

Closing a Practice at Short Notice: What Every Psychiatrist and Their Family Should Know

RESOURCE DOCUMENT

Approved by the Joint Reference Committee, May, 2007

Approved by the Council on Psychiatry & Law, March, 2006

"The findings, opinions, and conclusions of this report do not necessarily represent the views of the officers, trustees, or all members of the American Psychiatric Association. Views expressed are those of the authors." -- *APA Operations Manual*.

Acknowledgements

1. Introduction
2. Using the Packet
3. Immediate Steps:
 - Clinical Issues
 - Business Issues
 - Regulatory Issues
4. Medical Records:
 - General Information
 - Summary HIPAA Privacy Rule
 - Practical Guidance for the Transfer, Release and Destruction of Patient Records
 - Tracking Patient Record Disposition
5. Personal Needs of the Physician's Family/Colleagues
6. Appendices:
 - A. Worksheet
 - Physician/Practice Worksheet
 - Sample Patient Record Disposition Worksheet
 - B. Templates
 - Letters
 - Patient
 - Businesses
 - Release of Information Forms
 - Patient Records
 - Psychotherapy Notes
 - C. References
 - HIPAA
 - Articles
 - Websites

ACKNOWLEDGEMENTS

APA Corresponding Committee on Physician Health, Illness, and Impairment; James T. Hilliard, Esq. Connor and Hilliard P.C.; APA Council on Member and District Branch/State Association Relations; Staff of the APA Office of District Branch/State Association Relations; Executive Directors of APA District Branches/State Associations; Mrs. Beverly Everett, (widow of Dr Henry Everett, member of the APA and the Massachusetts Psychiatric Society until 2003); Professional Risk Management Services, Inc.

1. Introduction

A psychiatrist's death or incapacity raises immediate problems in the areas of clinical coverage, administrative responsibilities, and medical records. The time to plan for this situation is, of course before such an emergency occurs. By developing the attached guide, the APA is responding to the members' needs by offering a member benefit that extends to the psychiatrist's family and colleagues. This document was written to provide relevant and practical guidance to both the psychiatrist and his/her colleagues and family.

The information included in this guide will assist with the planning and risk management at the practice level, in the event of an emergency closing. It will offer guidance to family and colleagues during a time of anxiety and loss. By completing the attached worksheets, the psychiatric physician will have prepared essential information, in advance, and will have provided a plan for implementation in an emergency.

It should be noted that, though useful for those who may be planning to close their practice, this packet does not specifically cover matters pertaining to a planned closure, transfer, sale of a clinical practice, or other matters that would be applicable to retirees. In this instance, legal and financial advice should be accessed, within a timetable to suit the individual physician. Other resources on planned closure and retirement are listed in the reference section at the end of this packet.

In addition it should be emphasized that this is not intended to replace the advice of a lawyer with appropriate expertise and experience. This is an area of the law that is complicated and in certain aspects differs greatly from one jurisdiction to another. But following the advice in this pamphlet should dramatically reduce the time needed by your attorney to gather information and begin to understand the special aspects of a psychiatric practice, the need for frequent questions to family and staff during a stressful time, and the time needed to complete the transaction.

2. Using the Packet

- This packet is designed specifically for *emergency closings*—e.g. in the case of accident, serious illness/incapacity, or the death of a physician psychiatrist, when arrangements must be made immediately to

- provide oversight for the physician's affairs, and to protect the interests of his/her patients.
- By preparing in advance, each physician can provide peace of mind for colleagues and family, and ensure continuity of service for their practice and patients in the future should an emergency occur.
 - The materials in this packet are designed to alert psychiatrists, their staff and family members to the myriad of clinical and administrative issues that may arise in the absence of the physician.
 - The materials have been carefully structured to focus on the immediate clinical, regulatory and business steps that may need to be completed in an emergency. The packet provides checklists, template letters, and forms, which a physician can adapt electronically for his/her practice. Some items can be completed in advance of an emergency, which will help make the actual crisis less stressful.
 - We encourage the physician to talk to his/her family and practice staff about this resource packet, create an electronic and/or paper file using the materials provided here, and include reference to the location and content of other important documentation which may be at the physician's office or home.
 - **It is most important that the physician determine who will be his/her "Special Administrator" for his/her practice affairs, if s/he should die, or be unable to practice, or communicate his/her wishes.** Given the importance of the tasks to be assigned, the special administrator should ideally be a psychiatrist. If this is not possible, a staff person from the practice, a relative, colleague, or business associate can also assume this crucial role. Most importantly, this person needs to be someone whom the physician feels will perform the tasks outlined in this document, without feeling overwhelmed, and who could respond effectively to any other unforeseen issues.
 - In the case of death, consideration should be given to how the "Special Administrator" role connects with the role/responsibilities of the executor of the physician's will—e.g. *who is likely to have oversight of his/her personal affairs, and who is likely to have oversight of his/her practice?* If the will stipulates that the executor takes control of the late physician's assets, but the executor is not experienced with medical practices generally and psychiatric practices specifically, the special administrator will have to be proactive in educating the executor about the clinical and administrative intricacies of the practice. These roles may or may not be undertaken by the same person and each will require different resources, skills, and time. The physician needs to consider now what might be needed, and plan accordingly.

