

A Professional Living Will for Psychologists **Stephen A. Ragusea, Psy D, ABPP**

“Every life is different from any that has gone before it, and so is every death. The uniqueness of each of us extends even to the way we die.” (Nuland, 1995, p. 1)

On rare occasions, reality breaks through our merciful denial and we all consider our own demise. Yes, the last great adventure beckons to us; even psychologists die. Most of us like to think that we will pass away quietly in old age, peacefully sleeping in our own beds and, perhaps, surrounded by loved ones. But, what if the path goes off in a different, surprising direction? What if we die suddenly, unexpectedly?

We have probably made provision for the end of our personal lives. We bought life insurance; we have a Last Will and Testament, even a Living Will perhaps, to advise our family about when and how to “pull the plug.” Our personal matters are in order. But, what about the end of our professional lives?

For most of us, if we consider the subject at all, we imagine that our professional practices have long since been terminated and we have spent our final wonder years in blissful retirement at Golden Pond. While this projected outcome may be accurate for some of us, it is not the finality, which awaits all of us. There are many variations. In fact, psychologists in the full blossom of their careers sometimes die suddenly. Accidents happen. Murder happens. So does suicide.

When this occurs, what is the impact on the psychologist’s patients? Who tells them the terrible news? Who helps the forcibly terminated patient deal with a kind of abandonment they never imagined? And, who manages the financial accounts, the records, the managed care contracts, the myriad business details? This is a professional issue, which gets scant attention by most clinical psychologists.

The Pennsylvania Psychology Board’s regulations address this issue in Section 41.57 (c) and (e), which state: “(c) A psychologist shall store and dispose of written, electronic and other records in a manner which ensures their confidentiality,” and “(e) A psychologist shall provide for the confidential disposition of records in the event of the psychologist’s withdrawal from practice, incapacity or death.”

The American Psychological Association’s current Ethical Principles of Psychologists and Code of Conduct (APA, 2002) also addresses the matter discussed herein. For example, there are applicable statements in section 3.12, Interruption of Psychological Services, which states, “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.” Section 6.02 (c) also addresses the issue: “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.” Section

10.09, Interruption of Therapy, also states, “When entering into employment or contractual relationships, psychologists make reasonable efforts to provide for orderly and appropriate resolution of responsibility for client/patient care in the event that the employment or contractual relationship ends, with paramount consideration given to the welfare of the client/patient.”

How then is a responsible psychologist to make provision for his/her patients “in the event that psychological services are interrupted” by events such as sudden death, disappearance, or disability? Surprisingly little has been written in the psychological literature addressing these issues.

Kahn (1999) suggests that psychologists identify a licensed colleague who will be willing to serve as a Professional Executor and that the addresses of the psychologist’s professional organizations be provided, along with identifying data of all patients requiring notification. Dr. Kahn also believes that certain specific instructions be provided to help guide the Professional Executor, some of which are included in the document provided herein.

What follows below is a proposed model, which endeavors to deal appropriately with the end of life issues unique to those of a clinical psychologist. I have entitled the document, Professional Executor Instructions, because that term seems to most clearly describe the purpose of the document. A lawyer might describe this as a subtype of a commonly utilized legal document called a Limited Power of Attorney. In any case, the document is designed to function as a Professional Living Will for Psychologists and it is written in plain language, deliberately avoiding the arcane jargon sometimes used in legal documents.

Individual psychologists are encouraged to copy, adapt, and utilize this offering as they deem appropriate. Although this specific format has been found acceptable by attorneys in my home state of Pennsylvania, it would be wise for any user to have their final draft examined by local legal counsel.

Professional Executor Instructions
For the Disposition of the Practice of

Chris A. Person, Psy.D.

