

Presenter:

Ralph Fucetola JD

During 36 Years of Legal Practice Known as:
The Vitamin Lawyer

Advanced Modalities Biomagnetics Practitioner Training

President
Institute for Health Research
www.InHeRe.org

**This Webinar is presented by
the Vitamin Lawyer Consultancy**
www.VitaminConsultancy.com

Designed for Holistic Practitioners



BIOMAGNETISM AND BEYOND TRAINING SEMINAR LEVEL 4

Mendocino County, CA
October 23- 27, 2019

P.E.L. Webinars ...™
Practical, Ethical & Legal™
Biomagnetism & the Law



P.E.L. Webinar

Presenter & Certification

- Webinar presented by Ralph Fucetola JD
 - 36 Years Practicing Attorney
 - Minister and Notary Public
 - Expertise in alternative “CAM” practices
 - “Medical Foods” Modalities Under 2005 Orphan Drug Act
 - Biomagnetic, Bioenergetic Biofeedback Modalities
 - President of the Institute for Health Research
-
- This Course includes eBook with all Slide Contents



This Practitioner Training Webinar is accompanied by a short webinar on the establishment of a Biomagnetism Association (ABA) which develops and disseminates standards and professional expressive association services.

Webinar Overview

- This Webinar will teach you about:
 - Alternative Healthcare Practices -- not the Practice of Medicine
 - Biomagnetics and Biofeedback
 - Informed Consent and Private License
 - Your First Amendment Expressive Association Practice
 - Defendable Holistic Practices
 - The Forbidden Words

Diagnose, Prescribe, Treat, Cure ...

vs.

“Therapies that may benefit” are not the “Treatment of Disease”

The Vitamin Consultancy

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- Please Note - all slide text is in the eBook.

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Introduction

My personal perspective:

BA with Distinction – Rutgers College - 1967

JD – Rutgers Law School - 1971

Attorney at law 1971 - 2006

Notary Public in NJ #2398815

President of the Institute for Health Research
www.InHeRe.org

Holistic minister practitioner since 1974

www.VitaminConsultancy.com

Graduate of Rutgers College (B.A. with Distinction, 1967), Rutgers Law School (J.D., 1971) and a founding Trustee of a 501(c)(3) Group 1 Exempt Church established in 1974

Certified in HoloLinguistics, Basic Homeopathy and Human BioAcoustics

Ralph Fucetola JD

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Is it “Alternative Medicine” or Advanced Healthcare

- Alternative healthcare practices can be generally defined as:
- Traditional or other practices –
- That are used by individuals, often for self-help,
- to achieve and maintain a healthy status,
 - Either on their own or complementary to standard medical care.
 - Some practices that were considered “CAM” are now standard practices, such as acupuncture and chiropractic.
 - Others remain outside the scope of standard practice, but Physicians are allowed to refer for therapies that may benefit under Ethics Opinion 3.04.

Advanced CAM Practices

"CAM" = Complementary and Alternative Modalities –
Advanced Health Care, to many.

- These practices do *not* include the potentially dangerous use of invasive techniques and toxic drugs that are the province of licensed medicine.
- They do, however, include developing therapies and non-standard approaches that are outside the scope of licensed medicine. These are sometimes referred to as "Complementary and Alternative Modalities" (CAM) or, as some practitioners prefer: Advanced Healthcare.
- The use of nutrient and ant-oxidative therapies are central to this approach.

Advanced Healthcare

- Includes developing therapies
- and non-standard approaches
- that are outside the scope of licensed medicine.
- Such approaches as holistic –
 - Nutrition, Homeopathy, Hands-on-Healing, Magnetics, Bioenergetics, Ear Candling, Aroma Therapy, Sound Health, Energy Therapies, Biofeedback, Meditation, Breath Work, Reiki, Chi Gong, Tai Chi and Herbology are examples of complementary and alternative therapeutic practices.
 - Traditional Chinese, Ayurvedic medicine or folk remedies and "Dr. Mom" home remedies are also examples of CAM practices.
 - These practices aim, in the words of Philip J. Hodes, PhD., at "more efficient physiological integration and function of the human organism, leading to optimal wellness."