- This packet does not offer advice on other critical documentation such as the individual physician's will, power of attorney, health care proxy, insurance policies, or other legal instruments recognized by state and federal law. Each physician should ensure that these and other necessary legal documents are in place for their personal/practice affairs, and that these can be readily located by those who may need to access them.
- The guidance provided in this packet is provided as a national resource within the APA and therefore may require cross referencing to State law where applicable (e.g., laws regarding medical records and health information confidentiality).

3. Immediate Steps

CLINICAL ENVIRONMENT

The Role of the Special Administrator and Notifications

At the time of an emergency closing of a practice, due to death or serious illness, a number of people and agencies will need to be notified. In addition there are some action steps that will need to be completed. Appendix A provides a series of checklists including a worksheet of those who should be notified and their contact information. The physician and the staff can complete the worksheet at any time and keep it on file for the Special Administrator. It may need to be updated at appropriate intervals.

The Special Administrator should keep a signed authorization form, which appoints him/her in this role. Information concerning keys, passwords, security codes needed to access the practice's records may need to be communicated to the Special Administrator. The physician's attorney should also hold a copy of the same information. The attorney's office, practice staff, and/or the family of the physician should keep a record of the contact information for the Special Administrator. The worksheet provides space for their contact information.

If the physician's contact list is held electronically in their own PDA/palm, cell or PC, and even if these may be accessible in an emergency, we suggest keeping a printed record in the resource packet as back up, and the practice should review the information for changes once a year.

The people or agencies that will need to be notified from a clinical standpoint include staff, patients, hospital/clinic affiliations, and third party payers.

Depending on the size and scope of the physician's practice and the individual physician's roles and responsibilities in the practice, there could be numerous clinical and business associates. The practice, no matter what size,

will also be a consumer of goods and services. Appendix A provides a template for the Special Administrator to use to determine the steps needed to close the practice in an orderly way. The practice staff or physician should populate this template, in advance of an emergency, with all the specific policies, contracts, account numbers, and the names of key contacts for the business aspects of the practice. The template is meant to be a tool for the Special Administrator. Even in a "worst case" scenario, where the information has not been specified, family members, and/or the Special Administrator are likely to be able to identify the key issues and the contacts they will need to work with.

Staff

It is imperative to notify practice staff as soon as practical. They are the people who can assist the Special Administrator most readily. In addition, they will be in need of and will appreciate personal contact and condolences at this time and may be concerned about their own employment and financial futures. In Appendix A, on the worksheet there is space for a staff contact list. Providing this information will make it easier to contact staff in an emergency.

There are a number of issues that will need to be addressed related to staff. How long to keep them working after the practice has closed? What kind of benefit package/retirement benefit was agreed to at the time of hire? How to handle Sick Time and Vacation Time balances? Questions related to benefits and payments of benefits are best addressed with the practice payroll service and/or legal counsel.

Within the constraints of the law and any relevant contracts, Issues relating to staff retention should be made on an individual practice basis, depending on the size of the practice, and the need to maintain the office for a period of time. There are many administrative and practice issues that will need to be resolved and completed before the practice can be completely closed. Many of these are discussed in greater detail in this package.

It is important to recognize that the staff may need some additional support in dealing with their own feelings of loss and grief, particularly if they have been working for the physician's practice for an extended period. Section 5 provides more information on this.

By completing the attached worksheet prior to an emergency, a physician will be able to minimize the confusion for his/her staff and the Special Administrator that will naturally occur at these stressful times.

Patients

It is important to notify patients as soon as possible of the closing of the practice. There are several mechanisms

to do this. First, at the time that the staff are notified, a new message on the practice answering machine should be recorded which says that the practice is currently closed and all sessions have been cancelled until further notice, and that patients who need immediate assistance (Clinical emergency) or a prescription refilled should contact Dr. _____ (the Primary psychiatric physician) identified in Section ____ in Appendix A. If the practice uses an answering service, the service should be instructed to provide the same information as given on the practice answering machine. Sample wording for these messages is in Appendix B

As soon as possible (preferably within 48 hours), the practice should send a letter to all of the active patients. This letter should provide a list of psychiatric physicians who have agreed to assist the psychiatric physician's patients to identify a new psychiatrist. This letter should also explain to the patients how to obtain copies of their records. Appendix B includes a sample letter. We recommend that the practice send these letters "Registered Mail" with a "Received Return Receipt." This documentation can be placed in the patient's record. In the event that it is needed, the practice will have the necessary documentation of the efforts to locate the patient.

To make it easier to identify active and inactive patients, we suggest keeping a listing of all active patients with contact information. This would include telephone and/or email information. The worksheet asks for the location of this listing. By updating this listing periodically (at least annually), the practice will be able to be reasonably sure that the information for the Special Administrator is up-to-date.

Every effort should be made to cancel the physician's scheduled patients as quickly as possible. Using the same method used to confirm sessions, the staff should contact the patients and let them know that all sessions have been cancelled until further notice. If the practice knows that the letters to the patients are going to go out within a specific period, the practice should let the patients know that they should expect to receive a letter at that time. Again, to make it easier for this process, we suggest completing the worksheet with where/how; the practice records scheduled appointments, and the listing of active patients.

It may also be a good idea to put a sign on the office door stating, "All Patient Visits have been cancelled until further notice; please call (Office Number) for further information".

Hospital/Agency Affiliations

Since the physician's family and colleagues may not know all the physician's affiliations, it makes sense to have these affiliations listed and their contact information collected. This will make it easier to make the required notifications.

