

# The Professional Will for Psychotherapists

The sudden termination of a practice

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Why do we need this?



# Not all deaths are the same.

- Deaths from a terminal illness gives you some time to deal with saying goodbye and tying up loose ends.
- Sudden death is more complicated. As the beloved late Jim Hilliard said “the only difference between death and retirement is that you have to do everything in 24 hours.”

# What is a professional will?

- It is a document that will aid another professional in the case of an emergency (sudden in capacity or unanticipated death).
- It consists of two essential parts:
  - Urgent
    - Contact information for your active patients
    - Access to your schedule, your office door, email & voicemail
    - Hopefully, some indication of who may require sensitive handling.
  - Longer term
    - Mandated responsibilities:
      - records storage.
      - communicating with licensure boards, professional societies, etc.
      - Tying up financial details.

# Administratively, it's not so hard

- We do much of this for our coverage whenever we take an extended vacation
- It's the psychology of the situation that makes it so difficult

# What makes it difficult?

- Denial of death
- Accepting the idea that your dedication has a terminal limit
- Narcissistic injury of being replaceable
- Anxiety about having others look into your practice
- Concerns about confidentiality
- Intimidation about approaching others for a “big ask.”
- Difficulty organizing the data and keeping it current.



*from 'This is What Happened'  
by Salman Akhtar*

I do not want to die but I have to.  
So I better prepare myself, sort things out.  
Make sure I do not leave un-mailed letters  
in the drawers of my nightstand.  
Put the garbage out.





“I’d like to talk about my abandonment issues.”

# A rare expression of regret

I'm looking funny in my eyes an' I b'lieve I'm fixing to die  
I know I was born to die, but I hate to leave my children cryin'...

So many nights at the fireside, how much children's mother would cry  
'Cause I aint told their mother I had to say goodbye.

Fixing to Die Blues, Bucca White, 1940

# What do I need to do to set it up

- Think about who you can ask to be your executor(s) and several more people you can I ask to be available to help.
- Think about what role your spouse and your adult children might play.
- Don't try to do the entire document all at once. Most important are the contact details.
- Talk about this in your peer group
- If you don't have a peer group, think about creating or joining one.

# What if I don't have a will?

- Situation with a will:
  - Heartbreaking loss
  - Difficult but orderly transition
- Situation with out a will:
  - Heartbreaking loss
  - Clinical chaos
  - Possible malpractice & regulatory noncompliance
  - A negative end to your career
  - Stress for your family, our profession, and the community of patients.

***“He who fails to plan is planning to fail.”*** Winston Churchill

# Developmental view of a practice

- Like anything else, a practice goes through developmental stages. We receive a lot of teaching and support about every one of these phases except in the end phase, closure.
- Many people would prefer to ignore the necessity of coming to closure. They would prefer to work until they drop.
- Like downsizing, it's best to do this before you lose the capacity to do it.

# How can I ask someone to be my executor?

- All cultures have rituals for respectfully taking care of the deceased with dignity. Taking care of the deceased is viewed as an honor and responsibility. Why do we think of it with dread? Why do we avoid asking someone to be there and play that role for us?
- Being asked to be an executor is one of the highest honors you can award someone.
- In most religious contexts caring for the deceased is viewed as one of the holiest undertakings. It is a selfless favor to someone who can never reciprocate.

# How can I ask someone to be my executor?

- Psychotherapist more than any other specialty are likely to be practicing in a solo private practice. Individuals practicing in group practice or institutional settings have a built-in continuity. Solo private practitioners do not.
- The model of care is moving away from personal accountability and connections in many ways; accountable care groups, the impact of insurance on referral networks, the limitation on training hours, etc. The result is a weaker sense of ourselves as a professional community with mutual interdependence.
- We must as a group support each other in providing continuity of care.

# Three areas of responsibility

- Community/Family
- Patients
- Profession

The classic question raised by Rabbi Hillel, in the ethics of the fathers 1:14 “If I am not for myself, who will be for me? But if I am only for myself, who am I? “



Think of “I” as the essential private self and “me” as your socially constructed identity.

When the “I” of you dies, the “me” lives on.

How do you want it to be taken care of?

Who will care for your abandoned dependents?

Who will be for me and my patients when I am gone?

Are my patients mine or are they patients of the greater community?

# How can I ask...

- Think of it as having phases and requiring a team.
- Have two executors who will be empowered to assemble a team.
- Supply them with the immediately necessary data.
- Consider having your estate reimburse for the time involved.

