

Consent Forms Do's and Dont's

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There is a common misconception that the use of a consent form prior to a procedure is adequate protection in case of an injury. However a person cannot sign away 100% of their rights and should an injury occur even the best consent form will not waive your liability completely. The purpose of a consent form is to show your intent and it seeks to lessen the amount of the loss, not eliminate it entirely.

When creating a consent form keep the following in mind:

Unless you are a medical professional and hold a medical license you are not able to practice medicine. This means you cannot suggest that a client discontinue or start taking any type of medication including those that are "over the counter." Wondering what the harm is?

Example One – You advise a client to discontinue the use of aspirin prior to a procedure. This customer has been advised by their physician to take aspirin daily in order to thin their blood; your customer then suffers a heart attack. You can now be held responsible for this injury.

Example Two - You advise a customer to take an antihistamine such as Benadryl prior to an eyeliner procedure, which has a contra-indication with another medication they are taking. This could result in the death of your customer. (We have seen this situation happen before.) Based on your recommendation as an expert and a professional you can now be held liable. The other problem with Benadryl is that it makes many of us sleepy. If you client has a long way to drive to get home, it could be very hard for them to stay awake.

A good rule of thumb is if you do not have a license to practice medicine then don't.

While you are able to question whether or not the client may have AIDS or HIV it is best not to use this as a reason to deny a procedure. A case a few years ago happened where the tattooer was sued by the ACLU for denying someone who had AIDS, their "legal right to get a tattoo." Even if you win a case like this, it will cost you thousands of dollars to defend yourself.

If they answer yes to HIV positive or AIDS, ask them to go get a doctor's release or talk to your attorney to ask if they think you can deny them the tattoo due to their healing issues. If you take them, be sure to take every available precaution before you tattoo them.

As to other communicable diseases, the law is not so clear. You could consider turning them down or asking for a doctor's release.

On your consent form, the safest way to inquire about an individual's medical history is to pose the question as "If I have a communicable disease such as HIV or Hepatitis I have advised my artist/piercer." Keeping the responsibility on the client to disclose this helps to lessen your liability.

When setting up a consent form, list as many of the complications that could occur as a result of the procedure. This is not meant to scare or alarm your customer, only to give them all of the information necessary to make an informed decision. Infection and/or allergic reaction can happen with tattoos, permanent makeup, or piercings and should be included in all consent forms. Your client is more likely to recognize a disclosed complication and handle it appropriately.

It is important to note within the body of the consent form that you have given written aftercare forms and that the customer has agreed to follow them during the healing process. About half of the claims we see are due to improper care of a piercing or tattoo and not technician error.

With the growing popularity of cosmetic beautification, it is imperative to make customers aware of the potential risks involved. If the tattoo pigment has white in it, this could turn black during a cosmetic laser procedure or the colors could bleed. If your client is contemplating cosmetic surgery, laser peels, laser hair removal, Botox® or collagen treatments, lip augmentation or implant surgery or other potential face altering procedure, advise the individual that such procedures may adversely affect or alter their permanent makeup or their traditional tattoo. Make it clear it is their responsibility to check with their physician or other treating technician when contemplating these procedures. Some of these potential adverse changes may not be correctable, such as pigment changes and darkening, scarring or hyper-pigmentation.

There are no "sure things" in business to be successful so take steps to prevent a loss before it occurs.