Third Party Payers

It is important to inform third party payors that the physician will no longer be practicing. The reasoning is two fold. First, it is important that the third party payors not accidentally refer new patients. In addition, the information will assist them to track their availability of providers for the local area.

REGULATORY ENVIRONMENT

To protect the estate and assets of the psychiatrist, it is important to notify the state medical board[s] where the physician is licensed, the Federal Drug Enforcement Agency (DEA), the state DEA, and any specialty boards of certification. There are often penalties associated with not notifying these agencies in a timely manner. The reference section provides the main website addresses for the Federal DEA, and their regional offices. For more information on your state requirements, you should contact the physician's state medical board(s) and the agency responsible for prescription information. In Massachusetts, this is the Department of Public Health. For other states, it might be different. This information can usually be easily located via the internet. Locating these addresses in advance and maintaining the list with other material discussed herein will facilitate these steps at the time of the emergency.

State Board of Registration

It is important that the family/Special Administrator notify the state medical board(s) that the physician will no longer be treating patients. The information they will need is: the date of licensure and the license number.

Medications and Prescription Pads

The DEA, both federal and state offices, will need to be notified of the physician's practice closing. The DEA number (Controlled Substance Registration Certificate Number), unused Government order forms (DEA222c), and any controlled drugs should be disposed of as soon as possible. The Registration certificate and any unused Government Order forms should be returned to the DEA. Procedures for disposal or destruction of controlled substances may be obtained from the DEA Divisional Office.

The Divisional DEA office has copies of all the forms relating to prescriptions and medications and can provide any additional information that may be needed. The practice is, however, required to retain records on patients for whom the physician has dispensed Schedule II through V drugs, for two years. Unless the DEA instructs otherwise,

any unused prescription pads should be shredded or burned.

BUSINESS ENVIRONMENT

The following information provides suggested responses for business processes that will need to be managed. These are the general topics. The needs of a particular physician's practice may be different, depending on the size and scope of the practice.

Out of Office Voicemail/Email

Staff or the Special Administrator should access the physician's business email and personal office voicemail if possible. Consideration should be given to posting an out-of-office message with contact information for urgent matters, for both clinical and business messages or questions, using information for the Special Administrator and designated primary psychiatric physician from Section 4A of Appendix A. The practice can choose the level of detail to communicate in this message to suit particular circumstances. A template of possible messages can be found in Appendix B.

Services to the Practice/Office

The Special Administrator should consider the business needs of the office in conjunction with any office staff who may be continuing to work during the time that the practice's affairs are finalized. They know and understand the practice needs best, and can advise the Special Administrator. (See Staff listing in Appendix A for contact information.)

The business needs of the office should be considered in conjunction with the section "Immediate Steps: Clinical Environment," "Regulatory Environment," and "Medical Records" to ensure that the resources needed to complete the tasks outlined in these sections are available for as long as they might be needed.

For the lease of the office premises, leases of office equipment such as fax or copier, or for providers of services and utilities to the practice premises, the likely time the practice will need to be "open" must first be considered. This may mean keeping the office open with staff/phone/fax service for a number of weeks and later continuing with the "out of office" voicemail/email and answer service continuing for some time after the practice has officially "closed." Other items that the Special Administrator knows immediately will not be needed could be canceled right away to avoid further costs. For services with contracts – e.g., cell phone, internet provider, or the work of any consultants/advisers, the Special Administrator should find and review contract documentation, consider the operating needs for the

foreseeable future, any ongoing costs these will incur, and any penalties that may apply for cancellation of services, before proceeding, and should plan for discussions with providers accordingly.

Collecting Outstanding Bills (from patients/others – “Receivables”)

This can be a time consuming process and should be discussed with the practice accountant and/or billing service. If this involves practice software with which the Special Administrator is not familiar, s/he should simply keep orderly paper records until these can be added to the existing electronic information. The technical aspects of processing receivables are not covered within this guidance, but it should be noted that all financial records relating to the practice must be retained for at least 7 years – that is the time recommended to cover any audit required by the IRS, Medicaid, and Medicare etc. Any records (financial or non-financial) related to ethics investigations or litigation should be kept until the suit or investigation is closed. Advice about keeping such records for a longer period or providing them to a third party to retain can also be obtained from counsel and, in the event of litigation for which there is insurance coverage, from the carrier.

Payments for Goods and Services (“Payables”)

The Special Administrator should request final statements from suppliers of goods and services once s/he has determined the date at which their services will cease, based on the operational needs of the practice (see above). The business checking account should be kept open for at least 3 months—and as long as counsel recommends—afterclosure to process any credits or debits on outstanding payables. The Special Administrator should locate all checks and cards (credit/ATM) associated with this account as soon as possible. ATM cards connected to the practice checking account may need to be canceled for security reasons. These issues should be discussed with the practice accountant or the bank as needed. The Special Administrator may need to be an authorized signatory to the checking account (planned for in advance), especially if no other signatories are on the account, apart from the incapacitated or deceased physician. Appendix A identifies signatories on the checking account. These matters may intersect with the executor’s role in the event of the death of the physician and the Special Administrator should discuss all of this with the attorney for the practice.

