

# Professional Wills are not optional: Emergency Practice Planning Resource Guidelines for Trust Policyholders

A Collaboration of TheraClosure and The Trust

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## Introduction

The therapeutic work of mental health clinicians is grounded in trust and continuity. But a sudden absence (whether temporary or permanent) can harm clients through the disruption of mental health care, the experience of traumatic loss, and potential breaches of confidentiality. For these reasons, psychologists, clinical social workers, licensed professional counselors, marriage and family therapists, psychiatrists and other clinicians are expected to make reasonable efforts to plan for the continuity of care and the protection of client information in the event of an interruption in services. Common approaches to proactive planning include outlining procedures for client notification, identifying colleagues who may assist with continuity of care, and establishing processes for secure record management and transfer. Some clinicians elect to formalize these arrangements through a written **professional will** or by designating a **practice executor**. The enforceable standards stem from the ethics codes and practice guidelines of each clinical discipline while legal requirements derive from state practice laws.

In practice, many clinicians find it overwhelming and difficult to take care of these responsibilities. We have broken down the ethical duties to provide reasonable continuity of care, and also provide you with step-by-step guidelines to create your Professional Will, to consider who to appoint as your Executor and how to step in for another therapist (e.g., what a therapist would need to do if they stepped in for you), and special considerations for early career clinicians.

## Guideline 1: What Are My Obligations as a Therapist to Plan for Emergencies?

**No matter your discipline, psychotherapists have ethical and legal responsibilities.**

The therapeutic work of mental health clinicians is grounded in trust and continuity. But a sudden absence (whether temporary or permanent) can harm clients through the disruption of mental health care, the experience of traumatic loss, and potential breaches of confidentiality. For these reasons, psychologists, clinical social workers, licensed professional counselors, marriage and family therapists, psychiatrists and other clinicians are expected to make reasonable efforts to plan for the continuity of care and the protection of client information in the event of an interruption in services. Common approaches to proactive planning include outlining procedures for client notification, identifying colleagues who may assist with continuity of care, and establishing processes for secure record management and transfer. Some clinicians elect to formalize these arrangements through a written **professional will** or by designating a **practice executor**. The enforceable standards stem from the ethics codes and practice guidelines of each clinical discipline, while legal requirements derive from state practice laws.

### What harm can come to clients in the absence of a professional will?

- **Clinical re-traumatization:** For clients with a history of loss, neglect, or abandonment, the sudden "disappearance" of a therapist can mirror past traumas, potentially undoing months or years of therapeutic progress.
- **Acute crisis without coverage:** High-risk clients (those experiencing suicidal ideation or severe instability) are left without a safety net or a designated emergency contact, significantly increasing the risk of self-harm or hospitalization.
- **Medication interruptions:** In the case of psychiatrists, a lack of planning can leave patients unable to refill psychiatric medications, leading to dangerous withdrawal syndromes or the return of acute psychotic or depressive symptoms.
- **Breach of confidentiality:** Without a designated professional executor, sensitive records may be handled by well-meaning but untrained and unauthorized family members or estate executors, violating HIPAA and the client's right to privacy.
- **Loss of access to records:** Clients may need their records for legal proceedings, disability claims, or to transition care to a new provider. Without a known records custodian, these files may become inaccessible or be destroyed prematurely.

### Special Notes for Early Career Clinicians

If you are early in your career, you may be tempted to push off developing a Professional Will. However, the ethical and legal obligations to create an emergency plan begin as soon as you have clients and clinical records under your responsibility. These obligations recognize that life is unpredictable, and illness and injury can happen at any age.

No matter how young and healthy you are, you should create a Professional Will as soon as you open your practice. Treat this sacred responsibility no differently than you would other essential tasks such as securing malpractice insurance.

