

Board of Psychology

Preparing for Expected and Unexpected Departures from the Operation of a Psychological Practice

This document does not attempt a comprehensive coverage of an extensive reference literature that is now available to guide psychologists in planning for expected and unexpected departures from operating a psychological practice, including the psychologist's own death. Even to list this relevant literature is beyond the scope of this guidance document. Rather, the purpose of this document is to emphasize the critical importance of this advance planning, outline essential practice closure preparatory considerations, and highlight several selected documents (see reference list) that provide further thoughtful detail regarding this topic. Much of the content in this document was drawn from the *Guidelines for Closing a Psychological Practice* (Association for State and Provincial Psychology Boards, 2020), and psychologists are always advised to engage in professional peer consultations with other psychologists regarding practice management decisions.

Pertinent Virginia Law

Psychologists preparing for expected and unexpected suspensions of practice must adhere to several pertinent Virginia statutes:

§ 54.1-2405. Transfer of patient records in conjunction with closure, sale, or relocation of practice; notice required.

A. No person licensed, registered, or certified by one of the health regulatory boards under the Department shall transfer records pertaining to a current patient in conjunction with the closure, sale or relocation of a professional practice until such person has first attempted to notify the patient of the pending transfer, by mail, at the patient's last known address, and by publishing prior notice in a newspaper of general circulation within the provider's practice area, as specified in § 8.01-324. The notice shall specify that, at the written request of the patient or an authorized representative the records or copies will be sent, within a reasonable time, to any other like-regulated provider of the patient's provided to the patient pursuant to § 32.1-127.1:03. The notice shall also disclose whether any charges will be billed by the provider for supplying the patient or the provider for supplying the patient or the provider chosen by the patient with the originals or copies of the patient's records. Such charges shall not exceed the actual costs of copying and mailing or delivering the records.

B. For the purposes of this section:

"Current patient" means a patient who has had a patient encounter with the provider or his professional practice during the two-year period immediately preceding the date of the record transfer.

"Relocation of a professional practice" means the moving of a practice located in Virginia from the location at which the records are stored at the time of the notice to another practice site that is located more than 30 miles away or to another practice site that is located in another state or the District of Columbia.

32.1-127.1:03. Health records privacy.

Readers should consult this Virginia statute directly at:

<http://law.lis.virginia.gov/vacode/title32.1/chapter5/section32.1-127.1:03/>

General Planning Considerations for Practice Suspension/Closure**A. Temporary Withdrawal from Practice**

When psychologists know they will temporarily withdraw from practice, this withdrawal should be made clear to clients/patients as soon as possible and no later than the outset of the psychologist's absence. When the psychologist returns to practice, clients/patients should be so informed.

B. Permanently Closing a Practice

Planning for permanently closing a psychological practice begins with the identification of a professional executor who, in essence, is given access to all critical aspects of the practice as the practice custodian. Specifically, the professional executor will need a specific advance directive and access to all hard copy and electronic files/records, any needed keys, and any needed software/website user-names, passwords, and two-factor authentication details; this information and these associated accessibilities will need to be updated annually. Consistent with the psychologist's responsibility not to abandon clients/patients, the specific naming of a professional executor or team of executors who knows of and has agreed to this role ensures that clients/patients have access to continuing care and, importantly, to their health records. A professional will, even a digital will, is strongly recommended as a way to maintain these protections in the event of the psychologists' unanticipated death or disabling health condition.

Essential Practice Closure Activities

At the time of a practice closure, the psychologist and/or the professional executor should take these actions:

- Immediately secure all client/patient records,
- Identify and catalogue all clients/patients' records,
- Arrange for the secure retention of records in keeping with state legal mandates regarding healthcare record keeping (see § 32.127.1:03 and Board of Psychology standard of practice regulations)
- Determine outstanding client/patient issues,
- Provide written notification to clients/patients (see § 54.1-2405)
- Provide written notice to parties of all open contracts, professional organizations, and the Virginia Board of Psychology,
- Manage any business associate agreements involved in the maintenance of electronic records, including any timed account deletions of inactive accounts,
- Facilitate access to ongoing services for active patients,

- Facilitate access to patient records as necessary, following all relevant Virginia and statutory mandates,
- Document all steps taken.

References

American Psychological Association (2007). Record keeping guidelines. American Psychologist, 62, 993-1004. <https://dx.doi.org/10.1037/0003066X.62.9.993>

American Psychological Association (2017). Ethical principles of psychologists and code of Conduct. (2002, amended effective June 1, 2010 and January 1, 2017). <https://www.apa.org/ethics/code/>

Association of State and Provincial Psychology Boards (2020). Guidelines for closing a psychological practice: April 2020 (*Approved by the ASPPB Board of Directors April 24, 2020*).

Lustgarten, S.D., Sinnard, M.T., & Elchert, D.M. (2020). Data after death: Record keeping considerations for unexpected departures of mental health providers. *Professional Psychology: Research and Practice*, 51, 362-370. <http://dx.doi.org/10.1037/pro0000334>