

Guidelines for Preparing Your Professional Will



Introduction

The incapacitation or death of a psychologist is an event with profound ramifications for our families, friends and clients. There are many legal, ethical, clinical and personal issues for the practicing psychologist to consider. When there is advance warning of your disability or death, you can plan ahead for the benefit of your clients, to help them get through this with as little trauma as possible and even, in the best case scenario, with further growth.

In some cases, however, there will be no advance notice. The unexpected incapacitation or death of a psychologist can be the ultimate abandonment. Getting past our own denial and accepting that this is a real possibility for any of us means that we don't wait until we are of retirement age before we begin thinking about it. If we are to be responsible and if we care about our clients' welfare, we will plan ahead now.

The completion of a Professional Will is a good way to ensure that at least the most important bases are covered. This involves naming a Professional Executor, naming your attorney, specifying the location(s) of your records and anything necessary for access. It will provide a list of your clients to be contacted and their phone numbers. A Professional Will will allow a smooth transition of care where necessary, as much as that is possible. It will allow access into your voice mail. It will specify your malpractice carrier. It will indicate your wishes about client involvement in memorial services. It will communicate anything you want communicated to your clients after you are gone.

Completing a Professional Will will make it much easier and less stressful for your family and executor to take care of what will need to be done in relation to your practice. Doing this is also part of maintaining an ethical practice and following a reasonable standard of care. However, more than anything, the act of completing a Professional Will will communicate to your clients that you really do care about their welfare.

Guidelines

1. **What a Professional Will is not:** First of all it should be clearly understood that this document, even though it is called a "will", is not a substitute for a Personal Last Will and Testament. It is intended to give authority and instructions to your Professional Executor regarding your psychology practice, in the event of your incapacitation or death. In addition, this is not intended as legal advice regarding what you need to do. You should consult an attorney and anyone providing you with estate planning advice to see if this meets your needs and is consistent with any other established documents you may already have in place.
2. **This is not the only way to do it:** This version of a Professional Will is only one of many possible ways of planning for what you want done in the event of your incapacitation or death. These guidelines are designed to assist you in the process of thinking through the nature of your professional practice and to suggest a number of possible options and issues for you to consider in providing instructions for your Professional Executor.
3. **Professional Executor:** Your designation of a Professional Executor may be the single most important function of this document. This will greatly facilitate the process of what will need to be done in the event of your incapacitation or untimely death. Your Professional Executor should be a mental health professional you respect and trust. Meet with this person as part of the process of writing your Professional Will in order to familiarize him/her with your practice and discuss what you would like done. Your Professional Will is most likely to be carried out effectively if your Professional Executor is involved in the planning process.
4. **Backup Professional Executor:** If, for any reason your designated Professional Executor is unavailable or unable to perform this function, it is wise to have a backup. This person may also be the best person to assist the Professional Executor in the likely event he/she will need assistance.
5. **Authority for Professional Executor:** In order for your Professional Executor to be able to act on your behalf you need to give him/her the authority to take appropriate action with your records and you also want him/her to be able to delegate activities to others so that no single person becomes overwhelmed by the magnitude of the task.
6. **Attorney:** Discuss your needs with a knowledgeable attorney and use his/her expertise in determining the details of how your professional affairs will be handled. A final copy of your Professional Will should be filed with your attorney. Specifying who your attorney is and how to get hold of him/her will expedite your Professional Executor's task.

