

Taking Care of Business: Writing a Professional Will

by Jacques Rutzky, M.A.

Perhaps it was the whole millennial thing. Or perhaps it was the gradual appearance of gray hairs that led to an ongoing realization of my mortality. I am not quite sure what made the difference, but I recently took the time to complete a professional will.

I remembered reading Ruth Palmer's touching article in *The California Therapist* about her experience with colleagues who faced cancer and death in the midst of thriving psychotherapy practices, and I thought, "This could happen to me." Several months later I was asked to join a small team of therapists to handle the professional responsibilities that might arise in the event of a close friend's unlikely death. I thought about what might happen in the aftermath of an accident or the sudden need to close my private practice.

I thought about those who I trust to call my patients and respond to their needs to know- or to not know-what happened. I thought about whom I trust to consult with those I have worked with and cared about. I thought about who I trust to look after my patient files. The following document is a draft of the professional will I have given to three colleagues. I have also placed it in my safety deposit box and have locked it in my office file cabinet. This article is intended to provide guidance in addressing a difficult dilemma. It is not intended to address every situation that could potentially arise, nor is it intended to be a substitute for independent legal advice or consultation.

Writing the will has given me the time to anticipate the needs of the people I see in my practice in the event of my incapacity, a terminal illness, or my untimely death. Further, it has given me relief to know that I have carefully chosen my colleagues to assist in this endeavor.

This is the Professional Will of

IN THE EVENT OF MY INCAPACITY OR DEATH, PLEASE CONTACT THE FOLLOWING MEMBERS OF MY EMERGENCY RESPONSE TEAM:

1. _____
2. _____
3. _____

Please keep this in a secure and confidential location.

Because psychotherapy involves relationships with a high degree of confidentiality and trust, and because patients often develop close attachments to therapists, this professional will has been developed as a necessary accompaniment to my practice. Patients may be sensitive to interruptions or a disruption in their treatment. They may be strongly affected when a therapist is sick or dies.

I hope that by leaving the following instructions I can reduce the stress to my patients, my colleagues, and my family. The colleagues designated in this document have agreed to act as the members of my Emergency Response Team to handle the responsibilities identified below. My spouse should be asked

to respond to questions and needs only as absolutely necessary. Patients should be discouraged from attempting to contact my family or from visiting me in the event that I have a debilitating illness. Any expression of concern for me or my family should be received by Emergency Response Team (ERT) colleagues. The members of the ERT should use their clinical judgment about whether to pass information from my patients to me or my family.

Emergency Response Team Notification

1. The members of the ERT should inform my patients by telephone of my disability or death, promptly cancel appointments, and offer consultation and/or referrals to minimize any disruption to my patients.
2. In the event of a serious illness or my death, I ask that my ERT colleagues consider the following requests and suggestions. I also expect them to make decisions as required based upon the particular situation, a patient's individual needs, and the therapist's professional availability and energy to act. Each member of the ERT has a copy of this "PROFESSIONAL WILL." Additional copies are located in the file cabinet in my office and in my safety deposit box.
3. If it makes sense to have one member of the ERT act as a coordinator, the three members should collectively decide who has the time, energy and interest to take on such a role.
4. In order to access clinical and financial information, obtain office and file cabinet keys and passwords, I authorize the ERT to contact my wife. No one other than the ERT is to have access to my clinical files.

Contacting Patients

5. Phone numbers for all current patients can be found in the front of my datebook in my leather briefcase. Current patient files are kept in my locked office file cabinet. Past patient files are kept in my locked home office file cabinet. Billing files are kept under password protection in my computer in the folder labeled, "Patient Billing Files."
6. I strongly prefer that any message left on a patient's answering machine be limited to the request to return a phone call. A suggestion for an acceptable message might be, "Hello... My name is _____. _____ has asked me to contact you regarding your appointments with him. Please call me at _____."
7. It might be a good idea for a note to be placed near the waiting room in the hallway of my office. The note should state, "_____ is unavailable to meet today. Please check your answering machine for a message." It may be helpful to leave an additional note that asks callers to contact one or more of the ERT members.
8. Answering machine information. In the event of my illness or death, one of the members of the ERT should obtain the key to my office, either from my wife or the office manager, in order to make a new outgoing message on my answering machine. The message should state, "You have reached the message machine of _____. (First name only) is unavailable to keep his appointments this week. If you are a current patient, you can expect a call shortly. At the tone, if you leave a message, you will be contacted as soon as possible."
9. Please collect messages and return calls from my answering machine promptly. In the event of my death, it would be worthwhile to have the telephone company generate a message for at least six months to refer callers to members of the ERT.

In The Event Of My Mental Incapacitation

10. If a chemical dependence, organic illness, or mental illness interferes with my judgment to the degree that the well being of my patients may be in jeopardy, I further request that one or more members of the ERT discuss this with me directly. The colleague(s) should request that I discuss the situation with my therapist or my consultant. If I refuse or postpone such consultation, I authorize the ERT to contact my therapist or consultant directly.
11. If my therapist or consultant deems it necessary to safeguard the wellbeing of my patients, I authorize him or her to discuss the matter with me directly. In the event that I disregard this advice and counsel, and if it seems necessary to safeguard the wellbeing of my patients, I authorize either my psychotherapist, my consultant or the ERT to contact the BBS.
12. In the event of my sudden disability or death, patients should be told as much or as little information as needed on a case by case basis in order that they may process their feelings. Some may ask questions and others may not. Respond with as much or as little information as you deem appropriate.

Patient Records, Financial Records, Collections

13. Patient notes should be maintained or destroyed within legally appropriate guidelines to protect patient confidentiality. In the event that my patient notes are to be destroyed, I request that they be shredded before disposal.
14. Outstanding amounts owed to me or my estate are unlikely, given that patients pay me at the time of each session. However, occasionally a patient will be late with a single session or pay a week or two in advance. The ERT is urged to respond to these patients using sound clinical judgment.
15. I have no desire or need for either a public or private memorial. However, I have no objection to one being given in the event friends, relatives, or patients are inclined to grieve together. I have no objections to patients attending a public memorial service, but in all regards, I wish my family's privacy to be respected.

Additional Information

16. For additional information, please contact:
 1. My Therapist: (telephone number)
 2. My consultant: (telephone number)
 3. My office landlord: (telephone number)
17. My professional Liability Insurance is through_____. The policy is in the locked file cabinet labeled, "Professional Subjects" in the folder titled, "Malpractice Insurance." To protect my estate from the unlikely event of an action arising following my death, the insurance company should be contacted. If additional coverage is necessary, my policy should be amended and paid through my professional checking account.
18. In all actions taken by the ERT, I request that the ERT recognize the need to protect the confidentiality of all patients and request that no unnecessary or unauthorized disclosures about patients be made without their expressed written authorization

Finally

In advance, I convey my regret for any problems this request might cause. In the absence of specific guidelines, the ERT is asked to use their best clinical judgment. I have chosen my friends and colleagues with great care. I trust your judgment and feel grateful that you have agreed to carry out my wishes.

Thank you.

Signed _____ date _____

Witness _____ date: _____

Notary date _____ date: _____