# The power of peer groups

- Having a regular peer group is an important part of dealing with the stresses of independent solo practice.
- Arranging for regular reciprocal coverage for absences with peer group members builds trust and familiarity that will be helpful in a crisis.
- Some peer groups regularly review the availability of each other's patient list.
- At the very least, a peer group can be a part of the team of dealing with your patient load.

# Quirky complexities

- When someone passes away, next of kin is advised to inform Social Security
- Social Security immediately communicates this to NPPES (National plan and provider Enumeration system)
- Your NPI is terminated.
- Without a valid NPI number insurance will not cover prescriptions.
- An NPI number is not required for a prescription to be valid. It is required for insurance coverage. The prescriptions don't get filled because of the insurance coverage. In practice, as the situation is rare, how it is dealt with and what the patients are told at the pharmacy is unpredictable.
- Schedule II prescriptions become unfillable immediately.
- Patients with schedule III and IV refills will discover over a period of four or five months that they have no coverage.

# Quirky complexities

- Some patients do not want anyone to know that they were in treatment.
- Should we be getting consent to reveal their identity to covering physicians?
- Should they be excluded from being notified of emergency changes in your availability?

# Nuts and Bolts

- There are a number of templates for a professional will. The most comprehensive is The American Psychiatric Association's resource document, *Closing a Practice at Short Notice: What Every Psychiatrist and Their Family Should Know* can be found here: [https://www.psychiatry.org/File%20Library/Psychiatrists/Directories/Library-and-Archive/resource\\_documents/ClosingPracticerd2007.pdf](https://www.psychiatry.org/File%20Library/Psychiatrists/Directories/Library-and-Archive/resource_documents/ClosingPracticerd2007.pdf).
- This template is very comprehensive and initially will be overwhelming.
- I'm going to focus on what's immediately needed.

# Nuts and Bolts

1. Executors should have:
  - a. Read the will
  - b. Have access to the will and patient contact information
  - c. An updated list of patients indicating active and former patients(at the least, patients who have terminated within the last year), or access to a way of determining this (billing service, knowledge of to how to query EMR or digital calendar.
  - d. Optimally the list should include cell phone, text, email and mailing address for each patient, or you must have the means of finding this data.
  - e. Access to the voicemail, email, text messages and website of the therapist and the knowledge of how to change the message.
  - f. Access to the therapist's calendar.
  - g. Capacity to post a message on the therapist's office door, access voicemail messages, and change the voicemail message or know who to go to for help.

# More Nuts and Bolts

- a. For therapists with digital records; passwords to their laptop, the EMR, the website.
- b. For prescribers, access to a covering prescriber.
- c. For child therapists, access to an experienced child therapist to assist in disposition of child patients.
- d. Secure the medical records and collect any prescription pads.
- e. Everything else can come later.



## Immediate Actions for Closing a Practice.

Find and alert the executor who should perform or assign the following actions:

1. Place a notice on the office door.
2. Change the voicemail message and monitor for any messages that have been left.
3. Locate the therapist patient contact list and schedule.
4. Assemble a team of colleagues to help with notifications and dispositions.
5. Plan the language you will use to inform the patients of the disposition plan.
6. Call Patients to inform them of the therapist's death.
7. Do the above process with all active patients. Then repeat with recently terminated patients.
8. Be on the lookout for patients who come in in frequently for prescriptions.
9. Secure the medical records and any prescription pads licenses diplomas etc.

## Records Retention

Records for adult patients must be maintained for a minimum of **seven years from date of last patient encounter.**

If a patient is a minor on the date of the last visit, then the physician must maintain the **pediatric** patient's records for a minimum period of **either seven years from the date of the last patient encounter or until the patient reaches the age of eighteen, whichever is the longer retention period.**

A retiring physician or his successor must maintain patient records for seven years from the date of the last patient encounter.

# Institutional facilitation

- It would be helpful if local organizations could maintain a list or register of individual practitioners in need of executors. This would assist people in finding compatible others they could pair with to facilitate coverage.

# Recommended resource

- The American Psychiatric Association's resource document, *Closing a Practice at Short Notice: What Every Psychiatrist and Their Family Should Know* can be found here: [https://www.psychiatry.org/File%20Library/Psychiatrists/Directories/Library-and-Archive/resource\\_documents/ClosingPracticerd2007.pdf](https://www.psychiatry.org/File%20Library/Psychiatrists/Directories/Library-and-Archive/resource_documents/ClosingPracticerd2007.pdf).

# Useful miscellanea

- DEA New England field office  
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- This is a work in progress.
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