Historical Antecedents

Herbalists Charter

Part of our Common Law

An Act of Henry the Eighth in the 33rd Reign Year – 1542
Statutes at Large 34&35 Henry VIII. C8

Herbalists Charter



**Annis Tircesimo Quarto and Tricesimo Quinto. Henry VIII Regis. Cap. VIII.
An Act That Persons, Being No Common Surgeons, May Administer Outward Medicines**

<http://vitaminlawyerarchives.blogspot.com/2014/03/the-herbalists-charter-and-mode>

Herbalists Charter

- To protect the “alternative practitioners” of the time from the newly licensed physicians
- Provides Freedom from “**suit, vexation, trouble, penalty, or loss of their goods...**”
- Never repealed – remains part of Common Law “from all time henceforth...”

[Note: full text of Charter in eBook]

<http://vitaminlawyerarchives.blogspot.com/2014/03/the-herbalists-charter-and-modern.html>

Therapy, Not Treatment 1

Physicians now have a broader scope of practice.

- *Code of Medical Ethics* of the American Medical Association acknowledges an independent use of the term “therapy.”
- The original Hippocratic Oath, with its injunction to “Do no harm.” has been replaced by a complex Code detailing the relationship between physician and patient and “alternative” practitioner.
- “Treatment which has no scientific basis” remains condemned (Opinion 3.01)
- Opinion 3.04 allows physicians to “refer” a patient “for therapeutic or diagnostic services to another physician, limited practitioner or any other provider of health care services permitted by law to furnish such services, whenever he or she believes that this may benefit the patient.”

Therapy, Not Treatment 2

- Thus, unscientific "treatment" is distinguished from "health care services permitted by law."
- "Treatment" -- which means the use of standard medicine and surgery to "cure" disease -- is distinguished from other health care services (therapies) which need only meet the lesser "may benefit" standard.
- While physicians "prescribe" treatments for disease, therapies that may benefit may be subject to "referral" thereby further indicating the distinction.
- Thus, for example, Dietary Supplements that support normal structure and function to support therapeutic outcomes can be seen to complement licensed medicine, but not to be held to its strictures, nor limited in its practice to licensed physicians. The same principal applies to the use of Magnets to achieve and maintain a healthy status, but not to treat specific diseases.
- Since such therapies are not prescription services, members of the public may choose such services with or without the permission of their physician.

Biomagnetics

"Biomagnetism is the phenomenon of magnetic fields *produced* by living organisms; it is a subset of bioelectromagnetism... and the study of the magnetic fields' *effects* on organisms is magnetobiology..." - <http://en.wikipedia.org/wiki/Biomagnetics>

"Magnetobiology is the study of biological *effects* of mainly weak static and low-frequency magnetic fields, which do not cause heating of tissues. Magnetobiological effects have unique features that obviously distinguish them from thermal effects; often they are observed for alternating magnetic fields just in separate frequency and amplitude intervals. Also, they are dependent of simultaneously present static magnetic or electric fields and their polarization. Magnetobiology is a subset of bioelectromagnetics..."

<http://en.wikipedia.org/wiki/Magnetobiology>

Biomagnetics & Biofeedback 1

“Biofeedback is the process of gaining greater awareness of many physiological functions primarily using instruments that provide information on the activity of those same systems, with a goal of being able to manipulate them at will. Some of the processes that can be controlled include brainwaves, muscle tone, skin conductance, heart rate and pain perception.

Biofeedback may be used to improve health, performance, and the physiological changes which often occur in conjunction with changes to thoughts, emotions, and behavior. Eventually, these changes may be maintained without the use of extra equipment, even though no equipment is necessarily required to practice biofeedback...”

<http://en.wikipedia.org/wiki/Biofeedback>

Biomagnetics & Biofeedback 2

Biomagnetics by its ordinary definition relates to the magnetic field effects within the human body, aiming to maintain homeostasis.

The body is multi-layered. There is the Physical Body of bone, muscle and guts. There is the Liquid Body of circulation and lymph. There is the Electrical Body of the nervous system (also produced by the circulation). There is the Subtle Body to which the acupuncture points relate. And there is a Magnetic Body, related to the Electric Body, but separate from it, as magnetism and electricity are complementary energies.

The *Practice of Biomagnetism* (Biomagnetic Biofeedback) encompasses non-medical support for the normalization of the Magnetic Body. It is not intended to “treat” medical conditions. The magnets are not intended as medical devices.

The *Standards of Practice* of the American Biomagnetics Association are the correct application of external magnets, to elicit a biofeedback response from the body, usually confirmed by subjective feedback (including the use of techniques like Kinesiology). When the body gives the subjective signal, the Magnetic Body is considered normalized. Nutrition in support of normalization may also be indicated. Trained Practitioners adhere to the Standards of Practice.

Magnets Are Not Medical Devices

If a medical doctor prescribes the use of magnets to treat a medical condition, under US law, it is likely the magnets would be considered a “medical device” that requires prior FDA approval before public use.