Business Credit Card

If the Special Administrator is so authorized, s/he should contact the company and request a “stop” on any credit cards for future charges, but should check first if any

regular business bills are usually paid from this card (by electronic debit)—some of which may have due dates pending. To close the card the Special Administrator should request a final statement, and include this as a bill for payment for the “payables” noted above. If rewards/points are associated with the card, the policy should be checked with the company and arrangement should be made for these to be cashed out before closing the card.

Tax Returns

The Special Administrator should ensure that all financial records (routine payables, additional business expenses, receivables, etc.) that are part of the work associated with an emergency closing are filed and accessible for future IRS returns.

Malpractice Insurance

The policy should be retrieved and its terms examined. The Special Administrator may need to call the insurance company for clarification on current coverage and planned termination of coverage as needed, specifically relating to:

- “occurrence policy” (covers harm alleged to have occurred at any time during the period the policy was in effect, no matter the date of the actual claim)
- “claims-made policy” (coverage only if claim is filed while policy is in effect)
- “tail coverage” (coverage until the statute of limitations has expired on all potential cases)—this particular coverage is especially important in closing a practice if the psychiatrist has not had occurrence policies throughout his career or if there are periods of carrier insolvency, and should be discussed as soon as possible with the insurance carrier.

Mail

Once the date of closure is determined or the practice premises are no longer accessible, the Special Administrator should plan for a mail forwarding service with the postal service. Check how long this will be for in order to begin to consider whether one or more extensions may be needed.

Business Notifications

A letter informing business associates of the closure of the practice, which identifies a mail forwarding address and the name of Special Administrator (if applicable to be shared), can also be drafted and sent to business associates with whom the practice had regular contact or a financial relationship.

Appendix B contains the templates for all business notifications and can be adapted to suit particular

circumstances. A further letter in Appendix B requests “no further mail” to those who supply journals, newsletters and unsolicited correspondence, either via the mail or via email.

4. Medical Records

GENERAL INFORMATION

A simple rule of thumb to keep in mind when dealing with patients’ records is that the information contained in the record belongs to the patient and the physical record belongs to the physician. Bearing this in mind makes it easier to determine what needs to happen with the record at the closing of practice.

SUMMARY OF HIPAA

(Below is a brief overview of the HIPAA law. Our intention is to provide the reader with a rudimentary understanding of the terms, conditions and requirements of HIPAA. We strongly encourage individuals to consult with their attorneys, and to review other resources identified in Appendix C to gain a broader understanding of the requirements of this law.)

There is a federal law protecting the privacy of a person’s medical record. This law, the “Health Insurance Portability and Accountability Act” (HIPAA), provides for health insurance continuity when a person changes employment. A subsection of HIPAA entitled “Administrative Simplification” requires federal rules regarding the transmission and safeguarding of “protected health information” (PHI) by “covered entities.” With some exceptions, PHI includes a person’s individually identifiable health information used, disclosed, or maintained by a covered entity. Covered entities include health care providers who electronically transmit any health information in connection with a covered transaction (such as the filing of claims electronically). If the physician is a covered entity, s/he must comply with the HIPAA rules, described below.

The **Transaction Rule** sets uniform electronic standards for certain common health care transactions (e.g., payment of claims); if a covered entity engages in such covered transactions electronically, the covered entity must use the standard format. The **Security Rule** requires covered entities to implement various administrative, physical, and technical safeguards to electronic PHI. The **Privacy Rule**, PHI, whether electronic, paper, or oral. The Privacy Rule includes, for example, the rights of patients regarding access to, and amendment of, their own medical records.

The Privacy Rule establishes specific requirements with respect to consent, authorization, and notice. **Consent** is an individual’s approval enabling a covered entity to use or disclose his/her PHI only for purposes of treatment,

payment, and health care operations. HIPAA permits (but does not require) a covered entity to obtain an individual’s consent before using or disclosing PHI for these purposes. **Authorization** is an individual’s approval enabling a covered entity to use or disclose his/her PHI for most other purposes, including uses or disclosures not otherwise permitted by HIPAA without authorization (e.g., marketing). As a rule, a covered entity may not condition treatment on the receipt of a patient’s authorization. Authorizations for the use/disclosure of psychotherapy notes must be separate, and the physician cannot combine this authorization with any other authorization. **Notice** is the document that informs individuals about the privacy practices of the covered entity and of the individuals’ rights with respect to their health information.

HIPAA generally does not preempt state law that is more protective of health information. Thus, for example, a state law or regulation may require that express, written consent be obtained prior to disclosing certain medical information—for treatment purposes (in contrast to the Privacy Rule, which, in the case of treatment, generally requires only notice). As a result, physicians should be familiar with the state laws that apply to their practice.

Further resources on HIPAA and record retention and release information are listed in Appendices B & C.

PRACTICAL GUIDANCE FOR THE TRANSFER, RELEASE, STORAGE AND DESTRUCTION OF PATIENT RECORDS

For two fundamental reasons, the APA encourages psychiatrists to obtain consent before disclosing medical information, even if not legally mandated by either HIPAA or state law. First, consent invites patients and their psychiatrists to discuss the nature and limits of the psychiatrist’s duty to protect confidentiality. Second, APA has held, through its *Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry*, that explicit consent, preferably written, should be obtained from the patient prior to disclosing information to third parties. This ethical standard for psychiatrists, notwithstanding HIPAA’s permissive consent requirements.

