

Your Legacy of Care: Professional Will Writing for Counselors



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- What is a professional will?
- Why professional wills matter
- Vermont's legal & ethical context
- Core elements every will must include
- Comprehensive checklist for your practice
- Case scenarios & considerations
- Final steps & Q&A

But First...

Let's just check in with how you feel about discussing and planning for death and disease or incapacitation.

You okay?

Let's take a moment to orient to this discussion from a healthy mindset.



Death and Incapacitation

What Is a Professional Will?

- A written plan for continuity of care if you can't continue practicing
- Ensures smooth transfer of clients, records, and responsibilities
- Identifies who will act on your behalf (your professional executor)
- It's a combination of a regular will and advanced directives, but just for your practice.

Purpose of a Professional Will

- Protects your clients if you're suddenly unable to practice
- Meets Vermont legal requirements for counselors in private practice
- Provides clarity for colleagues, supervisors, and loved ones
- Preserves your professional integrity and legacy

Benefits of a Professional Will

- Prevents client abandonment/harm
- Reduces liability risk (if you are just incapacitated)
- Provides peace of mind for you and your family; it's a kindness to your loved ones
- Strengthens the professional counseling community

Risks of Not Having One

- Chaos
- Client abandonment → ethical violations
- Unprotected confidential records → legal consequences
- Stress & confusion for family, colleagues, and clients
- Risk of harm to professional reputation

Vermont OPR Requirement

- Vermont law: counselors in private practice must have a professional will
- Requirement protects clients and the public.
- Demonstrates responsible, ethical practice

Ethical Standards

- NBCC Code of Ethics – client continuity
- ACA Code of Ethics – avoid abandonment
- NASW Code of Ethics – responsibility to clients & colleagues
- Professional will = compliance with multiple ethical frameworks

Common Misconceptions

- ✗ “My family can handle it”
- ✗ “My supervisor will just figure it out”
- ✗ “I don’t need one until I’m older”
- ✗ “It will all just work itself out”
- ✓ Reality: Without a plan, clients and records may be left unprotected

Elements of the Professional Will

- Accessing office, computer, files
- How to contact supervisor, landlord, etc.
- How to access client list and contacts
- email, autoreply
- Collateral contacts list
- Special instructions for re-homing clients
- Social media accounts
- Advertising
- Subscription services
- Professional Insurance
- Licensing and credentialing entities
- Any remaining elements of your business

The Professional Executor

A trusted licensed colleague who:

- Notifies clients
- Manages records & confidentiality
- Coordinates with supervisors, insurers, and landlords
- Should agree in writing to the role
- You may assign more than one
- Has Power of Attorney and a BAA

The Professional Executor

1. Durable Power of Attorney (DPOA)

- Purpose: A DPOA grants your chosen executor the legal authority to handle your professional affairs (access bank accounts, pay bills, deal with landlords, etc.) if you are incapacitated or deceased.
- How to do it:
 - Work with an attorney in your state to draft a Durable Power of Attorney that clearly specifies your executor's powers over your practice.
 - Be sure it covers business affairs as well as personal, or create a separate Business POA if needed.
 - Have it **signed, witnessed, and notarized** as required by your state law.
 - Keep copies with your professional will, executor, and attorney.

2. Business Associate Agreement (BAA)

- Purpose: Under HIPAA, if your executor will access Protected Health Information (PHI) (client records, EMR, billing), they must be treated as a Business Associate and sign a BAA with your practice entity.
- How to do it:
 - Draft a Business Associate Agreement (templates are widely available, or you can use one from HHS guidance).
 - Sign it as the “Covered Entity” (you/your PLLC or S-Corp).
 - Have your executor sign it as the “Business Associate.”
 - The BAA spells out their responsibilities: safeguarding PHI, only using it for the purposes of closing your practice, and returning/destroying records when the work is done.

The Professional Executor

Compensation:

Decide a flat or hourly rate to be charged to the estate for the executor service. It is a lot of work, and is not expected to be a free service. Include a fee to be paid if the executor is asked to provide copies of records.