On the other hand, (1) biofeedback devices are *exempt* from the approval requirement, and, (2) certain other devices, including even battery powered devices, are also exempt if the device is *not* intended to treat medical conditions.

Regulation covers “a use in supporting or sustaining human life or for a use which is of substantial importance in preventing impairment of human health...”

Exemption allowed if device “...does not present a potential unreasonable risk of illness or injury...” (Regulation under 21 USC 360.)

Informed Consent 1

- Based on common practices and international law encoded in the Declaration of Helsinki
- The undersigned client hereby grants a Private License to the Research Practitioner to engage in Biomagnetic Biofeedback and/or nutritional consultation with the undersigned as expressive association activities.



The undersigned acknowledges that the Practitioner [is / is not] a licensed medical doctor, acting within the scope of such license. If the practitioner is not a physician, the undersigned has been advised to seek the services of a physician if any medical condition is suspected.

[If you hold a license or certification your Informed Consent form may vary. But, remember, "A license is a limitation."]

Continued ...

Informed Consent 2

- The terms of a standard Informed Consent:
- The undersigned acknowledges that the Practitioner, when providing CAM services, does not diagnose or prescribe for medical or psychological conditions nor claim to prevent, treat, mitigate or cure such conditions, to provide diagnosing, treating, operating or prescribing for any human disease, pain, injury, deformity or physical condition.
- The Practitioner does not provide diagnosis, care, treatment or rehabilitation of individuals, nor does the Practitioner apply medical, mental health or human development principles, unless licensed to do so, but rather provides [Modality] and/or nutritional consultation that may offer therapeutic benefit the individual. Any nutrients or traditional remedies recommended may be obtained from any provider of such products.
- The undersigned gives Informed Consent for the [Modality], nutritional or other consultation and services that will be provided. The research information developed by the Practitioner may be used for research and publication with personal identification removed.

Please see the standard Disclaimer below.
The standard short form Informed Consent
is in the Webinar eBook.

Ethics and Practice

- Ethical considerations center on:

- Informed Consent
- Code of Conduct

Note: there is no government USA biomagnetics association. The *American Biomagnetics Association* is a private, nongovernmental association formed under the First Amendment.

- Holistic Practitioners Code:

- **1. Be Harmless.**
- **2. Work with Informed Consent.**
- **3. Work on the Whole Person.**
- **4. Work on Your Self.**
- **5. Breathe Deep!**
- **6. Honor Your Predecessors.**

<http://www.lifespirt.org/holisticcode.html>

The Health Keepers Oath

Take the Oath: www.HealthKeepersOath.org

"I am a health care professional, not an agent of State-mediated death and will conduct myself in accord with that identify. I swear, to all future generations, "Never again" will the health care professions be used, as they were in Nazi Germany and the Soviet Empire, to murder and oppress any individual. "

1st Amendment Freedoms 1

The 1st Amendment is concerned areas of Freedom necessary for private CAM wellness practices:

- First, Freedoms of Association and Assembly
- Second, forbids restricting Free Speech
- Third, forbids "establishment" or "abridgment"
 - Often CAM is presented in religious terminology.

Continued ...

1st Amendment Freedoms 2

- The Supreme Court links these all together as “expressive association...”
- These freedoms are often linked to religious liberty, and traditionally, alternative practices have often had a religious basis.

Examples: Kosher and Halal practices, Jehovah’s Witnesses, Christian Science, Religious Vaccine Conscientious Objections.

- All State Medical Practices Acts have Ministerial Exemptions.

Exemption Example (all state laws are similar):

NJSA 45:9-21 permits "the ministrations to, or treatment of, the sick or suffering by prayer or spiritual means, whether gratuitously or for compensation, and without the use of any drug material remedy..."

Medical Practices Acts - 1

- Subject to the Herbalists Charter, US States began to license medicine in the 1800's.
- The Medical Practices Acts (MPA) have gone through a number of changes, especially in mid-20th Century, when homeopathy, herbalism and the like were removed from standard practices.
- Later, “spin off” professions were licensed –
Chiropractic, Acupuncture, Physical Therapy, etc.
- These laws were held not to create a medical monopoly.