Release of Information

It is important that the safety and integrity of the patients’ records be preserved, even in the case of death or incapacitation of the physician. In order for the practice to transfer or release medical records consistent with HIPAA, state law, and/or ethical guidelines, the practices should establish and follow certain procedures. Appendix B includes sample “Release of Information” forms that a practice may consider adopting. We suggest that the physician’s attorney review these sample forms to ensure that they comply with law applicable to the physician.

As a reminder, a physician's psychotherapy notes receive added protection under HIPAA and should be kept separate from the patients' medical record. If the patient requests disclosure of the psychotherapy notes, s/he would need to complete a separate authorization form. In addition, should the patient's record contain information regarding the patient's HIV status, or use of controlled substances, state or federal law may require use of separate disclosure forms for these subjects as well. Sample authorization forms for these categories of information are also included in Appendix B.

The medical records for patients can be copied and the copies can be given to whomever the patient has designated on his or her authorization form(s). The original record should always be kept at the physician's office. (See below.) The sample "Release of Information" form (Appendix B) is explicit regarding the information to be sent, to whom it is to be sent, and the period of treatment that the release is to cover. The sample Release of Information forms in Appendix B are recommended by the Massachusetts Psychiatric Society legal counsel. We suggest that the physician contact either his/her district branch, or his/her attorney for guidance on whether these sample forms are appropriate for his/her practice. As noted above, each state has different requirements that may or may not apply in conjunction with the HIPAA requirements.

A physician may charge the patient a reasonable fee for copying the record. A state may have standard charges for this. For example, in Massachusetts, a law sets the maximum charges for producing copies of medical records. (There is a base transaction charge of \$15.00 to cover the administrative costs of producing medical records. Additionally, physicians may charge up to .50 per page for the first 100 pages, and .25 for every page in excess of 100.) Physicians are also allowed to recover any postage expense they incur for mailing the record. These figures are maximums, and given the situation, a physician may wish to charge less.

Storage and Destruction of Records

A copy of each patient's original record should be retained and stored for an appropriate period of time, which may be governed by state law and/or the physician's malpractice insurance policy. (E.g., in Massachusetts, it is 7 years after the last treatment contact, or for a minor patient, 7 years after they reach the age of majority.)

The original records that are retained can be sent to a records storage facility, some of which offer record release services. See Appendix C for a listing of possible organizations. If the physician uses an agency such as this, s/he should notify patients that, after a certain date, they would be able to access their records by contacting that agency directly and include the contact information.

TRACKING PATIENT RECORD INFORMATION DISPOSITION

It is highly recommended that the physician's office retain a copy of a listing of any patients for whom records no longer exist, including their name, date of birth, treatment dates ("to" and "from"), primary diagnosis, and any comments that would help the physician recall pertinent details. In the event of incapacity or death of a physician, this listing can be housed with retained records.

For legal purposes, the practice will need to identify the patient records which were moved to a record storage facility and those that were destroyed. For this reason, we suggest the staff prepare an alphabetical listing (using a computerized spreadsheet) by last name of all the patients' records housed in the office. (A suggested format for this form can be found in Appendix B.) The spreadsheet can track when a letter was sent, whether the patient received it, whether there was a request to release information, and to whom the information was released. Records that have exceeded the required time-period for retention can be shredded or otherwise securely destroyed. The key details from each of the records identified for shredding will be retained in the spreadsheet found in Appendix B. The spreadsheet can track this information as well. The spreadsheet will prove a valuable tool for the Special Administrator to keep track of all patients' records and to identify the disposition of each record.

5. Personal Needs of the Physician's Family/Colleagues

Whether a psychiatrist becomes unexpectedly ill and incapacitated and is no longer able to practice medicine or suddenly dies, the impact is profound. Family, office staff, patients, physician colleagues, other health professionals and the community at large comprise some of the groups of individuals affected. People are shocked, saddened, frightened and confused as they try to make sense of and understand what has happened. The event is loss; the emotional process is mourning.

As with bereavement in general, there are distinct phases that have been well described for decades – shock, denial, depression, anger and acceptance. Depending upon the circumstances of the sudden illness (stroke, accident, or victim of assault, to name a few) or death (accident, heart attack, suicide), there may be added emotional reactions, including outrage, guilt, blame, embarrassment, and obsessive preoccupation with the event. What is important to remember is that this is a difficult time for many people and most individuals will not be at their best in terms of being clear-thinking,

rational, understanding and using good judgment. In fact, it is very important to remember this—especially in the early days and weeks—so that people can be patient with each other, tolerant and kind.

With the emergency closing of a practice, whether for catastrophic illness or death, it is critical to ensure that the psychiatrist's spouse, partner and children are coping as well as they can under the circumstances. One or more individuals should approach immediate family and offer support. This may include suggesting professional help if needed, from a primary care physician or mental health professional. If family members are interested, one can offer to set up initial appointments. There is such confusion in the early days, to say nothing of stigma, that the individuals themselves may not be able to make the needed telephone calls to the treating professionals. And it can be comforting, if possible, if someone volunteers to accompany the person to the initial visit and simply sits in the waiting room. This will ease a usually very painful journey.

Primary care physicians and mental health professionals will be able to help grieving family members understand that what they are experiencing makes sense, given the acute loss and change. This is tremendously reassuring. These same professionals should also be able to answer any questions that the family members may have about their symptoms. Usually ongoing care will be suggested and should continue until the person is feeling stable. Medication may be indicated—the rationale for this will be explained. Talk therapy usually helps tremendously.