7. **Executor of Personal Will:** The name of this person and how to contact them will allow your Professional Executor to reach this person quickly. There will be a number of things that the two of them will need to discuss and coordinate on your behalf.
8. **Client Records:** Specify the location(s) of your current and past client records. And if you have not already done so, sort them into these two groups and arrange them alphabetically. Specifying the date first seen and when the case was closed on the outside of the file will also be helpful to your Professional Executor. Needless to say legibility of the records is a huge plus. Special care should be taken, at the very minimum, to ensure that at least the face sheet, with the client's name, phone number and address is easily legible.
9. **Billing and Financial Records:** Specify the location of your billing and financial records. This will allow your Professional Executor to arrange for the completion of any outstanding billing and financial transactions related to your practice in an orderly manner. Your estate will thank you.
10. **Appointment Book and Client Phone Numbers:** This will be one of the first things your Professional Executor will need. Ready access to this information will allow clients with whom you have appointments scheduled to be contacted personally prior to their arriving at your office and finding you not there.
11. **E-Mail Address Password and Voice Mail Access Code:** Having this information readily available will allow your voice mail message to be changed to indicate what has happened and/or who to contact. It will also facilitate any voice mail or e-mail messages being answered in a timely fashion. If you prefer, your passwords and access codes can be referenced in this document and kept with the copy of your Professional Will in your professional liability insurance file along with your list of client names.
12. **Your Keys:** Your Professional Executor should be easily able to locate the keys to the various things he/she will need to access, such as your office, filing cabinets, storage facility, etc. Having them labeled and telling your Professional Executor where they are will obviously facilitate this.
13. **Further Assistance in Locating/Accessing Records:** List any other people who might be helpful in locating or accessing your client, billing and financial records, your appointment book, telephone numbers, etc. This might be a spouse or relative, a secretary or assistant, a billing person, a friend, an office mate, etc.
14. **Location of Copies of Professional Will:** It is suggested that the original be filed with your personal will and copies be given to your attorney and Professional Executor. How many copies you have and where you keep them, however, is really a matter of personal preference. In addition, it is recommended, more as a reminder to yourself to check and update it annually, to file a copy with your malpractice insurance policy. This is a way of ensuring you will at least see it annually and consider whether any changes need to be made. Otherwise you might file it away and not think about it again for 10 years and by that time much of the information may no longer be accurate.
15. **Notification of Current and Past Clients:** Making a list of current and selected past clients you wish to have notified about your death and any planned memorial services along with their phone numbers will allow this to be done relatively easily. Otherwise, there would be no efficient way of deciding who to call if you want to have clients at your memorial services or if you want special memorial services for clients only. There are a variety of options regarding memorial services. You can leave this up to the discretion of your Professional Executor or you can specify your wishes. The general notification of your death to your clients can be done in a number of ways. For example, it can be done by phone, in writing, and/or through a notice in the newspaper. This can be left up to the discretion of your Professional Executor or specified by you. Similarly, you can be specific regarding which clients should be offered face-to-face meetings in the short term vs. being given referrals. Also, you can decide to whom you want referrals made. Or you can leave these decisions up to your Professional Executor. It's up to you.
16. **Professional Liability Insurance:** Your malpractice carrier should be notified of your death as soon as possible. This will allow arrangements for any additional coverage to be made right away. Also, the two major carriers will automatically provide additional coverage if they are notified in writing by your authorized representative within 60 days.
17. **Client Records:** The record keeping guidelines should be followed by your Professional Executor. He/she will need to make arrangements for copies of your records to be sent to your clients' new therapists and for storing, releasing and disposing of your records as may be appropriate.
18. **For Further Information:** Our professional associations, at the local, state and national levels are excellent resources to provide further information to your Professional Executor and to help answer any questions that may come up
19. **Reimbursement of Your Professional Executor:** Your Professional Executor will be spending a lot of time taking care of all this. It would be only reasonable to reimburse him/her for expenses incurred as well as for his/her time. You might specify a reasonable rate of reimbursement, decide on this together with your Professional Executor or allow him/her to use his/her discretion later.

PROFESSIONAL WILL*

I, _____, a resident of the County of _____, State of _____, being of sound and disposing mind and memory, do hereby declare this to be my Professional Will. This supersedes all prior Professional Wills, in the event there are any. This is not a substitute for a Personal Last Will and Testament. It is intended to give authority and instructions to my Professional Executor regarding my psychology practice in the event of my incapacitation or death.

FIRST

I am a licensed psychologist in independent practice. My _____ License # is _____.
My office address is: _____

I also maintain an office at: _____

SECOND

In the event of my death or incapacitation, I hereby appoint _____, whose phone number is: _____ and whose office is located at: _____
_____ as my Professional Executor.

In the event that _____ is unavailable or unable to perform this function, I hereby appoint _____ whose phone number is _____ and whose office is located at: _____
_____ as a backup Professional Executor.

I hereby grant my Professional Executors full authority to:

- a. Act on my behalf in making decisions about storing, releasing and/or disposing of my professional records
- b. Carry out any activities deemed necessary to properly administer this Professional Will.
- c. Delegate and authorize other persons determined by them to assist and carry out any activities deemed necessary to properly administer this Professional Will.

