

# *Planning for the End:*

## Professional Wills and the Responsibility of the Professional Executor

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# Agenda

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- ▶ Part 1: Introduction
- ▶ Part 2: Planning for Incapacity and Death
- ▶ Part 3: Acting as a Professional Executor

# Part 1: Introduction

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# Definitions

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- ▶ “Professional Will”
- ▶ “Professional Executor”

# Why have a “Professional Will”?

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- ▶ Ethical obligations
  - ▶ Compliance with Canadian Code of Ethics for Psychologists is a requirement of the Saskatchewan College of Psychologists
    - ▶ Responsible Caring
      - ▶ Protect and promote the welfare of clients
      - ▶ Continuity of care

# Why have a “Professional Will”?

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- ▶ Legal obligations
  - ▶ The Health Information Protection Act (HIPA)
    - ▶ “Trustees” of patient records
      - ▶ Continuing duty to protect health records

# Why have a “Professional Will”?

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- ▶ Practical considerations
  - ▶ HIPA transfer of responsibility for patient records to personal representative on death
    - ▶ Burden to family
    - ▶ Potential issues around informed consent

# QUESTIONS

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# Part 2: Creating a Plan

## Planning for Incapacity and Death

# Contents of a “Professional Will”

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- ▶ A “Professional Will” is a PLAN for the continuation of care of your clients and the transfer of trusteeship to a chosen “Professional Executor”
- ▶ This Plan consists of the following components:
  - ▶ Agreement
  - ▶ Power of Attorney
  - ▶ Will

# The Agreement

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- ▶ Agreement between you and your “Professional Executor”
  - ▶ Continuation of practice during temporary incapacity
  - ▶ Winding down of practice after permanent incapacity or death

# The Agreement

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- ▶ Choosing a “Professional Executor”
  - ▶ Must be a “trustee” (HIPA);
  - ▶ Preferably a member of the College;
  - ▶ Trust to practice as you would;
  - ▶ Personal characteristics:
    - ▶ Ability to handle stress;
    - ▶ Detail oriented;
    - ▶ Organized;
    - ▶ Efficient

# The Agreement

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- ▶ Client Records
  - ▶ Where are they located?
  - ▶ How will your Professional Executor access them?
  - ▶ Keep records up to date

# The Agreement

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- ▶ Schedule/Appointments
  - ▶ How do you make your schedule?
  - ▶ Where is it kept/how is it accessed?
  - ▶ Keep schedule up to date

# The Agreement

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- ▶ Notification of Clients
  - ▶ Process to follow
  - ▶ Consider how clients should be notified
  - ▶ Ensure informed consent forms reflect the Plan

# The Agreement

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- ▶ Notification of Others
  - ▶ Who else needs to be notified?
    - ▶ The College
    - ▶ Insurers
    - ▶ EFAP contractors
    - ▶ Etc.



# The Agreement

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- ▶ Managing the Practice
  - ▶ Accessing the office
  - ▶ Accessing voicemail
  - ▶ Accessing website

# The Agreement

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- ▶ Financial Matters
  - ▶ Billing procedures
  - ▶ Accessing bank accounts
  - ▶ Expenses of practice
  - ▶ Bookkeeper/Accountant

# The Agreement

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- ▶ Winding down
  - ▶ Manner in which “Professional Executor” will wind down practice
    - ▶ Timing
    - ▶ Closing physical office

# The Agreement

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- ▶ Compensation
  - ▶ Direct nature of compensation for “Professional Executor”
  - ▶ Direct manner of reimbursement of expenses paid by “Professional Executor”

# The Power of Attorney

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- ▶ A Power of Attorney grants a “Professional Executor” authority to act in your place in the event of incapacity
- ▶ Gives effect to the Agreement upon your incapacity

# The Power of Attorney

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- ▶ Enduring - Remains valid in the event you lose capacity
- ▶ Contingent - only comes into effect in the event you lose capacity
  - ▶ How is incapacity to be determined?
  - ▶ Who will determine incapacity?

# The Power of Attorney

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- ▶ Establish compensation for “Professional Executor”
  - ▶ Must be in harmony with Agreement

# The Power of Attorney

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- ▶ Other considerations:
  - ▶ Will your financial institution(s) recognize this document?
  - ▶ Will you authorize your “Professional Executor” to deal with CRA?



# The Will

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- ▶ A Will appoints a “Professional Executor” to serve as your representative upon your death
- ▶ Gives effect to the Agreement upon your death

# The Will

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- ▶ Appoint “Professional Executor”
- ▶ Identify funds to be used for expenses to wind down practice
- ▶ Establish compensation for “Professional Executor”
  - ▶ Must be in harmony with Agreement

# The Will

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- ▶ Don't overlook the need for a "personal" Will!
- ▶ "Professional Will" must be in harmony with personal Will

# QUESTIONS

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# Part 3: Executing the Plan

## Acting as a “Professional Executor”

# Executing the Plan

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- ▶ Immediate Actions
- ▶ Short-Term Actions
- ▶ Long-Term Actions

# Immediate Actions

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- ▶ Establish access to records
- ▶ Obtain access to schedule
- ▶ Establish and implement notification procedures:
  - ▶ Physical office
  - ▶ Voicemail
  - ▶ Website
  - ▶ Email

# Immediate Actions

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- ▶ Liaise with family
  - ▶ Memorial service



# Short-Term Actions

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- ▶ Continue notifying clients
- ▶ Assist clients with transition
- ▶ Make referrals as necessary
- ▶ Secure closed records

# Short-Term Actions

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- ▶ Liaise with family
  - ▶ Access to funds required for practice
  - ▶ Personal effects

# Short-Term Actions

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- ▶ Notify the College
- ▶ Establish access to bank accounts
- ▶ Establish access to financial records

# Long-Term Actions

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- ▶ Complete transition of clients and records to other health care providers
- ▶ Processing closed records
  - ▶ Transferring to designated; or
  - ▶ Arrange for appropriate storage

# Long-Term Actions

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- ▶ Wind down physical practice
- ▶ Work with bookkeeper, accountants, financial institutions to settle financial matters related to practice

# QUESTIONS

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Thank you!

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