Bereaved relatives feel greatly relieved when they know that their loved one's patients are being treated appropriately. As family members struggle with abandonment, they seem to be able to empathize with how patients must feel when they suddenly lose their psychiatrist. In fact, some spouses may be aware that the psychiatrist's patients have been concerned about the possibility of his/her illness, death, or retirement.

Depending on the psychiatric community, the availability of resources and how long the psychiatrist has practiced there, it may be easy for colleagues to step in and volunteer to help. Even accepting one or more patients can help enormously to ease the worry and responsibility that some spouses or partners feel about the patients. These are obviously very kind gestures, gestures that truly illustrate that we are—and must be—our “brothers’ and sisters’

keepers” in medicine. And these same psychiatrists who take over the care of these patients must be prepared for their shock and mourning—on top of their pre-existing illnesses and conflicts. In situations where the psychiatrist has died by suicide, any number of his/her patients may become acutely suicidal themselves.

Navigating the technical and legal dimensions of closing a practice can be extremely stressful for spouses and adult children of psychiatrists. Having a roadmap and toolkit helps greatly. But so does personal support. Examples include an occasional telephone call or e-mail, an invitation to coffee or lunch, a compliment, words of reassurance, and gentle reminders of the notion of giving oneself time to heal. And key – we must always remember that everyone grieves in different and unique ways, there is no formula, no one correct way to come to terms with the loss of a loved one.

With regard to insurance companies, family members may need support as they begin to deal with processing claims for benefits from one or more life insurance policies. Sometimes they are expected to provide details that they cannot locate or that are so complicated that even assistance with filling out forms will be appreciated. When it appears that there is unnecessary ‘red tape’ or ‘unavoidable’ delays, we may be able to assist by contacting particular insurance people on behalf of the family. It is bitterly ironic that claimants are asked to give intricately detailed information when having trouble concentrating, remembering or maintaining the energy and fortitude to deal with bureaucracy.

If the psychiatrist who dies suddenly had received psychiatric care in the recent past, many insurance companies will want to review the medical record. It is the spouse who will be contacted to sign a release of information to the company. This can be very upsetting. An example is a widow who felt violated—that she was put in the very conflicted position of having to give permission to expose her deceased husband’s personal details to a third party. She felt as if she were betraying him. And yet she would not receive benefits unless she did this.

In conclusion, there are many ways that we can help the families of psychiatrists who suddenly become incapacitated or die. As colleagues who knew the psychiatrist and know the family, we can provide much needed guidance and support. As colleagues at arm’s length, we can help by offering formal treatment to spouses and children.

Appendix A

Emergency Closing Check List

1. Special Administrator

Person authorized as responsible for practice affairs, and can access necessary keys and passwords for business records.

I designate the following person as my Special Administrator to handle the closing of my practice:

Name: _____ Telephone: _____

2. Staff

Staff should be notified as soon as possible to ensure that patients are notified in a caring, supportive, and professional manner.

Name: _____ Telephone: _____

Name: _____ Telephone: _____

Name: _____ Telephone: _____

Name: _____ Telephone: _____

3. Patients

By having the following information readily available, the staff will be able to generate letters to inform patients of the practice closing and identify colleagues who will be able to assist your patients. Appendix B has sample letters that can be used for this purpose.

A. My Active List (Name, address, and telephone number) of Patients is kept:

Electronic Version - File Name and Directory Information:

Hard Copy Version - File Name and File Cabinet Drawer:

My Active Patient records are kept:

B. My Terminated List (Name, address, and telephone number) of Patients for whom I still hold records for is located:

Electronic Version - File Name and Directory Information:

Hard Copy Version - File Name and File Cabinet Drawer:

My Terminated Patient records are kept:

4. Patient Issues

A. Coverage - Emergency/Prescriptions/Patient Transfer

Dr. _____ at telephone number: _____
has agreed to handle the emergency and prescription needs of my patients on a short-term basis.

B. Coverage - Colleagues to assist my Patients in finding another psychiatrist

Name: _____	Telephone: _____

C. Patient Appointments

My appointments are arranged by: Me Staff Others

My actual patient schedule is located: _____

5. State Medical Board(s)

The telephone number(s) for the state medical board(s) where I am licensed to practice medicine is/are:

State	Telephone Number	Licencse Number	Expiration

6. DEA Notification

The Federal DEA office Contact Information is:

Telephone Number: _____

My DEA Certificate Number is: _____

The local DEA Office contact information is:

Telephone Number: _____

The Department of Public Health Contact Information is:

Telephone Number: _____

7. Medication Storage

I keep medications in my office: Yes No If yes, where: _____

I keep Controlled Medications in my office: Yes No If yes, where: _____

8. Prescription Blanks

My Prescription Blanks are kept: _____

My Triplicate Prescription Blanks [if relevant] are kept: _____

9. Hospital/Clinic Affiliations

I am affiliated with the following Hospitals/Clinics:

Name : _____ Telephone: _____

10. Third Party Payers

I am currently on panels for the following Payers:

Name : _____ Telephone: _____

11. Billing

My billing is handled by: Me Staff Billing Service

The staff person who coordinates my billing is: _____

My Billing Service is: _____

Telephone Number: _____

12. Location of Business Records/Bills:

Copies of my business records are kept _____

13. Business Accounts and Contact Information*(Not all these services will apply to your practice: Amend Template to suit your practice)*

Service Provider	Company Name	Account #	Contact Name	Contact #
Business Phone				
Business Cell Phone				
Business Fax				
Internet Provider				
Copier				
Computer				
Office Supplies				
Premises Lease				
Insurance Agent (Property/Life/Workers Comp/Disability etc.)				
Attorney				
Medical Malpractice Insurance Carrier				
Electricity Supply				
Oil/Gas Supply				
Water Supply				

14. Financial Records

a. _____ is a second signatory on my checking account.

b. The following is a listing of all my financial information for my practice

Service Provider	Company Name	Account #	Contact Name	Contact #
Practice Bank Account				
Financial Advisor (Investments/Retirement)				
Practice Accountant				
Internet Provider				
Payroll Service				

15. Professional Contacts/Associations

The following associations should be contacted to terminate my membership/affiliation.

