

Professional Retirement: Best Practices for Psychologists

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1 Contact Hour (New York Board of Psychology)

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Joe is a forensic psychologist and attorney who maintains private practices in both law and clinical/forensic psychology, and has been a Risk Management Consultant for The Trust since 2012.

Joe has a keen interest in risk management/ethics and has presented, taught, and published in that area.

He is a Clinical Assistant Professor at the Hofstra University School of Medicine and is a Fellow of the APA.

Joe is an expert in domestic battering, mental state defenses, the civil commitment of sex offenders, and assessment in child custody/maltreatment.

Disclosures/Conflicts of Interest

The presenter does not have any conflicts of interest to disclose.

NOTE: The information presented in this webinar is not intended to provide legal advice or to substitute for the advice of an attorney, but rather to provide information about considerations when dealing personal and professional retirement.

Learning Objectives

1. Identify three different negative outcomes associated with failing to plan for your unexpected incapacity or death.
2. Describe three strategies for closing down a practice in anticipation of retirement.
3. List three essential components of a professional will.

PROFESSIONAL RETIREMENT



AllPosters

Why Should You Prepare For Retirement And/Or The Sudden Cessation Of Practice (Incapacity/Death?)

- Ethics Requirements
- Licensing Board Mandates
- Avoiding Malpractice Claims
- Sparing Your Loved Ones from Angst

Ethical Issues Regarding Retirement/Cessation of Practice

Relevant Principles and Sections of the Ethical Principles of Psychologists and
Code of Conduct (Continued)

3.04 Avoiding Harm

Psychologists take reasonable steps to avoid harming their clients/patients, students, supervisees, research participants, organizational clients, and others with whom they work, and to minimize harm where it is foreseeable and unavoidable.

Ethical Issues Regarding Retirement/Cessation of Practice

Relevant Principles and Sections of the Ethical Principles of Psychologists and Code of Conduct (Continued)

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 or by the client's/patient's relocation or financial limitations.

Ethical Issues Regarding Retirement/Cessation of Practice

Relevant Principles and Sections of the Ethical Principles of Psychologists and
Code of Conduct (Continued)

6.02 Maintenance, Dissemination, and Disposal of Confidential Records of Professional and Scientific Work

(c) 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.

Ethical Issues Regarding Retirement/Cessation of Practice

But These Are 'Just' APA's Ethics Mandates. I Don't Belong To APA. So, Who Cares?

States That Have Fully Adopted APA EC Into Their Licensing Regulations

Alabama	Alaska	Arkansas	California	Georgia	Idaho
Illinois	Louisiana	Maine	Mississippi	Nevada	New Hampshire
No. Dakota	Oklahoma	Oregon	Tennessee	Utah	Vermont
West Virginia	Wisconsin	Wyoming			

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Ethical Issues Regarding Retirement/Cessation of Practice

But These Are 'Just' APA's Ethics Mandates. I Don't Belong To APA. So, Who Cares?

States That Have Partially Adopted APA EC Into Their Licensing Regulations

Partially = as a guide; implicitly/vaguely; as long as not inconsistent with the State's law/regs);

Arizona	Colorado	Indiana	Iowa	Massachusetts
Minnesota	Missouri	North Carolina	Ohio	Rhode Island
South Carolina	Texas			

Ethical Issues Regarding Retirement/Cessation of Practice

But These Are 'Just' APA's Ethics Mandates. I Don't Belong To APA. So,
Who Cares?

States That Have NOT Adopted APA EC Into Their Licensing Regulations

Connecticut	Delaware	District of Columbia	Florida	Hawaii
Kansas	Kentucky	Maryland	Michigan	Montana
Nebraska	New Jersey	New Mexico	New York	Pennsylvania
Virginia	Washington			

Licensing Board Mandates to Prepare for Retirement/Cessation of Practice

Only Some State Licensing Boards Have Such Mandates

- Requirements to “Prepare” Without Further Specification
- Requirements to Designate Who Will Assist in Event of Psychologist Incapacity/Death
- Requirement to Notify the Board of Who Will Assist in Event of Psychologist Incapacity/Death

Licensing Board Mandates to Prepare for Retirement/Cessation of Practice

Requirements to “Prepare” Without Further Specification

New Jersey

- The licensee shall establish procedures for maintaining the confidentiality of client records in the event of the licensee's relocation, retirement, death, or separation from a group practice, and shall establish reasonable procedures to assure the preservation of client records.

Licensing Board Mandates to Prepare for Retirement/Cessation of Practice

Requirement to Designate Who Will Assist in Event of Psychologist Incapacity/Death

Colorado

- If the psychologist is not available to handle her/his own records, the psychologist and/or his estate shall designate an appropriate person to handle the disposition of records.
- A plan for the disposition of records shall be in place for all psychologists for the following conditions:
 - (1) Disability, illness or death of the psychologist;
 - (2) Termination of the psychologist's practice.