Collaboration:

Authorize your executor to collaborate with your regular will executor or attorney as needed. They may need a death certificate in some instances.

Executive Team

- The executor is a clinician, maybe you are each other's executor
- The intermediary person in your life who engages the executor when necessary (ie, hands over the keys and passwords, and also the one who lets them know you're gone or incapacitated.

Fire-drill and Keeping Current

- Run a fire drill once at the beginning of the executor relationship
- Annually update the will and brief the executor.
- Pictures and diagrams help, if necessary

First Things First

- What kind of practice do you have, and what do you want to happen to it? (close, sell, transfer?) This is the “**Disposition Plan**”
- Who else co-owns the practice, and what arrangements are there with them?
- Do you have supervisees to manage as well as clients?
- If you plan to sell the business, be sure to have a professional valuation done
- If the business is being dissolved, be sure to close all accounts completely.

The Coversheet

- All of your business names & DBA's
- Professional identifiers, such as NPI, EIN, SS#, License #, Provider ID's for each insurance company, taxonomy, CAQH ID, account numbers, passwords
- All in one place, kept updated quarterly

Communication & Notification

Make a list and provide relationship and contact info and identify the preferred method of communication for each group or individual

- Clients & families
- Supervisors, supervisees
- Clinical colleagues, collateral contacts
- Insurance panels and billing entities
- Landlords or office managers



What to Say

- State your preferences about how much information is given to your contacts about what happened to you.
- The notice on your office door should not give details
- Do you want to leave your clients a message?
- Do you want your clients to be invited to your memorial services?

Re-Homing Clients

- Plans for transferring clients to new providers
- Special considerations for high-risk clients
- Warm handoffs when possible
- Supervisees and their clients need an immediate plan
too!

Your Office

- Keys, building access, alarm codes
- Computer logins & EMR passwords
- File cabinet access
- Closing out rental agreements, cleaning out the space (decide what to do with the furniture, etc)

Managing Records

- Provide to executor access to files (paper & electronic) with keys and passwords
- Provide clear instructions on confidentiality & HIPAA compliance
- State where and for how long records should be stored

Insurance & Licensure

- Professional liability insurance
- State licensure / OPR
- Credentialing with insurers (have a list of provider ID's)
- Deactivate CAQH account
- Deactivate the NPI

Banking, Billing, Claims, etc

- Have all banking information in coversheet, and grant your executor DPOA to access bank accounts.
- Executor must pay bills and close accounts for services, so possibly requiring debit card information and PIN
- Executor must submit final claims and track claims and payments to conclusion. Decide how you want them to handle copays and deductibles due from clients to your estate.
- Payments to employees and supervisees must be completed until their transfer to a new supervisor is complete, for continuity of care for their clients, and for fairness to them as workers.

Digital & Business Footprint

- Social media accounts & websites
- Professional advertising (Psychology Today, etc.)
- Online directories
- Email & voicemail instructions
- FAX
- Cloud storage
- Credit card processor

Subscriptions & Services

- Practice management systems
(SimplePractice, TherapyNotes, etc.)
- AI note-takers, telehealth platforms
- Office utilities, phone, internet

Case Scenario: Illness

You are suddenly hospitalized and unavailable for weeks

- How does your executor step in?
- What systems are already in place to guide them?

Case Scenario: Unexpected Death

- Who is notified first?
- What happens to client sessions that week?
- How do claims in process get completed and dealt with?
- How are your supervisees and employees paid?

Finalizing & Storing

- Name your executor in your disclosure and intake paperwork
- Store in a secure, accessible place
- Share with executor, supervisor, and trusted loved one
- Review & update yearly

Guided Walk-Through

Let's start with:

1. Who is your executor? Agreement, DPOA and BAA
2. Start your Master List of ID's and Passwords
3. What is the plan with your loved ones?
4. Who needs to be contacted first?
5. What is the order of operations from here?

Let this be an act of love

Thank You!

Questions before we wrap up?