Activity	Company/Personal Contact Name	Membership # or Account #	Contact Tel #	Comments
Professional Association(s) / Specialty Boards, e.g., ABPN				
Journal(s)/ Subscription(s)				
Supervision Responsibilities				
Teaching Responsibilities				
Other Regular Clinical Commitments				
Other Regular Professional Commitments				

16. Sample Patient Record Disposition Worksheet

Patient List of Dr: _____

Appendix B

Templates*Sample Letter to Patient*

Dear Patient:

As you may already know, Dr. _____ is (unable to practice at this time/ recently passed away). Dr. _____, prior to his (death)/(disability) had designated several colleagues who have agreed to assist you in finding another psychiatrist, and ensuring that your medication refills are kept current. Their contact information is attached to this notice. If you have a clinical emergency prior to finding another physician, please call "911" or go to your nearest emergency room.

Since the records of your case are confidential, we will require your written authorization to release your information to another physician, or to you. For this reason, I am enclosing an authorization form. Please complete the form and return to the address on the form. There will be a charge of _____ for copying records to cover practice expenses. If you do not return this authorization form by ____/____/____, you should contact the _____ (Records Company) for further assistance.

Active Medical records (those patients who have been seen in the past seven years) will be transferred to _____ on ____/____/____. If you would like to receive information from your record, after this date, you may contact them directly at _____.

Inactive Patients, who have not been seen for 7 years or more, their records will be disposed of in accordance with state law.

Please note, that after ____/____/____ there will no longer be anyone at this number to answer your call. If you need assistance after this date, please contact one of Doctors on the attached list who will assist you to find someone to continue your treatment. Alternatively, you may contact your health care insurers for a list of other providers in your coverage/plan area.

We recognize that losing Dr. _____ and changing your physician may be stressful. We encourage you to seek continuity by accessing a replacement physician.

Sincerely,
Office Manager/Special Administrator

Sample Letter to Business

Dear _____:

RE: Account Number: _____ (Enter account number from Section 13 of the Attachment A Worksheet)

Please be advised that as of (Date for practice closure) the office of Dr. _____ will be permanently closed. Please forward to my attention any outstanding bills for your services to ensure prompt payment.

Thank you for your immediate attention to this request. Should you have any questions or concerns, please feel free to contact me at _____.

Sincerely,
Special Administrator

No Further Mail

Dear _____:

RE: Account Number/Membership Number: _____ (Enter information from Section 15 from Attachment A Worksheet)

Please terminate the Membership/Journal _____ for Dr. _____. Sadly, Dr. _____ (will no longer be practicing) / (died on ____/____/____).

Thank you for your immediate attention. Should you have any questions or concerns, please feel free to contact me at _____.

Sincerely,
Special Administrator

Voice Mail/Email Announcement

(The following message can be tailored for either an "out of Office Message" and also for an Answering Service)

Today is ____/____/____ (Date of the message recording). The Office of Dr. _____ is currently closed, and all appointments have been cancelled until further notice.

If you have a clinical emergency, please dial "911" or go to your nearest emergency room.

If you need assistance with a prescription refill, please contact Dr. _____ at _____ (See information on Section 4A of Attachment A Worksheet). A letter will be sent to all patients within 48 hours explaining the practice closure with information of how to transfer to another physician.

(Optional - If you have a question concerning business matters, please call back between (Office hours) to speak to a member of the practice staff.)

Thank you.

Appendix B

Forms***Sample Release of Information – Patient Records*****AUTHORIZATION TO DISCLOSE HEALTH INFORMATION**

Patient Name: _____ Health Record Number: _____

Date of Birth: _____

1. I authorize the use or disclosure of the above named individual's health information as described below.

2. The following individual or organization is authorized to make the disclosure:

Address Line 1: _____

Address Line 2: _____

Address Line 3: _____

3. The type and amount of information to be used or disclosed is as follows: (include dates where appropriate)

- | | |
|---|---|
| <input type="checkbox"/> Problem list | <input type="checkbox"/> Immunization record |
| <input type="checkbox"/> Medication list | <input type="checkbox"/> Most recent history and physical |
| <input type="checkbox"/> List of allergies | <input type="checkbox"/> Most recent discharge summary |
| <input type="checkbox"/> Laboratory results, from (date) ____/____/____ to (date) ____/____/____ | |
| <input type="checkbox"/> X-ray and imaging reports, from (date) ____/____/____ to (date) ____/____/____ | |
| <input type="checkbox"/> Consultation reports from (doctors' names): _____ | |
| <input type="checkbox"/> Entire record | |
| <input type="checkbox"/> Other: _____

_____ | |

4. This information may be disclosed to and used by the following individual or organization:

Address Line 1: _____

Address Line 2: _____

Address Line 3: _____

for the purpose of: _____

5. I understand I have the right to revoke this authorization at any time. I understand if I revoke this authorization I must do so in writing and present my written revocation to the disclosing individual or organization identified above. I understand the revocation will not apply to information that has already been released in response to this authorization. I understand the revocation will not apply to my insurance company when the law provides my insurer with the right to contest a claim under my policy. Unless otherwise revoked, this authorization will expire on the following date, event or condition: _____. If I fail to specify an expiration date, event or condition, this authorization will expire in six months.

