Planning for the End:

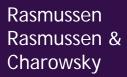
Professional Wills and the Responsibility of the Professional Executor

Merrilee Rasmussen, Q.C. & Ciara McIlwaine



Agenda

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



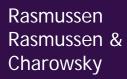
Part 1: Introduction

Definitions

- ► "Professional Will"
- ▶ "Professional Executor"

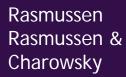
Why have a "Professional Will"?

- ► 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



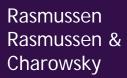
Why have a "Professional Will"?

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



Why have a "Professional Will"?

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



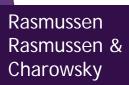
QUESTIONS

Part 2: Creating a Plan

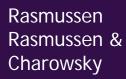
Planning for Incapacity and Death

Contents of a "Professional Will"

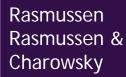
- ► A "Professional Will" is a PLAN for the continuation of care of your clients and the transfer of trusteeship to a chosen "Professional Executor"
- ► This Plan consists of the following components:
 - ► Agreement
 - ► Power of Attorney
 - ► Will

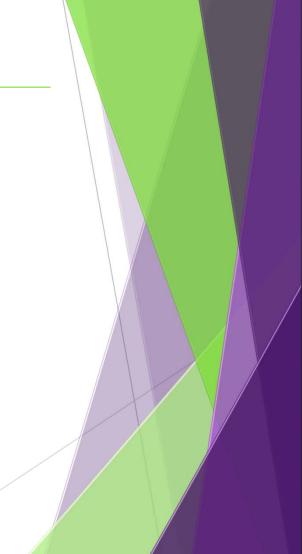


- ► Agreement between you and your "Professional Executor"
 - ► Continuation of practice during temporary incapacity
 - ► Winding down of practice after permanent incapacity or death

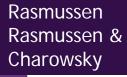


- ► Choosing a "Professional Executor"
 - ▶ Must be a "trustee" (HIPA);
 - ▶ Preferably a member of the College;
 - ► Trust to practice as you would;
 - ▶ Personal characteristics:
 - ► Ability to handle stress;
 - ▶ Detail oriented;
 - ▶ Organized;
 - **▶** Efficient

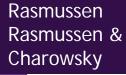




- ► Client Records
 - ► Where are they located?
 - ► How will your Professional Executor access them?
 - ► Keep records up to date



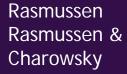
- ► Schedule/Appointments
 - ► How do you make your schedule?
 - ▶ Where is it kept/how is it accessed?
 - ► Keep schedule up to date



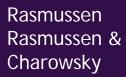
- ► Notification of Clients
 - ▶ Process to follow
 - ► Consider how clients should be notified
 - ► Ensure informed consent forms reflect the Plan

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

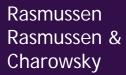
- ► Managing the Practice
 - ► Accessing the office
 - ► Accessing voicemail
 - ► Accessing website



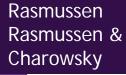
- ► Financial Matters
 - **▶** Billing procedures
 - ► Accessing bank accounts
 - ► Expenses of practice
 - **▶** Bookkeeper/Accountant



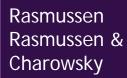
- ▶ Winding down
 - ► Manner in which "Professional Executor" will wind down practice
 - **▶** Timing
 - ► Closing physical office



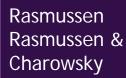
- ► Compensation
 - ► Direct nature of compensation for "Professional Executor"
 - ▶ Direct manner of reimbursement of expenses paid by "Professional Executor"



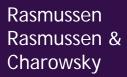
- ► A Power of Attorney grants a "Professional Executor" authority to act in your place in the event of incapacity
- ► Gives effect to the Agreement upon your incapacity



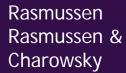
- Enduring Remains valid in the event you lose capacity
- Contingent only comes into effect in the event you lose capacity
 - ► How is incapacity to be determined?
 - ► Who will determine incapacity?



- ► Establish compensation for "Professional Executor"
 - ► Must be in harmony with Agreement

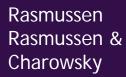


- ▶ Other considerations:
 - ► Will your financial institution(s) recognize this document?
 - ► Will you authorize your "Professional Executor" to deal with CRA?



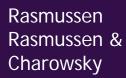
The Will

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



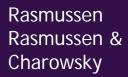
The Will

- ► 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

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



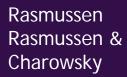
QUESTIONS

Part 3: Executing the Plan Acting as a "Professional Executor"

Rasmussen Rasmussen & Charowsky

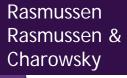
Executing the Plan

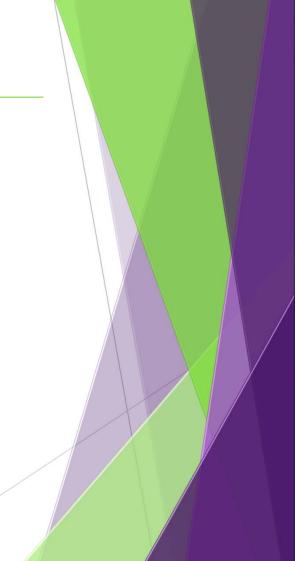
- ► Immediate Actions
- ► Short-Term Actions
- ► Long-Term Actions



Immediate Actions

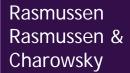
- ► Establish access to records
- ▶ Obtain access to schedule
- ► Establish and implement notification procedures:
 - ► Physical office
 - ▶ Voicemail
 - ▶ Website
 - ► Email

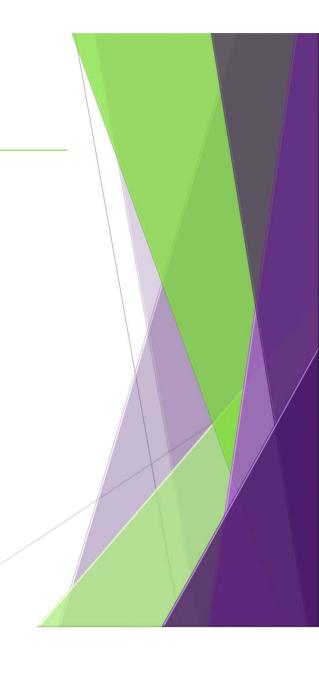




Immediate Actions

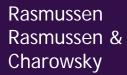
- ► Liaise with family
 - ► Memorial service





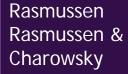
Short-Term Actions

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



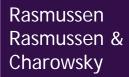
Short-Term Actions

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



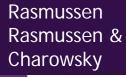
Short-Term Actions

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



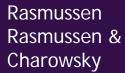
Long-Term Actions

- ► 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

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



QUESTIONS

Thank you!