Medical Practices Acts - 2

- "The state has not restricted the cure of the body to the practice of medicine and surgery -- allopathy, as it is termed, -- nor required that, before anyone can be treated for any bodily ill, the physician must have acquired a competent knowledge of allopathy and be licensed by those skilled therein. To do that would be to limit progress by establishing allopathy as the state system of healing, and forbidding all others. This would be as foreign to our system as a state church for the cure of souls. All the state has done has been to enact that, when one wished to practice medicine or surgery, he must, as a protection to the public [not to the doctor], be examined and licensed by those skilled in surgery and medicine. To restrict all healing to that one kind -- to allopathy, excluding homeopathy, osteopathy, and all other treatments -- might be a protection to doctors in surgery and medicine; but that is not the object of the act, and might make it unconstitutional, because creating a monopoly." North Carolina's Supreme Court in *State v MacKight*, 42 S.E. 580, 1902 at p 582.
- In the case of *State v Biggs* (46 SE Reporter 401, 1903) the North Carolina Supreme Court dealt with a person who was advising people as to diet, and administering massage, baths and physical culture. In the Biggs case, the defendant "advertised himself as a 'nonmedical physician'...[and] held himself out to the public to cure disease by 'a system of drugless healing'..." p.401. That Court held that there could be no "state system of healing" p.402 and while "Those who wish to be treated by practitioners of medicine and surgery had the guaranty that such practitioners had been duly examined...those who had faith in treatment by methods not included in the 'practice of medicine and surgery' as usually understood, had reserved to them the right to practice their faith and be treated, if they chose, by those who openly and avowedly did not use either surgery or drugs in the treatment of diseases..." p.402. Biggs was acquitted.

Medical Practices Acts - 3

- The North Carolina Supreme Court concluded, a century ago, in *State v Biggs, supra.*, at p.405: "Medicine is an experimental, not an exact science. All the law can do is to regulate and safeguard the use of powerful and dangerous remedies, like the knife and drugs, but it cannot forbid dispensing with them. When the Master, who was himself called the Good Physician, was told that other than his followers were casting out devils and curing diseases, he said, 'Forbid them not.'" (p.405).

Your Holistic Practice

- Internet presence: risk/benefit
- Using Language on the Internet
- Meta tags and hidden text
- Third party links; medical testing for food
- Testimonials – new FTC “typical” rule
- Quoting copyright materials
- Using images
- Site Use Statements
- Standard Operating Procedures

The Forbidden Words & Federal Regulation

Reserved Medical Terms

<u>Med-Term</u>	<u>Non-Med</u>
• Diagnose	Evaluate
• Prescribe	Recommend
• Treat	Therapy, Technique
• Prevent	}
• Mitigate	} Harmonize, Balance
• Cure	}
• <u>Also OK</u>	
• Stimulate	
• Support	
• Regulate	
• Maintain	

**1. FDA “Structure and Function Rule”
- key to the forbidden words.**

2. DSHEA Statutory Disclaimer:

“These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease.”

Disclaimer

[Practitioner] does not diagnose or prescribe for medical or psychological conditions nor claim to prevent, treat, mitigate or cure such conditions. [Practitioner] does not provide diagnosis, care, treatment or rehabilitation of individuals, nor apply medical, mental health or human development principles, unless licensed to do so.

This is a Standard Disclaimer.

If you are licensed or certified in any technique, your disclaimer should reflect same.

CAUTION: Many states license massage therapy and some states license “energy work” or even biofeedback as a “*treatment* of disease.” Biomagnetic Biofeedback Practice is covered by Federal Law and should never be presented as a “licensed” profession

Resources

Contact Me: 973.300.4594
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Some Useful Web Sites:

- Natural Health Options Network: www.NaturalHealthOptions.net
- Vitamin Consultancy: www.VitaminConsultancy.com
- Natural Solutions Foundation: www.GlobalHealthFreedom.org
- Institute for Health Research: www.inhere.org
- LifeSpirit Seminary: www.LifeSpiritSeminary.org
- NutraSpace: www.nutraspace.com
- Open Source Truth: www.opensourcetruth.com

My Thanks to US BioMag
www.USBioMag.com

eBook and Attachments

- Your eBook includes:
- The text of these slides
- Informed Consent Form
- Herbalists Charter

I hope this Webinar has been useful.
You can find more information at my blogs:

<http://vitaminlawyerhealthfreedom.blogspot.com>
<http://vitaminlawyerarchives.blogspot.com>



The Herbalists' Charter

The *Herbalists' Charter*, an Act of Henry the Eighth, in the 33rd Year of his reign - 1542 and adopted thereafter by Parliament: Statutes at Large 34&35 Henry VIII. C8. *A Bill that Persons, being no common Surgeons, may minister Medicines, notwithstanding the Statute*