- **Financial and administrative limbo:** Clients may be left with unsubmitted insurance claims, outstanding balances, or prepaid sessions with no clear path for reimbursement or closure of the financial relationship.
- **Stalled progress:** The confusion and grief following an unplanned loss can cause clients to drop out of therapy altogether, as the prospect of "starting over" with a stranger feels too daunting without a warm hand-off.

### What is a professional will?

The most common method of complying with the mandate to create an emergency plan is a Professional Will. The Professional Will is a specialized legal and ethical document that outlines the specific procedures for closing or transitioning a clinical practice in the event of a provider's sudden death or incapacitation. It designates a **Practice Executor** (also called a Professional Executor), to access secure client records, notify active patients of the provider's status, and facilitate appropriate referrals to ensure continuity of care. By detailing practical logistics such as office keys, EHR passwords, and the disposition of records, this document ensures the provider fulfills ethical and legal mandates and protects clients from the trauma of abrupt abandonment.

### Examples of ethics codes by discipline

The ethical codes of psychology, counseling, social work, marriage and family therapy, and psychology all mandate that practitioners plan for their own death or incapacitation.

#### Psychologists (APA, 2017. Ethical Principles of Psychologists and Code of Conduct)

The American Psychological Association (APA) mandates "paramount consideration given to the welfare of the client/patient" (Standard 10.09, Interruption of Therapy) when psychological services are disrupted.

- **Standard 3.12 (Interruption of Psychological Services):**  
"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."
- **Standard 6.02(c) (Record maintenance):**  
"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."

#### Social workers (NASW Code of Ethics)

The National Association of Social Workers (NASW) views service interruption as a matter of professional reliability and client safety.

- **Standard 1.15 (Interruption of Services):**  
"Social workers should make **reasonable efforts to ensure continuity of services** in the

event that services are interrupted by factors such as unavailability, disruptions in electronic communication, relocation, illness, mental or physical ability, or death."

### **Licensed professional counselors (ACA Code of Ethics)**

The American Counseling Association (ACA) requires a "vitality plan" and notification of clients through informed consent.

- **Standard C.2.h (Counselor Incapacitation, Death, or Termination of Practice):**  
"Counselors prepare a vitality plan for the transfer of clients and the dissemination of records to an identified colleague or records custodian in the case of their incapacitation, death, retirement, or termination of practice."
- **Standard A.2.a (Informed Consent):**  
Counselors must inform clients about "continuation of services upon the incapacitation or death of a counselor."

### **Marriage and family therapists (AAMFT/CAMFT code of ethics)**

Marriage and family therapists focus on the systemic disruption caused by a therapist's absence and the need for a "Professional Will."

- **Standard 1.3 (Treatment Disruption):**  
"Marriage and family therapists are aware of their professional and clinical responsibilities to provide consistent care to clients/patients... Such practices and procedures may include but are not limited to... **providing for a professional will.**" — *CAMFT Code of Ethics.*
- **Standard 2.7 (Preparation for Practice Changes):**  
"In preparation for... incapacitation, or death, marriage and family therapists **arrange for the storage**, transfer, or disposal of client records in compliance with applicable laws and professional standards." — *AAMFT Code of Ethics*

### **Psychiatrists (APA Resource Document; AMA Code of Medical Ethics)**

For psychiatrists, the obligation extends beyond talk therapy to the management of medical records, laboratory results, and controlled substance prescriptions.

- **Special Administrator Recommendation:**  
"The psychiatrist should determine who will serve as the '**special administrator**' who communicates their wishes if they should die or become incapacitated. Given the importance of the tasks to be assigned, the Special Administrator should **ideally be a psychiatrist.**" — *APA Resource Document: Preparing in Advance (2025).*
- **AMA Opinion 1.1.5 (Terminating a Practice):**  
"When a physician dies while in practice, the physician's estate or representative should... **notify all patients**... and provide them with information about how they can obtain their medical records or have those records transferred." — *AMA Code of Medical Ethics.*

## State laws pertaining to emergency planning and professional wills

Generally speaking, states require therapists to follow the ethics codes of their disciplines. However, some states have specific requirements. Some examples:

- **California (Licensed Clinical Social Workers):** Must retain records for 7 years (or until age 25 for minors). Recommends appointing a records custodian in a professional closure plan.
- **Florida (Psychologists):** Must retain records for 26 months after death. Weekly newspaper notices must be published for four weeks at the time of death and again one month before destruction. The estate representative is responsible.
- **New Jersey (Psychologists):** Requires a closure plan for death or incapacity. Records must be kept for 7 years (or until 25 for minors). Newspaper notice must be published monthly for three months, and recent patients must be notified directly.
- **Oregon (Psychologists):** Requires naming a “qualified person” (licensed psychologist) to manage records and report their name to the licensing board. Records must be kept for 7 years after the last service.
- **Texas (LPCs and LCSWs):** Requires continuity planning for retirement, death, or incapacitation under the Texas Administrative Code (22 TAC §681.41 for LPCs and §781.204 for LCSWs), including a written plan for record access and retention.

It is important to research the laws that pertain to you, given your discipline and given the state you reside in and the state(s) you practice in.

For multistate practices (e.g., PsyPact), it is recommended that you determine and adhere to the most conservative state requirements.

## Responsibilities connected to retirement

Legal and ethical responsibilities surrounding clinical records extend into retirement. In particular, retiring clinicians are responsible for retaining records post-retirement in accordance with state code. Additionally, the retiring clinician must have a plan in place for transferring those records to an Executor in the event of incapacitation/death during the retention period.

As such, retiring psychologists must go one of two routes:

1. Hand over records to a Practice Executor and inform clients about this arrangement and how to contact the Executor.
2. Retain client records and have a Professional Will that names an executor who would take possession of records in the event of death/incapacitation during the retention period.

Retiring without making these arrangements can leave former clients without access to vital documentation, place the psychologist at legal risk, and potentially violate ethical duties of care and confidentiality.

## Guideline 2: How to make a Professional Will and Choose Your Executor

### What to include in your professional will

The Professional Will should include all the details that your Practice Executor would need to take care of your clients, your records and your practice if you were to suddenly die or become incapacitated. The Will must be written out in sufficient detail so that all necessary activities can be successfully completed without the ability to ask you any questions. Without clear access protocols or instructions, even a well-intentioned executor may be unable to respond in a timely or lawful manner.

Some examples of elements to include in the will are:

- **Emergency designee or executor:** Names a person who will implement the plan.
- **Patient notification:** Describes how current and recent clients will be informed.
- **Continuity of Care:** Lists backup providers or referral options.
- **Record custody and access:** Provides passwords, locations, and timelines for compliance with state record retention laws.
- **Administrative instructions:** Covers billing, leases, and notifying The Trust and licensure boards.
- **Continuity of liability insurance:** Provide instructions as to whether the purchase of a liability insurance “tail” is needed. (Note: The Trust provides a free tail for psychologist-policyholders when notified of the death.)

There are many additional details that should be considered. If you are developing a Professional Will, consult a comprehensive guide (such as TheraClosure’s [Professional Will Checklist](#)).

### Documenting your plan: options for creating a professional will

You have several routes for creating an emergency closure plan, each with its own benefits and drawbacks. (Note that who will execute your plan is a separate matter, addressed below.)

Here is a breakdown of the most common approaches:

#### Online templates

One accessible method is using online templates created by professional associations or colleagues. For instance, TheraClosure shares an online [example of a professional will template](#), meant to be educational and not intended as legal advice. Another available template was created by the [San Diego Psychological Association](#). Using a template is the least expensive option. However, templates may omit procedures or record-handling practices required for your discipline and state. They also often are not adequately tailored to your practice’s specific needs, clients, and therapeutic orientation/philosophy.

