

# **NOTEBOOK ON ETHICS, STANDARDS AND LEGAL ISSUES FOR COUNSELLORS AND PSYCHOTHERAPISTS**

## **Professional Wills for Counsellors and Psychotherapists**

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In 2002 when several members of the San Diego Psychological Association (SDPA) died unexpectedly their colleagues and spouses were left with a responsibility for which they were not prepared. They had to notify the members' clients of the death of these members, gain access to all relevant documents related to their practices, and address associated ethical and legal issues. They were challenged by problems which can be encountered by colleagues and family members whenever a professional counsellor or psychotherapist dies or suddenly becomes incapacitated. For example, computer passwords and access codes were unknown and some client records, appointment books, and financial records were not readily accessible. I have been consulted with respect to somewhat similar events in Canada. A core recommendation from the task group established by SDPA to provide advice on matters related to the retirement, death, or incapacitation of its members was that all its members should have a professional will.

In 2003 in my **Notebook** in **Cognica** entitled ***When Counsellors Cease to Practice***, I did address our responsibility to prepare for the cessation of our professional practice, whatever the reason for it, and the many associated obligations. So, I am now returning to this important matter with a recommendation that members engaged in private professional practice consider establishing a professional will. I have now done so as have a number of colleagues with whom I work. In fact, the *Newfoundland and Labrador Board of Psychology* recently offered a teleconference seminar delivered by a lawyer in which we were all encouraged to establish such a will and given advice as to what it should cover.

A professional will should be separate from a private family will. It gives authority and direction to a will executor as to how to fulfill ethical and legal obligation when a practitioner dies or becomes incapacitated. The most obvious person to select for an executor is another mental health professional who is already familiar with the nature of our professional work and associated obligations. Of course, it is wise to consult with a lawyer when developing such a will. Such a will should cover topics such as:

### **Client Records:**

The executor will need to know where records are kept and how to gain access to them. The mental health executor is likely to be familiar with the ethical guidelines regarding how long records should be kept, confidentiality, record access, and their security and so forth. Our professional records are any physical recording of information related to our professional services to our clients

### **Financial Records:**

There should be access to these records so that any outstanding financial matters can be appropriately managed.

**Client Contact Information and Appointment Records:**

These may include information about access codes and computer passwords. This may also include access to relevant e-mail and voice mail access codes.

**Client Notification:**

Some members may want their clients to be notified by phone whenever possible, others may prefer a written notification and it could also include an announcement in a local newspaper. Others might leave the choice of methods of notification up to the executor.

**Liability Insurance:**

Our liability insurance carrier will expect to be notified as soon as possible about a member's death or incapacitating illness.

Whether we establish a professional will or not we do have an ethical obligation to make provisions for the unexpected ending of a professional practice because of our death or incapacitation. Meeting this obligation requires us to acknowledge our human vulnerability and mortality and, at least, suspending any illusion to the contrary about this aspect of our human condition. I hope that this exercise does not evoke too much existential anxiety!

Reference: Kenneth Pope and Melba Vasquez have a chapter in their book entitled *Therapists Guide for Preparing a Professional Will* (In **Ethics in Psychotherapy and Counselling: a Practical Code**, 2011)