

Professional Will

It is uncomfortable to contemplate our mortality, but a necessary task. Creating a professional will protects both clients and psychotherapists. Ethical codes of conduct require psychotherapists to make arrangements for the protection and transfer of records in the event the psychotherapist is incapacitated or deceased, or some other event forces the unexpected closure of the practice. A professional will outlines how the practice will be closed and addresses important issues, such as the location of physical and digital records, the location of passwords and physical keys, who will notify clients and in what way, how the office will be closed, to whom the records will be transferred, how practice related finances will be handled.

As stated on APA's website: professional wills should identify a professional executor (usually a licensed mental health provider) and give that person the authority to act on your behalf. A professional will should include all the basic instructions that an executor would need to notify clients, appropriately handle records, make referrals for continued treatment as needed, and wind down your practice.

<https://www.apaservices.org/practice/good-practice/professional-will-instructions.pdf>

Templates and further instructions are available at:

<https://www.apaservices.org/practice/business/management/sample-professional-will.pdf>

<https://www.apaservices.org/practice/business/management/files-passwords-contacts.pdf>

<https://www.apaservices.org/practice/business/management/professional-will-instructions>

A quote from the link above states: Current and past patients need to be informed of a psychologist's disability or death as well as how to access their records. Some patients may not have told their spouses or family members that they are seeking care, which can complicate the process of notification. If you have a place in your files indicating how patients prefer to be contacted, or if you have an administrative assistant who knows the preferred means for contacting your patients, you should include this information in your professional will. . . . Alternatively, your professional executor can be instructed to use his/her judgment in determining how best to notify patients, consistent with state law.

Options for notifying patients without alerting their family members include using your voicemail answering system and posting a notice at your office, on your website, and/or in the local newspaper.

These resources are provided for informational purposes only. They are not intended to provide legal advice and should not be used as a substitute for obtaining personal legal advice and consultation prior to making decisions regarding individual circumstances. Psychologists are advised to consult an experienced attorney in order to prepare a professional will. This document is based on the San Diego Psychological Association Committee on Psychologist Retirement, Incapacitation or Death (SDPA PRID) sample "Professional Will" which is available in its "Professional Will Packet." APAPO gratefully acknowledges the work of the SDPA PRID and has prepared this revised document with the association's permission.

Tennessee law states:

Records of Psychologists, Senior Psychological Examiners and Psychological Examiners Upon Death or Retirement - When a psychologist, senior psychological examiner or psychological examiner retires or dies while in practice, patients seen by the psychologist, senior psychological examiner or psychological examiner in his/her office during the immediately preceding eighteen (18) months shall be notified, as provided in subparagraph (b), by the psychologist, senior psychological examiner, psychological examiner or his/her authorized representative and be informed that upon authorization, copies of the records will be sent to the new psychologist, senior psychological examiner or psychological examiner. This notification requirement shall not apply to a patient when there have been fewer than two (2) office patient encounters within the immediately preceding eighteen (18) months.

Retention of Patient Records - Patient records shall be retained for a period of not less than seven (7) years from the last clinical contact between the patient and the psychologist, senior psychological examiner or psychological examiner, or their professionally certified supervisees except for the following: 1. Records for incompetent patients shall be retained indefinitely. 2. Records of minors shall be retained for a period of not less than one (1) year after the minor reaches the age of majority or seven (7) years from the date of the last clinical contact with the patient, whichever is longer. 3. Notwithstanding the foregoing, no patient record involving services which are currently under dispute shall be destroyed until the dispute is resolved.