#### Using an attorney

You may wish to work with an attorney. An attorney specializing in Professional Wills can ensure your plan complies with state-specific legal requirements. On the other hand, attorneys

may lack familiarity with the intricacies of therapeutic private practice and with clinical standards of care, such as how to support vulnerable clients. Also, lawyers may not be able to address continuity of care or notification with clinical sensitivity given they are not mental health providers. Of note, the cost of drawing up a Professional Will can be in the thousands, as lawyers generally charge \$300–\$600/hour.

### Professional services

Professional services exist which specialize in professional practice emergency planning and execution, as well as planning for retirement. A professional service takes the burden off you as the clinician, and offers comprehensive planning, predictable costs, and expert executors. On the other hand, a service usually requires an annual retainer. The Trust has formed a partnership with [TheraClosure](#) (and has arranged for a substantial discount for active Trust policyholders).

### Who should be named as the practice executor?

In the absence of an appointed executor, state law may default record management responsibilities to the provider's estate or family. Without a designated and prepared person, ethical and legal obligations may go unmet. Be sure to be aware of any state regulations regarding Practice Executors. For instance, Oregon requires psychologists to name a "Qualified Person" who is an active or semi-active Oregon licensed psychologist. Moreover, the psychologist is required by law to register this person's name directly with the Board.

Many professionals informally name a trusted **colleague** to carry out their emergency plan. Advantages of naming a colleague could include that you already know and trust them, and they are already familiar with your practice. However, it is important to consider that if this colleague is someone close to you, s/he may be emotionally affected by your injury, illness or death, and so may not have the psychological bandwidth to complete executor responsibilities. Also, this colleague may not be able to drop all their other responsibilities to complete executor responsibilities which often require full-time work for several weeks. Resulting delays or oversights can result in harm to clients or legal exposure for you/your practice/your estate. Also, your colleague could be emotionally overwhelmed by the added responsibilities. (A related option to consider that can mitigate some of these concerns is to name a group of colleagues as the joint Executors.) Finally, note that most colleague-executor arrangements call for the colleague to be paid hourly by the practice, meaning a charge of \$10,000-20,000+ to the estate is common given the many hours of work needed to fully execute the Professional Will.

An alternative is to hire a **professional service**, as per above. Such a service will have Professional Executors who are clinicians, experts in the ethics and the clinical and practical

"My husband passed away suddenly. His colleagues named in his will say they can't handle the records. I don't even know if I can legally look at them. Where do I start?"

When a therapist's named executor isn't equipped to act, the responsibility often defaults to grieving family members who have no clinical training and no knowledge of HIPAA.

means of providing for your practice. They are skilled, available, and, unlike close colleagues or family, will have the emotional perspective to focus on client needs.

The Trust has partnered with [TheraClosure](#) and recognizes their solution as a comprehensive solution to the challenges inherent in creating a Professional Will and identifying a Practice Executor.

### Summary

As a therapist you are ethically and legally obligated to protect your client by creating an emergency plan. If you haven't already, create a Professional Will and name a Practice Executor. Be sure that your Will is sufficiently tailored and comprehensive, and that you have chosen an Executor who has the time, expertise, and emotional distance to fully execute your Professional Will. **Take action before a crisis occurs.** Remember that planning for the unexpected is not just about compliance; it's an act of care.

## Guideline 3: Executor Responsibilities

### What are the responsibilities of a practice executor?

We strongly advise that the Practice Executor is a fellow clinician, whether required by state law or not. This is a clinical job, not only an administrative matter. Reaching out to contact bereaved clients requires sensitivity, clinical acumen, and the ability to assist with referrals by understanding what is needed and tapping into a network of colleagues to identify available resources.

If you are serving for a therapist who has suddenly died or become incapacitated, we recommend the following steps:

#### 1. Prioritize current patients' well-being.

Notification:

A clinician should make calls to patients as soon as possible, informing them of the therapist's death or medical leave of absence due to incapacitation. Without information, patients are likely to personalize the therapist's sudden absence, feeling rejected, hurt, and abandoned. Patients have the right to know that their treatment has ended (due to death) or is suspended (if an incapacitation without clarity on recovery). Without earlier instruction from the therapist, the clinician must use judgement to determine how much information to share with patients who ask about the therapist's medical or personal circumstances. These sensitive conversations should happen by phone, not in an email or message, if possible.

