitioner to obtain Professional Liability Insurance.**

This Liability Waiver is usually described in your liability application or policy. Typically, the waiver is placed towards the end of the Consent Form in the acknowledgment section.

» Fee Payment and Client Responsibilities

Explain the fees, fee policies, and payment structures for your services. This may include when you expect payment, types of payment accepted, extra charges for a returned check or insufficient funds, acceptance of insurance claims or flex account policies, meeting time and place, policy for no shows, telephone and email communication, recommendations, and referrals.

You may want to add a section about client responsibilities which could include homework expectations, practicing wellness at home, showing up on time or providing adequate time for a reschedule or cancelation, etc.

Example statements for this section: The client will devote time and energy to healing. The client will follow through with treatment recommendations. This commitment strengthens your chances of reaching the goals of treatment that you and your practitioner develop.

Client Consent: I fully consent to the services offered by (practitioner name) by signing below:

» Consent Conclusion

At the conclusion of your form, ensure there is an area for the client's signature, date, and contact information. It is very important that your client sign and date the form. Make a copy of the form for your client and put one in their file.

Consider adding a line for emergency contact information. If you are working with minors, the adult parent or guardian needs to sign the consent form.



» Other Tips

- Make a copy of the signed Consent Form and keep one for your records and give one to the client. You may want to have your client resign their consent form annually.
- Seek professional advice in creating your Client Informed Consent Agreement.
- If you use a generic form that you find online or if you borrow a Client Informed Consent Agreement from another practitioner, remember to revise the document so it is designed specifically for your practice.
- If you purchase Professional Liability Insurance, make sure you include a Release of Liability Clause in your Client Informed Consent Agreement consistent with the requirements of your insurance company. Without it you will not have coverage.

There may be additional items that are important to you, and that you wish to include in your Informed Consent Form that we didn't cover. That is OK because, as we said before, your form should be unique to you and your practice. You are the person who knows best. Also keep in mind that not all of these elements are required or appropriate for every practitioner or every practice. It is up to you to design an Informed Consent form that is the best fit for you.



» Final Thoughts

Informed consent is a legal and ethical term defined as the consent by a client to a proposed holistic or energy healing session. In order for the consent to be *informed* the client must first achieve a clear understanding of the relevant facts, risks and benefits involved and available alternatives. The concept of informed consent originated with the recognition that individuals have rights: to freedom, autonomy, and human dignity, and acknowledges that clients possess these rights.

Having an informed consent process in your practice is a vital part of building your professional practice. We hope this ebook showed you how creating and using an Informed Consent form is a simple tool that can protect you as a practitioner or as a student, is beneficial to your clients, and strengthens your professional image. The Informed Consent form is easy enough for you to create and personalize for your practice.

Just to help make it even easier on you, we have collected some example Informed Consent forms for you to study. It always helps to see some examples. In addition, we will include a checklist of the key components discussed in this ebook that you might consider for your own Informed Consent form. Once you have your form drafted, we recommend that you have it reviewed by an attorney since this is a legal document.

Thank you for being a part of our Healing Community!