Licensing Board Mandates to Prepare for Retirement/Cessation of Practice

Requirement to Notify the Board in Advance of Who Will Assist in the Event of Psychologist Incapacity/Death

Ohio

- Licensees shall make plans in advance to facilitate appropriate transfer and to protect the confidentiality of records in the event of the psychologist's ...withdrawal from positions or practice.
- Each licensee shall report to the board on the biennial registration (renewal) form the name, address, and telephone number of a psychologist ...or other appropriate person knowledgeable about transfer and custody of records and responsibility for records in the event of the licensee's absence, emergency or death.

Licensing Board Mandates to Prepare for Retirement/Cessation of Practice

General Requirements in States That Have Mandates Related to Closing a Practice (a mix of one or more, depending on the state)

1. Public Notification of Closure of Practice (newspaper announcement)
 - Usually requiring specification of where record requests can be sent
2. Notification to “prior patients” (defined in various ways by the state; usually a letter)
 - Usually requiring specification of where record requests can be sent
3. Designation of a “Professional Executor” to handle records
 - Sometimes required in advance/sometimes at time of closure

Other Reasons to Prepare for Retirement/Sudden Cessation of Practice

- Avoiding Malpractice Claims
 - Can a Deceased Psychologist's Estate be Sued for Malpractice?
- Sparing Your Loved Ones from Angst
 - Sad Story of Dr. UnPrepared

Preparation for Retirement/Cessation of Practice

1. Know your state laws and regulations

- record retention requirements
- is notice to public and/or past patients about my closing necessary?

2. Know your professional community

- other professionals who can take referrals or assist for period of time
- an attorney and accountant to help you wind up your practice

3. Have a professional will that covers necessary steps should you become incapacitated

Preparation for Retirement/Cessation of Practice

4. Organize your Records

- a. secure record storage

- b. smooth record retrieval

- organized and accessible list of current patient contacts and treatment files

5. Include information in the informed consent about events that might occur should psychologist become suddenly unable to carry out business (e.g., a person will step in, notify, refer, etc.)

Actions for Retirement/Cessation of Practice

- Notify your licensing board of retirement date (mandated in some states)
 - Ask that they keep your address on file
 - Ask if you can update that address if you move during retirement
 - Decide what to do about your license (surrender; inactive status)
- Tell your patients about your decision to cease practice and stop taking new cases.
- Notify current clients verbally and by letter.
- Change your outgoing voice-mail message and your e-mail to reflect your inability to take new clients and/or the winding up of your practice

Notifying Former Patients?

- Tell your patients about your decision to cease practice and stop taking new cases.
- Notify current clients verbally and by letter.
- Change your outgoing voice-mail message and your e-mail to reflect your inability to take new clients and/or the winding up of your practice

Sample Letter to Former Patients About Closing a Practice

Dear [Patient]:

Our records indicate that you have been a patient of record at this psychologist office. Due to _____ (give a reason, if possible) __ this office will be closing on _____ (date) __.

It has been our pleasure to serve you and we thank you for allowing us to help you. If you decide at any point to resume mental health treatment, you may want to ask friends or relatives for recommendations for good psychologists, or contact the local county or state psychological association.

With your authorization, copies of the pertinent information from your record can be made available to a mental-health professional of your choosing. Please do not hesitate to telephone us during normal business hours before the last scheduled day, if you have questions.

After the closing date, all inquiries about the records or other matters should be directed to _____ (name of custodian) __ located at _____.

Again, thank you for having been a part of this practice.

What to Say to Your Current Patients?

- Patients' needs are of primary importance
- Clear and honest, but tailored to pt's needs
- Consistent with your treatment approach
- Timing—all patients, some patients?

What to Say to Your Current Patients?

- Expect a variety of reactions from clients
 - inquisitive; no reaction; concern; distress
- Anticipate and deal with a variety of responses in yourself, which may vary by patient
- Consolidate gains made in treatment and lay out future treatment directions for patient to consider
- Notify the other health professionals who work with your patients

Actions for Retirement/Cessation of Practice (continued)

- Look at your lease and determine how much notice is necessary to terminate it; contact landlord and notify and negotiate if there is a lot of time left and/or seek subletter.
- Notify insurance companies for which you are a provider and deactivate your listing or indicate not taking new patients.
- Submit claims and collect any outstanding debts/arrears.

Actions for Retirement/Cessation of Practice (continued)

- Consult with an attorney and accountant to prepare yourself if necessary
- Begin to formally close your business (This can be more complicated if you are an LLC or PC and may involve specific legal steps)
- Contact your professional liability insurance carrier regarding tail coverage

Actions for Retirement/Cessation of Practice (continued)

- Make arrangements for secure record storage at a convenient location for you or the person who will be handling the record requests.
- Can I scan paper records and then destroy the paper?
- Submit a change-of-address notice to the post office; consider renting a post-office box to handle future mail

Record Retention Guidelines

- State Regulations
- Medicare regulations
 - Medicare = 5 yrs, Medicare Advantage = 10 yrs
- Should you keep records longer than the state or Medicare required duration?