Give referrals:

Assist patients by providing referrals of resources for continued care and for grief support regarding the loss of the therapist. Contact colleagues to identify practices with availability to take on these patients. Try to locate well-suited clinicians to spare the patients from barriers in accessing treatment at this time of distress.

Secure and transfer records:

Determine whether records are paper (obtain location and keys to record storage sites) or electronic records (obtain access via logins/passwords/ 2-factor-authentication). With authorization from the patient to release information, provide copies of the records to the new clinician.

Assist with billing:

If possible, provide patients with superbills or documentation necessary to process their claims for services rendered by the therapist. If the estate wishes for patients to be billed for balances, the therapist may facilitate this if they have appropriate access to billing processes.

#### 2. Take custody of all records of the practice.

Regulations by state:

Review regulations in the jurisdictions where the therapist practices. Weigh state regulations with those of HIPAA, APA ethics recommendations.

#### Retention and notification:

Follow the most conservative retention and notification laws. Some states require that all patients whose records will be stored by a custodian other than the original therapist be notified of where they may access their records, while other states mandate notification of patients seen in the past 6 months, or 2 years. Some states mandate the method of communication, such as by email, letter, both, or by advertisement in a local newspaper. Notify state licensing boards of the new custodian.

#### Record storage:

Ensure that security measures are in place with HIPAA compliance. If the records are paper files, decide where they will be stored for the coming years. If space is of concern, consider using a medical record storage company, or use a digitization service to convert paper records for electronic storage. Destroy records when retention period ends and keep log of record destruction.

#### Document provision of access to records:

Upon request from a patient, and when provided with appropriate authorization for release of information, provide a copy of the file to the patient or their requested professional.

#### Emergency planning:

Plan for who would take responsibility for the records in the event of custodian incapacitation or death.

### 3. Facilitate practice closure:

Close off VM, website, email, etc. All ways for clients to reach the therapist or schedule appointments; change messaging directing callers to contact the Executor for information, referrals, or records. Assist with notification to the licensing board, malpractice insurance, professional organizations. Close autopayments for professional services for the practice, i.e., Zoom, Psychology Today. Consider assisting the family with packing of the office or resolving lease obligations.

The designated executor should, at a minimum

- **Secure clinical records:** Immediately protect both digital and physical records.
- **Ensure record retention:** Maintain client records for the period required by state law (typically 5–7 years, or longer for minors).
- **Notify clients:** Inform current and recent clients about the provider's unavailability and how to access their records.
- **Coordinate transitions:** Refer clients to alternate providers if appropriate.
- **Comply with state law:** Publish notices, notify licensing boards, and follow proper procedures for eventual record destruction, as required by state law.

- **Transfer records as needed:** Maintain clear methods of contact so that clients can request that their records be transferred to new providers, and complete those transfers as per authorized request
- **Destruction of records:** Records that are no longer in the retention period (or that have been replaced with a digitized version) should be securely destroyed. It is important to keep a log of the records and dates of destruction.

## Guideline 4: For Early Career Psychologists

If you are young and healthy and just starting out in private practice, you may have thought *“Why should a Professional Will matter to me when I have so many other priorities?”*

If you have worked in an agency or a group practice, where others were available in case of emergency, creating a Professional Will may never have crossed your mind before. In private practice, however, no one knows your patients or your systems except you, and no one will look after those patients and their records if something were to happen to you unless you specifically make an arrangement. Your patients depend on you. Who can you depend on? Set your practice up responsibly, because life happens and we owe it to those who rely on us to be prepared.

