

Professional Will

A professional will is a comprehensive way for mental health professionals to plan for unforeseen circumstances resulting in incapacity or death. Professional wills can take a variety of formats, identifying a trusted colleague as professional executor who is given the authority to act on your behalf. It includes instructions on how to manage practice issues promptly and effectively, including notifying clients, handling records, making referrals, and closing your practice.

A professional will protects you, your estate, your clients, and your family members.

Most states have laws mandating the retention of patient records for a certain amount of time, and such laws apply to the estate of a deceased therapist. Unless you work in a group practice or organization with policies in place, it is important that you make a plan in the event of your illness or death.

As you prepare your professional will, it is recommended that you consult with an attorney with appropriate experience.

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 practice and records in the event of my incapacitation or death.

FIRST

I am a practicing _____ licensed in _____ [state].
My license # is _____.

My 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.

Phone number: _____

Email address: _____

Physical address: _____

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.

Phone number: _____

Email address: _____

Physical address: _____

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 _____

Phone number: _____

Email address: _____

The executor of my current Personal Will is _____

Phone number: _____

Email address: _____

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 practice
- Passwords for my computer and other electronic devices used for my 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 referral sources for current and past clients.

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 licensing board.

F. Please arrange for clients' records or copies of their records to go to their new mental health clinician, if applicable, with clients' consent. All remaining records should be maintained according to the relevant, most recent Ethics Standards, state regulations, and 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 you 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 _____ [location]
on _____ [date]

Signature

WITNESSES

Printed Name: _____ Signature: _____

Printed Name: _____ Signature: _____

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. You are advised to consult an experienced attorney in order to prepare a professional will.