"An Act that Persons, Being No Common Surgeons, May Administer Outward Medicines

"Where in the Parliament holden at Westminster in the third Year of the King's most gracious Reign, amongst other Things, for the avoiding of Sorceries, Witchcrafts and other Inconveniences, it was enacted, that no Person within the City of London, nor within Seven Miles of the same, should take upon him to exercise and occupy as Physician or Surgeon, except he be first examined, approved, and admitted by the Bishop of London and other, under and upon certain Pains and Penalties in the same Act mentioned;

"Sithence the making of which said Act, the Company and Fellowship of Surgeons of London, minding only their own Lucres and nothing the Profit or ease of the Diseased or Patient, have sued, troubled and vexed divers honest Persons, as well as Men and Women, whom God hath endued with the Knowledge of the Nature, Kind and Operation of certain Herbs, Roots and Waters, and the using and ministring of them to such as been pained with customable Diseases, as Women's Breasts becom sore, a Pin and the Web in the Eye, Uncomis of Hands, Burnings, Scaldings, Sore Mouths, the Stone, Strangury, Saucelime and Morphew, and such other like Diseases; and yet the said Persons have not taken anything for their Pains or Cunning, but have ministered the same to poor People only for Neighborhood and God's sake, and of Pity and Charity:

"And it is now well known that the Surgeons admitted will do no Cure to any Person but where they shall be rewarded with a greater Sum or Reward than the Cure extendeth unto; for in the case they would minister the Cunning unto sore People unrewarded, there should not so many rot and perish to death for Lack or Help of Surgery as daily do; but the greatest part of Surgeons admitted been much more to be blamed than those Persons that they troubled, for although the most Part of the Persons of the said Craft of Surgeons have small Cunning yet they will take great sums of Money, and do little therefore, and by Reason thereof they do oftentimes impair and hurt their Patients, rather than do them good.

"In consideration whereof, and for the Ease, Comfort, Succour, Help, Relief and Health of the King's poor Subjects, Inhabitants of this Realm, now pained or diseased:

"Be it ordained, established and enacted, by Authority of this present Parliament, That at all Time from henceforth it shall be lawful to every Person being the King's subject, having Knowledge and Experience of the Nature of Herbs, Roots and Waters, or of the Operation of the same, by Speculation or Practice, within any part of the Realm of England, or within any other the King's Dominions, to practice, use and minister in and to any outward Sore, Uncomie Wound, Apoplexies, outward Swelling or Disease, any Herb or Herbs, Ointments, Baths, Pultices, and Emplaisters, according to their Cunning, Experience and Knowledge in any of the Diseases, Sores and Maladies before said, and all other like to the same, or Drinks for the Stone, Strangury or Agues, without suit, vexation, trouble, penalty or loss of their goods;

"The foresaid Statute in the foresaid Third Year of the King's most gracious Reign, or any other Act, Ordinance or Statutes the contrary heretofore made in anywise, notwithstanding."

Informed Consent Form

BIOMAGNETIC WELLNESS COUNSELING

Informed Consent, Private License & Release - Energetic and Nutritional Therapies to Balance the Body for Homeostasis
Pursuant to *American Biomagnetic Association Guidelines*

Name of Practitioner: _____

The undersigned hereby gives Informed Consent and grants a Private License to the Practitioner to provide biomagnetics, biofeedback, bioenergetics and nutritional evaluation and recommendations for the undersigned as private expressive association activities under the guidelines of the American Biomagnetic Association.

The undersigned acknowledges that the Practitioner is not a licensed physician or dietitian and does not diagnose or prescribe for medical or psychological conditions nor claim to prevent, treat, mitigate or cure such conditions, nor provide diagnosis, care, treatment or rehabilitation of individuals, nor apply medical, mental health or human development principles, but rather provides traditional ministerial counseling, biomagnetic, bioenergetic, biofeedback, herbal, essential oil, and/or nutritional modalities that may offer therapeutic benefit by supporting normal structure and function.

The undersigned gives Informed Consent to the services that will be provided. The undersigned hereby releases the Practitioner from all claims and liabilities arising from the use or misuse of traditional, spiritual, mental, biomagnetics, bioenergetics, biofeedback and/or nutritional modalities, indemnifying and holding the Practitioner harmless from all claims and liabilities therefrom whatsoever.

The Practitioner reserves all rights. Permission is given to use any information about the undersigned for research and publication so long as all personal identification is masked.

Date: _____ Signature: _____

Name: _____

Address: _____

Phone: _____

E-mail: _____