Early in your career, there are so many opportunities to build your psychotherapy skills through trainings, and you are likely talented and excited to help people by practicing your trade. Young professionals are typically invested in mastering techniques, creating foundational practice policies, setting healthy boundaries and complying with ethical standards. A Professional Will is one more facet of a responsible private practice based on integrity and service to your patients' well-being.

Perhaps you have already considered the following components of practice:

- Licensure
- Malpractice Insurance
- Informed Consent
- Telehealth Procedures
- Financial Policies
- Electronic Health Record
- HIPAA Compliance

A professional will is essential too. Here is why it matters:

- What happens for your patients when:
- They show up for an in-person or virtual appointment, and you never show up, with no explanation?
- They phone, email or text, and you never return their phone calls or emails or texts?
- They never receive the superbills or documentation they need for reimbursement?
- They do not know what happened to their medical records and they worry about their confidentiality?
- They falsely believe that you have rejected or abandoned them?
- They decide they need to find a new therapist but do not know where to turn, or cannot find someone with availability, or feel they cannot trust a therapist again?

What happens for your family when:

- Clients are calling to ask what happened to you?
- Clients are asking for referrals or for their records?

- Clients have billing questions and are demanding answers?
- There are legal and financial liabilities your estate needs to handle for your practice due to ethical noncompliance?

What happens for colleagues with the best of intentions, who want to help, when:

- They do not know your passwords to your EHR?
- They cannot figure out your two-factor authentication key?
- They cannot find a list of current clients or their contact information?
- They do not know what to tell clients, or where to refer them?
- They are overwhelmed by the responsibilities of helping your clients or retaining your records for years to come?

To proactively plan for the security of clinical records, client confidentiality, and continuity of care, you must put a few simple procedures in place. To learn how to take care of these clinical, ethical and legal responsibilities, read our [guidelines here](#).

## Guideline 5: FAQs

### Requirements and roles

*Who can serve as a Practice Executor, and where can I find state-specific requirements?*

Requirements for who is legally qualified to serve as an executor vary by jurisdiction. While many therapists choose a trusted colleague, some states may have restrictions on whether the executor must be a licensed professional in that same discipline. You should consult your state licensing board or professional association for specific regulations in your jurisdiction. We strongly recommend that you ensure only a licensed clinician interfaces with your clients.

*Can I name more than one Practice Executor?* Yes, naming multiple executors or a "professional will collective" can help divide the workload and prevent a single individual from feeling overwhelmed. The risks to consider are diffusion of responsibility and breach of confidentiality as more people are involved.

*Is a Professional Will still necessary if I am retired or retiring?* Yes, even if you have closed your practice and still plan to oversee your records until they can be legally destroyed and to handle potential contacts from former patients, you need an emergency plan. You need a Will and Executor who would take over this responsibility if you were to become incapacitated or die during the retention period.

*What if my practice is primarily assessment?* In considering your emergency plan, determine whether a colleague would be able to step in for you if a battery is incomplete. If so, request for that colleague to provide coverage to complete any assessments that are in-process and arrange for data and payment to be transferred to the colleague. Many testing psychologists share their belief that no one else could step in mid-evaluation to make sense of their notes and data, so that the client would need to begin again with a new assessment provider. In this case, some psychologists wish for the estate to reimburse the client for fees paid upfront, so that the client is able to seek an evaluation elsewhere. This may all be communicated in your Professional Will. In addition, there are unique record keeping requirements for testing data which must be addressed in practical terms in order for your Practice Executor to properly protect confidentiality and security of testing materials. See further APA guidance [here](#).

### Executor responsibilities and logistics

*How should an executor handle Electronic Health Records (EHR)?* The clinician must provide clear instructions or permissions for an executor to access an EHR only after death or incapacity. It is also important to determine if subscriptions need to be extended until files are safely downloaded or transferred.

*Can the executor take on my patients for continued care in their own practice?* Yes, if they wish to do so, though they are under no obligation to take on responsibility for the ongoing clinical care of your patients.

