

GUIDELINES FOR PREPARING YOUR PROFESSIONAL WILL

San Diego Psychological Association

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 this as 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' and family's welfare, we will plan ahead now.

Often incapacitation results in death soon after it occurs. However, incapacitation can also be caused by a variety of circumstances and have varying degrees of severity and reversibility. Some types of incapacitation may involve cognitive and/or emotional impairment, e.g., Alzheimer's, significant cognitive decline, psychosis, substance abuse/dependency, etc. Under such circumstances, APA ethics indicate that psychologists should obtain professional consultation/help, and determine the degree to which they should limit, suspend or terminate their work-related activities.

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 if you have one, 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. The addition of a letter addressed to your clients will convey anything you wish to communicate 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 and your family 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.*** As a Professional Directive, 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. This should involve a dialogue where mutual responsibilities, expectations and questions can be resolved. A “walk-through” of your office location may also be helpful. For detailed information, please refer to the “Guidelines for a Professional Executor” which are attached to this document as Addendum No. 1.
4. **Secondary Professional Executor:** If, for any reason, your designated Professional Executor is unavailable or unable to perform this function, *it is wise to have at least one 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 essential for taking appropriate action with your records and be able to delegate activities to others so that no single person becomes overwhelmed by the magnitude of the task.
6. **Attorney:** You may want to 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. It should be noted however, that a Professional Will can also be completed without the involvement of an attorney.
7. **Executor of Personal Will:** Having a Personal Will will unquestionably strengthen the effectiveness of your Professional 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. **Organization of Clinical Records;** Specify the location(s) of your current and past client records. 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.* At the very minimum, ensure that at least the face sheet, with the client's name, phone number and address is easily legible.

If you have records of clinical consultations or clinical supervision, a similar process should be followed with such records.
9. **Test Materials:** Specify the location(s) of all psychological test materials in your possession. The Professional Executor should ascertain that all psychological test materials are maintained in a confidential, secure manner.
10. **Billing and Financial Records:** Specify the location of your billing and financial records. This will allow your Professional Executor to facilitate the completion of any outstanding billing and financial transactions related to your practice in an orderly manner. Your estate will thank you.
11. **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.
12. **E-Mail 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.

13. **Your Keys:** Your Professional Executor should be able to easily 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.
14. **Individuals Who Can Provide Further Assistance:** List any other people who might be helpful in accessing your records or in planning or carrying out the provisions of your Professional Will. This might be a spouse or relative, a secretary or assistant, a billing person, a friend, a colleague, etc.
15. **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 years, and by then much of the information may no longer be accurate.

16. **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, by email and/or through a notice in the newspaper. This can be left up to the discretion of your Professional Executor or specified by you.

In addition you may want to prepare a general letter addressed to your clients in the event of your disability or death that addresses the situation and the work you have done together, says goodbye and wishes them well in the future. Copies of this letter could then be made available to your clients. This gesture will very likely be greatly appreciated by your clients and may be particularly helpful to those most vulnerable to your loss.

Similarly, you can be specific regarding which clients are potentially more vulnerable and 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.

17. **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 in order to protect your estate against a potential future malpractice suit. The two major carriers will provide additional coverage if they are notified in writing by your authorized representative within 60 days. This will require furnishing proof of your death.
18. **Disposition of Clinical Records:** The current APA Record Keeping Guidelines should be followed by your Professional Executor. He/she will need to make arrangements for your records or copies of your records to be sent to your clients' new therapists, and for the storage and disposition of the records as appropriate. You may wish to specify whether you want the actual records or copies of the records to be sent to the new therapists. Or you may leave this up to the discretion of your Professional Executor.
19. **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. For immediate assistance it may be helpful to consult with a colleague who is knowledgeable about Professional Wills and the role of the Professional Executor.

20. **Reimbursement of Your Professional Executor:** Your Professional Executor will be spending a lot of time taking care of all this and should be reimbursed for expenses incurred as well as for his/her time. This should be discussed in advance with your Professional Executor in the preparation of your Professional Will. It would be most helpful to agree upon a sum in advance in order to avoid putting him/her in an awkward situation later that could result in your Professional Executor just deciding to

absorb the expenses. The actual amount would depend on the size and complexity of your practice and should be commensurate with the scope of the task to be completed. In addition, it would be extremely helpful if the details of these financial arrangements are specified in your Personal Will.