

# Your Professional Will: Why and How to Create

***Use the accompanying sample template to facilitate the process.***

**A**fter the unexpected death of a psychologist in independent practice, distraught family members, surviving colleagues or support staff face the process of closing the psychologist's practice. Yet there is no clear written guidance to assist them.

Unfortunately, this scenario is not uncommon. The antidote is a professional will that protects practitioners, their estates, their clients and family members. A professional will designates a trusted colleague as "professional executor" and provide all the direction needed to manage relevant practice issues promptly and effectively in case of a psychologist's death or incapacity.

## Ethical and legal requirements

APA Ethical Principles of Psychologists and Code of Conduct ("Ethics Code") Standard 3.12 addresses both expected and unexpected interruptions of treatment as follows: "Unless otherwise covered by contract, psychologists make reasonable efforts to plan for facilitating services in the event that psychological services are interrupted by factors such as the psychologist's illness, death, unavailability, relocation or retirement or by the client's/patient's relocation or financial limitations." In addition, Ethics Code 6.02(c) states: "Psychologists make plans in advance to facilitate the appropriate transfer and to protect the confidentiality of records and data in the event of psychologists' withdrawal from positions or practice."

Many states have adopted the APA Ethics Code or similar ethical standards in laws or regulations governing the professional conduct of psychologists. In addition, most states have laws mandating the retention of patient medical records for a specified number of years, and such laws may apply to the estate of a deceased psychologist. Some states also specifically address the issue of professional wills in laws or other guidance.

Therefore, unless you work in a group practice or organization with policies in place that address issues such as continuity of care and transfer of records, some advance planning is needed. A professional will is a comprehensive way for independent practitioners to plan for unforeseen circumstances resulting in incapacity or death.



## How to create a professional will

Professional wills can take a variety of formats, but all should identify a professional executor (usually a licensed psychologist or other 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.

A sample professional will, based on the work of the San Diego Psychological Association (SDPA) Committee on Psychologist Retirement, Incapacitation or Death is provided on pages 13 and 14. The APA Practice Organization (APAPO) gratefully acknowledges the work of the SDPA and has prepared this revised document with the association's permission.

This material and additional APAPO resources related to professional wills can be found in the Practice Management section of the Practice Central website at <http://www.apapracticecentral.org/business/management/index.aspx>. Those resources include:

- An online copy of the sample professional will for those who prefer to create the document electronically.
- An electronic template for the "Files, Passwords and Contacts List" document mentioned in the third section of the professional will template.
- Further instructions and considerations relating to the preparation of a professional will.

We recommend that you consult with an attorney with appropriate experience regarding preparation of a professional will.

If you have further questions about creating a professional will or the role of a professional executor, please contact the American Psychological Association Practice Directorate's Legal and Regulatory Affairs Department at [praclegal@apa.org](mailto:praclegal@apa.org) or 800-374-2723.

# *Sample Professional Will\**

*NOTE: Italicized copy below appearing within brackets comprises notes and recommendations related to the sample will content.*

I, \_\_\_\_\_, do hereby declare this to be my Professional Will. This document supersedes prior Professional Wills [if any exist]. **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 and records in the event of my incapacitation or death.

## **FIRST**

I am a practicing psychologist licensed in \_\_\_\_\_ . My license # is \_\_\_\_\_ .  
[name of state]

My principal office address is \_\_\_\_\_ .

In the event of my death or incapacitation, I hereby appoint as my Professional Executor \_\_\_\_\_ , who has agreed to serve in this role. His/her phone number and email and mail addresses are \_\_\_\_\_ . In the event that \_\_\_\_\_ is unavailable or unable to perform this function, I hereby appoint as Secondary Professional Executor \_\_\_\_\_ , who has agreed to serve in this role. His/her phone number and email and mail addresses are \_\_\_\_\_ .

I hereby grant my Professional Executors full authority to:

- Act on my behalf in making decisions about storing, releasing and/or disposing of my professional records, consistent with relevant laws, regulations and other professional requirements.
- Carry out any activities deemed necessary to properly administer this professional will.
- Delegate and authorize other persons determined by them to assist and carry out any activities deemed necessary to properly administer this professional will.

## **SECOND [If applicable]**

My attorney for this Professional Will is \_\_\_\_\_ , whose phone number and email and mail addresses are \_\_\_\_\_ . The executor of my current personal will is \_\_\_\_\_ , whose phone number and email and mail addresses are \_\_\_\_\_ .

## **THIRD**

Copies of a separate “**Files, Passwords, and Contacts List**” are stored with copies of my Professional Will in the locations specified below in section FOURTH (B). This list is intended to be maintained and updated as needed to facilitate access to all relevant contacts, client records and other relevant documents, including all relevant hard copy and electronic files as well as back-up files. The list includes:

- Names and contact information for individuals who may be able to assist in locating/accessing my client records and other relevant professional documents (for example, colleagues, office staff, family)
- Location and/or how to access current client records
- Location and/or how to access past client records
- Location and/or how to access my psychological test materials [if applicable]
- Location and/or how to access my professional billing and financial records
- Location and/or how to access my appointment book and client phone numbers
- Location of the computer and other electronic devices used for my psychology practice
- Passwords for my computer and other electronic devices used for my psychology practice
- My professional e-mail and website addresses
- My office phone number and voicemail access code
- Location and/or how to access my professional liability insurance policy
- Location of any necessary keys you will need for access to my office, filing cabinets, storage facilities, etc.

## **FOURTH**

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 my Professional Executor.

B. There are four copies of this Professional Will. They are located as follows: one is in your possession; one is in the possession of my attorney; one is with my personal will; and one is with my professional liability insurance policy.

C. Please use your clinical judgment and discretion in deciding how you want to notify current and past clients of my death or incapacity and whom to contact for further information, consistent with ethical and legal requirements. *[Note: You may choose to provide more detailed instructions in this section. For example, you may wish to maintain a list of current and selected past clients who are to be notified of your death and/or any planned memorial services and to specify the location of such a list in this section.]*

D. If clinically indicated, for example by their response to notification of my death, you may wish to offer a face-to-face meeting with some clients. You may also wish to provide several referrals sources for current and past clients. Referral sources can, of course, include yourself.

E. Please promptly notify my professional liability carrier of my death and arrange for any additional coverage that may be appropriate. Please also notify the state psychology licensing board.

F. Please arrange for clients' records or copies of their records to go to their new psychologist or other mental health professional, if applicable, with the clients' consent. All remaining records should be maintained according to the relevant, most recent APA Ethics Standards, state regulations and APA Record Keeping Guidelines. *[Related recommendation: Include in the informed consent document signed by clients at the outset of treatment a notification that if you die or become incapacitated, your Professional Executor may take control of records and contact clients.]*

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 [or specify total amount] \_\_\_\_\_ is acknowledged to be reasonable. *[Notes: (1) You may wish to reinforce this commitment by also including it in your personal will. (2) If your practice is a corporation or LLC, you should consult with your attorney regarding whether your estate (instead of the corporation or LLC) should reimburse your professional executor.]*

I declare 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 & ACKNOWLEDGMENT**

This Sample Professional Will is for informational purposes only. It is 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" at [bit.ly/1smxrZ2](http://bit.ly/1smxrZ2). APAPO gratefully acknowledges the work of the SDPA PRID and has prepared this revised document with the association's permission.



## REFERENCES AND RESOURCES

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## DISCLAIMER

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