THIRD

My attorney for my Professional Will is: _____, whose phone number is: _____, and whose offices are located at: _____

FOURTH

The executor of my current personal will is: _____, whose phone number is: _____, and who is located at: _____

FIFTH

A. My current client records are located at: _____

B. My past client records are located at: _____
_____.

C. Billing and financial records related to my psychology practice are located at:
_____.

D. Some or all of my client, billing and financial records are on a computer, located at:
_____.

E. My appointment book and client phone numbers are located at:
_____.

F. My e-mail address is _____, and the password is _____.

G. My office phone number is: _____, and the voice mail access code is: _____.

H. Any necessary keys you will need for access to my office, filing cabinets, storage facilities, etc. are located at: _____
_____.

I. For assistance in locating/ accessing my records you may contact: _____,
whose phone number is: _____, and whose address is: _____.

In addition, the following person(s) may be helpful in locating/accessing my records:

_____.

SIXTH

My specific instructions for my Professional Executor are:

A. First of all, I would like to express my deep appreciation for your willingness to serve as the Professional Executor for this will.

B. There are four copies of this Professional Will. They are located as follows:

- a. One is in your possession.
- b. One is in the possession of my attorney.
- c. One is with my personal will.
- d. One is with my professional liability insurance policy.

C. A list of current and selected past clients and their phone numbers who are to be notified about my death and any planned memorial services is located with the copy of my Professional Will in my professional liability insurance file. This file is located at: _____.

- a. Please use your clinical judgment and discretion in deciding how you want to notify current and past clients and whether or not to publish a notice in the newspaper notifying clients of my death and who to contact for further information.
- b. Please use your clinical judgment and discretion in deciding whether or not to arrange a special memorial service for clients only. In that eventuality you may wish to request that one or more therapists actively participate in the service.
- c. If clinically indicated, you may wish to offer a face-to-face meeting with some clients. You may also wish to provide three referral sources, which can, of course, include yourself.

D. My professional liability insurance is currently provided by: _____
_____, whose phone number is: _____, and whose address
is: _____ . My policy #
is _____.

Please notify my professional liability carrier in writing of my death as expeditiously as possible and arrange for any additional coverage that may be appropriate.

Please also notify the state Psychology Licensing body at _____.

E. Please arrange for copies of referred clients' records to go to their new therapists.

All remaining records should be maintained according to the Record Keeping Guidelines of the American Psychological Association (1993), in particular the following sections:

a. The psychologist is aware of relevant federal, state, and local laws and regulations governing record retention. Such laws and regulations supersede the requirements of these guidelines. In the absence of such laws and regulations, complete records are maintained for a minimum of 3 years after the last contact with the client. Records, or a summary, are then maintained for an additional 12 years before disposal. If a client is a minor, the record period is extended until 3 years after the age of majority.

b. All records, active and inactive, are maintained safely, with properly limited access, and from which timely retrieval is possible.

For further information please refer to the APA Record Keeping Guidelines (1993) and relevant state regulations. It is also suggested that any records of individuals where there has been or is likely to be legal action(s) should be retained indefinitely.

When disposing of outdated records, please ensure it is done in a manner that destroys all materials that could identify the client, eg. burning or shredding.

F. If you need any further information or an update of requirements, you can contact the _____ (local association) at _____, the _____ (state association) at _____, or the American Psychological Association at (800) 374-2721.

G. You may bill my estate for your time and any other expenses that you may incur in executing these instructions. Unless otherwise ordered by the court, the hourly rate of _____ is acknowledged to be reasonable.

I declare under penalty of perjury and under the laws of the State of _____ that the foregoing is true and correct.

Executed at _____, on _____
location date

Signature

WITNESSES

Printed Name: _____ Signature: _____

Residing at: _____

Printed Name: _____ Signature: _____

Residing at: _____

***DISCLAIMER**

The Guidelines for Preparing a Professional Will are for informational purposes only. This sample Professional Will is a composite of many different Professional Wills. The suggestions of the Task Force on Psychologist Retirement, Incapacitation or Death are not equivalent to legal advice from an attorney. The Task Force therefore makes no warranty regarding this sample Professional Will. Each individual psychologist should consult his/her own attorney in order to draft the Professional Will appropriate to his/her professional situation.