Record Retention Guidelines

- Does HIPAA regulate record retention?
 - Not really
- Destroying Records
 - Not as easy as you might think

Business Record Retention Guidelines

*Retention period is the number of years from the date of the tax return filed.
All information is general only and not offered as legal advice.*

Record Type	Retention Period
Tax & Financial Files**	
Accounts payable ledger & schedule	7 yrs
Accounts receivable ledger & schedule	7 yrs
Audit/accountant annual report	Permanently
Bank statements (monthly)	3 yrs
Capital asset records	Permanently*
Cash receipt journal	Permanently*
Checks (cancelled – see exception below)	7 yrs
Checks (cancelled for important payment – i.e. taxes, purchases of property; file with transaction)	Permanently
Contracts and leases (expired)	7 yrs
Contracts, mortgages & leases (still in effect)	Permanently
Deeds, mortgages & bills of sale	Permanently
Deposit books & slips (duplicate)	3 or 6 yrs*
Depreciation schedules	Permanently
Financial statements (yearly)	Permanently
General ledgers	Permanently
Income tax returns, worksheets and related documentation	Permanently
Insurance policies (expired)	3 yrs
Insurance records, current accident reports, claims, policies, etc.	Permanently
Inventory of products, materials & supplies	7 yrs
List of accounts (assets, liabilities, revenue, expenses, etc)	Permanently
Petty cash vouchers	3 yrs
Retirement plan records (documents, investment records, allocations)	Permanently
Vouchers for payments to vendors, employees, etc. (includes allowances & reimbursement of employees, etc. for travel & entertainment expenses)	7 yrs
Employment Records	
Applications (not hired)	3 yrs
Personnel records (after termination)	7 yrs
Payroll records, taxes & summaries	7 yrs
Time sheets, cards or time clock	7 yrs
Training manuals	Permanently
Workers compensation records	5 yrs
Patient	
Daysheets, schedule	7 yrs
Patient billing/payment or fee statements	7 yrs
Third-party insurance claims, records & correspondence (EOBs)	7 yrs
Other**	
Correspondence, routine with patients or vendors	2 yrs
Correspondence (legal or important)	Permanently
Legal agreements (partnership, associateship)	Permanently
Medicare billing records	5-10 yrs

Actions for Retirement/Cessation of Practice (continued)

- Close your office, sell or donate furniture and office fixtures, be careful to make sure that equipment that contains or holds confidential information is treated to wipe out that confidential information
- Cancel professional memberships, journals, etc. that will not be needed

What Happens If You Die or Become Suddenly Incapacitated?

- Consider the potential impact on clients should their psychotherapist become incapacitated or die.
- Who would contact patients and let them know?
- Who would coordinate a referral to another professional?
- Who would coordinate the transfer of treatment records?

What Happens If You Die or Become Suddenly Incapacitated?

- Your professional duties continue even when you are incapacitated by illness or death.
- You remain vulnerable to board complaints and/or lawsuits even when ill, or lawsuits when you have died.
- Your estate (usually represented by your next of kin) remains liable for defending lawsuits and paying judgments against you.

What Happens If You Die or Become Suddenly Incapacitated?

The Solution: A Professional Will

A PW is a professional directive that gives authority and instructions to a Professional Executor about your psychology practice in the event of your incapacitation or death.

The Professional Executor's role is to take ethically and clinically appropriate actions to close your practice and deal with future demands made on your practice.

Example of a Professional Will

APA Services has prepared a template professional will and instructions that can be found here:

<https://www.apaservices.org/practice/business/management/sample-professional-will.pdf>

This Sample Professional Will is just one of many ways to make a Professional Will. Each individual psychologist should draft a Professional Will that is appropriate to his/her professional situation.

Key Issues in Making a Professional Will

- Choosing the Right Professional Executor
- Prior Informed Consent to your Patients about your Professional Will/Executor
- Location of Professional Will

Elements of a Professional Will

- Name and Contact Information for Your Professional Executor
- Statement Giving Authority to Your Professional Executor
- Instructions to my Professional Executor

Final Thoughts

- People ask me what I'd most appreciate getting for my eighty-seventh birthday. I tell them, a paternity suit.

-- *George Burns*

- Retirement: Twice the spouse, half the money!

— *Unknown wise retired married person*

- "It's not that I'm afraid to die--I just don't want to be there when it happens."

-- *Woody Allen*

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Q&A With Dr. Joe Scroppo



- We will now discuss questions that were submitted via the Q&A feature throughout the presentation.
- Due to time constraints, we will not be able to address every question asked.