

Folding Up Your Shingle: Termination of Practice

By Jimelle Rumberg, M.A. Executive Director

In May, two calls were received at WVPA from psychologists wanting to know what to do with client records upon their impending retirement. Knowing that WVPA did not have an information file on that topic, a call to the WVBEP was made to address the question. Unfortunately, other than the Article 20 Health Care Records §16-29-1 *Copies of health care records to be furnished to patient*, the State Code does not address disposition of psychological records other than: *a) In the case of a patient receiving treatment for psychiatric or psychological problems, a summary of the record shall be made available to the patient, his authorized agent or authorized representative following termination of the treatment program.* Please view the WV legislative web site under the State Code for further details. <http://www.legis.state.wv.us>. Since this language was developed well-before HIPAA implementation, it is unclear exactly what should be communicated to inquiring callers.

One item that warrants a reminder is to not wait until the last minute to make provisions for your client's records. A sudden incapacitation or untimely death could be devastating for your clients and family. As the clinician, you would not be available to complete appropriate termination of service with the client. An ethics column in the North Carolina Psychologist (March/April, 2002) addresses some important details:

“Establish another colleague as a “designated” individual to carry out a plan should sudden termination of a practice occur. This written plan should be previously discussed and agreed upon with your colleague. Among the items suggested considering with this colleague are notification of past and present clients, physician notification (especially when the client is taking psychoactive medications), notices to licensing boards, state and national professional association, consultants or supervisors, various insurance companies (liability insurance carrier), landlord/tenants, etc. A prepared letter of notification could serve many of these functions. It is best for current clients to be notified immediately, with the colleague serving as a temporary consultant/therapist to them until appropriate arrangements can be made for further services if indicated.”

Trying to ascertain more reading on this subject, it was found that professional literature did not address the issue. The Kentucky Psychological Association's Legal Resource Archive did offer the following recommendation:

“Psychologists who have such files should specify disposition instructions in their wills. Other alternatives would be to instruct one's spouse or executor to seek advice from others on records management.”

As baby boomer psychologists advance towards retirement, thought must be given to your practice and how you will handle your record matters within your practice. The KPA was faced with a complicated and sensitive situation upon the death of one of its members. The KPA received a telephone call from one of the psychologist's former clients, requesting information about treatment records and continuity of care. The KPA staff scanned obituaries for survivors, the phone company for unlisted phone numbers and local banks for old account information. After many hours, the investigation finally produced the name and address of the administratrix of the psychologists' estate. While this was a valiant service effort for an association to assume for a deceased member, record disposition planning is the responsibility of the licensee. Associations should try to document current procedural best-practice items to provide reference information to assist members. This article is an attempt to inform WVPA members of what can be done well before you fold up the shingle on your office door. Make a copy for your practice files and incorporate the suggestions. Review all professional contracts and make other collegial arrangements so that your clients are protected in any eventuality. Your attorney can assist you in incorporating proper language and compliance with the APA Ethical Principles of Psychologists and Code of Conduct, which are listed below for your convenience.

The APA Ethical Principles of Psychologists and Code of Conduct cover this subject in three areas:

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

6.01 Documentation of Professional and Scientific Work and Maintenance of Records

Psychologists create, and to the extent the records are under their control, maintain, disseminate, store, retain, and dispose of records and data relating to their professional and scientific work in order to (1) facilitate provision of services later by them or by other professionals, (2) allow for replication of research design and analyses, (3) meet institutional requirements, (4) ensure accuracy of billing and payments, and (5) ensure compliance with law. (See also Standard 4.01, Maintaining Confidentiality).

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

(A) Psychologists maintain confidentiality in creating, storing, accessing, transferring, and disposing of records under their control, whether these are written, automated, or in any other medium. (See also Standards 4.01, Maintaining Confidentiality, and 6.01, Documentation of Professional and Scientific Work and Maintenance of Records.)

(B) If confidential information concerning recipients of psychological services is entered into databases or systems of records available to persons whose access has not been consented to by the recipient, psychologists use coding or other techniques to avoid the inclusion of personal identifiers.

(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. (See also Standards 3.12, Interruption of Psychological Services, and 10.09, Interruption of Therapy.)

10.09 Interruption of Therapy

When entering into employment or contractual relationships, psychologists make reasonable efforts to provide for orderly and appropriate resolution of responsibility for client/patient care in the event that the employment or contractual relationship ends, with paramount consideration given to the welfare of the client/patient. (See also Standard 3.12, Interruption of Psychological Services.)

References:

American Psychological Association. (2002). Ethical principles of psychologists and code of conduct. *American Psychologist*, 57, 1060-1073.

Drogin, E.Y. & Barrett, C.L. (1994). Till death do us part: providing for disposition of Psychological Records. *The Kentucky Psychologist*, Retrieved May 21, 2003, from <http://www.kpa.org/login.cfm/kpaguest>.

Krasner, P.R. (Ed). (2002, March/April). *Sudden termination of your practice* (Available from the North Carolina Psychological Association, 1004 Dresser Court, Suite 106, Raleigh, NC 27609-7353)