*How can I give my Executor access to my client contact information or to my records?* This is a tricky element of emergency planning. Most people do not want the Executor to have access to

PHI unless necessary, so this requires detailed planning. One plan is for the therapist's family or representative to keep a list of necessary passwords to give to the Executor if needed. The risks are that passwords are often updated, meaning the most current may not be stored, and some logins require two factor-authentication, which is typically a code that goes to your email or phone. It is important to consider how all these pieces of information would be communicated quickly, otherwise the Practice Executor may not be able to get the client information necessary to make notifications. Another option is to make use of a password manager to keep track of logins, passwords, two-factor authentication, and to register the Practice Executor as the emergency contact. It is important to investigate which platforms can meet all your needs to ensure a smooth transition.

### **Client communication and ethics**

*Should I inform my clients about my Professional Will and executor?* It is advisable that practitioners include information about their professional executor in their Informed Consent documents.

*How should notifications be handled to protect confidentiality?* Notification must be handled carefully to avoid violating HIPAA or general confidentiality. This includes deciding the best way to reach clients who may not answer unknown phone numbers and managing the delicate nature of notifying child or high-risk clients. You may consider executing a Business Associate's Agreement with your executor to comply with HIPAA standards.

*Is it appropriate for clients to attend a therapist's funeral?* This is a complex decision that each therapist should make given their therapeutic style, relationships and clientele. Some therapists welcome anyone who may benefit from public mourning, while others prefer to keep their memorial private to family/friends. Practitioners should include instructions in their professional will regarding if/how clients should be informed of a memorial service or a separate professional "celebration of life".

*How should a clinician handle notifications for high-risk clients (e.g., suicidal teens)?* Clinical judgment is paramount. If you are incapacitated, your Practice Executor (who should be a licensed clinician) must assess the client's risk level. For high-risk clients, the notification should ideally be done via a phone call or an in-person "referral session" rather than a letter, ensuring the client has immediate support and a clear path to a new provider. When the client is a child, consider informing the parents first, and allowing them to tell the child, or meeting jointly with parents and child.

*What about my right to privacy if it conflicts with clients' right to information?* Ethics indicate that clients should be informed of how they will be affected and given options with which to determine their next steps. This does not mean that you must disclose your own circumstances or private health information, only what the impact will be on your ability to provide services to your clients.

## Legal

*What is the difference between a Professional Will and other legal documents?* A professional will generally does not supersede a professional Durable Power of Attorney or a Last Will and Testament. It is a specific clinical and business document meant to guide the winding down of professional responsibilities. This means it does not address your personal assets, nor does it confer a right to act on your behalf in legal matters.

*How long must records and logs of destruction be kept?* Therapists must follow state-specific laws regarding record retention. Clinicians (and their executors) should maintain a permanent log of when records were destroyed.

*Can clients give written permission/request that I destroy their records?* No, records must be retained according to the state laws. In addition to contributing to the client's future care, the records may be important documentation of the work that you engaged in and could be helpful in the event of any legal proceedings.

## Financial/liability

*Should a Practice Executor be compensated?* It is common and appropriate to write into a Professional Will that the executor will be paid for their time (at their standard consulting fee) by the practice /out of the therapist's estate. The practice should keep sufficient funds liquid for this purpose.

*What if I want my practice to be sold?* You should consult a business attorney and put in place a plan for how your estate should proceed in attempting to sell your practice. This is outside the scope of the Professional Will.

*Is a "tail" necessary for an occurrence malpractice policy?* An occurrence policy covers you for any incident that happened while the policy was active, regardless of when the claim is filed. Because of this, a "tail" (Extended Reporting Period) is typically not necessary for occurrence policies. In contrast, claims-made policies only cover claims that are both made during the policy period and arise from incidents that occur after the retroactive date. As a result, a "tail" (Extended Reporting Period) is required to allow claims to be reported after the policy ends, such as in the event of retirement, death, or incapacitation. The Trust will activate a free tail for psychologist-policyholders upon notification of death or incapacitation.