In the Event of Death, Disappearance, or Disability

January 1, 2001

A. My Professional Executors are as follows:

The Psychology Staff, Child, Adult & Family Psychological Center (C.A.F.P.C.), 777 Elm Street, Suite 218, Everywhere, PA 24680
(123) 456-7890

B. My Attorney is currently:

Amos Goodall, Esquire, 1601 Pennsylvania Avenue, Everywhere, PA 24680
(123) 654-0987

C. My Accountant is currently:

C. J. Wagner, CPA, 1 Park Place, Everywhere, PA 24680
(123) 222- 4816

D. General information:

1. My office is located at 777 Elm Street, Suite 218, Everywhere, PA 24680.
2. The keys to my office and file cabinets are located on my personal key ring. Keys to all office files are held by the C.A.F.P.C. clerical staff.
3. My closed client files are stored in the locked filing cabinets in the basement of my home.
4. My open client files are kept in the filing cabinets at C.A.F.P.C.
5. My billing files and records are at the C.A.F.P.C. office.
6. My psychology license, malpractice insurance policy, and managed care contracts are at the C.A.F.P.C. office.
7. All client related materials must be handled only by my Professional Executors, as named above.

8. C.A.F.P.C. Psychologists will assist in any therapeutic issues which may need to be addressed with my clients. Billing issues, insurance, and other administrative details already handled by C.A.F.P.C. clerical staff or C.A.F.P.C. officers will continue to be handled by them.
9. My appointment book, which is confidential, is normally kept in my personal briefcase. My professional executor may contact clients to cancel appointments and conduct discussion with patients regarding my being disabled or deceased. My professional executor will handle client contact and follow-up.

E. Specific instructions to my Professional Executors:

1. In the event of a serious illness such as when I am unable to work for more than two weeks but can communicate effectively: Please contact me as soon as I am able to communicate about how to proceed. Whatever I communicate to you at that time will take precedence over this document.
2. In the event of my death, disappearance, or in the event of temporary or permanent decisional incapacitation as determined by a licensed psychologist or physician, my Professional Executors should take the following steps. First, telephone all scheduled clients and notify them of my current circumstances. Assess their psychological vulnerability and need for ongoing psychological intervention, via recent therapy notes and your telephone conversation. Make professional referrals as appropriate. If the client is willing to accept a referral, please obtain the client's written permission to release his/her name and records to the designated therapist. Please make an effort to match each client with a provider who is approved by, or is on the panel of, the client's insurance or managed care company. Please offer clients at least one face-to-face therapy session, individual or group format, with yourself or another professional therapist that you designate, to process the event of my death or incapacitation. If possible, please make generous allowances for any client's inability to pay for this session, or for insurance coverage if that session is denied.
3. Copies of referred client's records should be forwarded to their new therapists, if the therapists so request. All remaining records should be maintained in a safe, confidential place for the minimum number of years currently required by state and federal law. Please dispose of all records not required by such laws to be maintained, in a manner which destroys completely all identifying client information, such as shredding.
4. Please defer to my spouse, and the executor of my estate, Pat Person, regarding any financial decisions to be made regarding payment of any of my outstanding bills, and client bill collections. In the event of the concurrent incapacitation or death of my spouse, please refer these decisions to the executor of my personal estate. If there is a clinical component to these client based financial decisions, please review the file and share minimum pertinent information necessary so the executor may make an informed decision.

5. Please notify, in writing, all managed health care companies, hospitals, and other professional organizations with which I am affiliated of my circumstances.
6. If any further information or an update of legal requirements for the care of records is required, please contact the Pennsylvania Psychological Association.
7. There are three copies of these Professional Executor instructions. The first is located with my other important personal papers in my safe deposit box. The second is held by the clerical staff at C.A.F.P.C. The third is on file with my attorney.
8. Please bill my estate for the cost of professional time and any other reasonable expenses that may be incurred as the result of executing these instructions.
9. This Professional Living Will is established in and shall be governed by the laws of the Commonwealth of Pennsylvania. I intend that this power of attorney be universally recognized and admissible in any jurisdiction.

Psychologist Signature

Date

Witness Signature

Date

Notary Signature

Date