6. I understand that authorizing the disclosure of this health information is voluntary. I can refuse to sign this authorization. I need not sign this form in order to assure treatment. I understand I may inspect or copy the information to be used or disclosed, as provided in 45 CFR § 164.524. I understand any disclosure of information carries with it the potential for an unauthorized re-disclosure and the information may not be protected by federal confidentiality rules. If I have questions about disclosure of my health information, I can contact (insert practice contact person's name, title and/or contact information).

Signature of Patient or Legal Representative

Date

If Signed by Legal Representative, Relationship to Patient

Signature of Witness

NOTE: The type of documents listed on the authorization form above may need to be modified depending on the particular health setting.

I understand that the information in my health record may include information relating to sexually transmitted disease, acquired immunodeficiency syndrome (AIDS), or human immunodeficiency virus (HIV). It may also include information about behavioral or mental health services, and treatment for alcohol and drug abuse. Separate authorizations are required for HIV/AIDS information and for the release of information by licensed treatment facilities for alcohol and drug addictions.

As stated above, the release of information regarding HLT-III (antibody or antigen), if applicable, may require a separate signature for release. Applicable state law should be consulted.

RELEASE OF INFORMATION – HLT-III [antibody or antigen]

I, _____, of _____ hereby consent to the release of information contained in my medical record regarding the diagnoses or treatment for HLT-III [AIDS antibody or antigen] or any AIDS-related illness to _____. The reason that this information is being requested is _____.

Signed this _____ day of _____, 200____

Signature of the Patient

RELEASE OF INFORMATION – DRUG OR ALCOHOL TREATMENT

THE FOLLOWING IS THE RELEASE OF INFORMATION FOR DRUG OR ALCOHOL TREATMENT IN A FACILITY SPECIFICALLY LICENSED FOR THE CARE AND TREATMENT OF DRUG OR ALCOHOL ADDICTION

I consent to the release of my treatment records for alcohol and drug addiction to the following person or organization _____ and limit said information to the following _____ [if none, write none]. The purpose for which this information is to be used is as follows: _____.

Signed this _____ day of _____, 200____

Signature of the Patient

Sample Release of Information – Psychotherapy Notes

AUTHORIZATION TO USE OR DISCLOSE SPECIALLY PROTECTED
PSYCHOTHERAPY NOTES
Read entire document before signing

Patient Name: _____

Date of Birth: ____ / ____ / ____

1. I authorize the use or disclosure of the above named individual's health information described below.

2. The following individual(s) or organization(s) are authorized to make this disclosure:

Address Line 1: _____

Address Line 2: _____

3. The information identified below may be disclosed to or used by the following individual(s) or organizations(s):

Address Line 1: _____

Address Line 2: _____

4. Information to be disclosed: I understand that the information to be disclosed under this authorization consists of psychotherapy notes maintained separately from other information in my medical record.

5. The information for which I am requesting disclosure will be used for the following purpose:

6. I understand that I have the following rights:

- **Right not to sign.** You may refuse to sign this authorization.
 - **Right to revoke.** You may revoke this authorization at any time. Your revocation will not apply to any release already made in response to this authorization. To revoke this authorization, you must submit a written revocation to:
- _____

Address Line 1: _____

Address Line 2: _____

- **Re-disclosure.** I understand that once the information listed above has been disclosed, it could potentially be re-disclosed because the information may no longer be protected by state and federal privacy laws or regulations.

7. Expiration date or event: _____

I have read and understand this authorization, and authorize the use and/or disclosure of the health information as described in this authorization.

Signature of Patient or Legal Representative

Date

If Signed by Legal Representative, Relationship to Patient

Signature of Witness

Appendix C

Resources

HIPAA/RECORD RETENTION

HIPAA and Record Retention Information

- HIPAA Packet prepared by the APA—Available as a PDF file. In the *Members Only* section of the American Psychiatric Association website: <http://www.psych.org>
- HIPAA information prepared by the American Medical Association (AMA) <http://www.ama-assn.org/ama/pub/category/4234.html>
- RX for Risk, Vol. 10, Issue 3, 2002; “How Long Must I Keep Medical Records?”
- www.prms.com—Professional Risk Management Services, Inc. Site offers information on HIPAA and risk management.
- Roth, M., “Medical Records and Sudden Death for Solo Practitioners.” Cooperative of American Physicians, Inc., 1999. See also: www.cap-mpt.com/riskmanagement/medicalrecords_suddendeath.html

Record Storage and Retrieval Companies

(Companies. can be found on the internet or in commercial phone directories that provide the services required in an emergency closing of practice. The Special Administrator should speak with legal counsel regarding the specific needs of the practice. District branches may also be aware of local resources as well.)

Reference Articles

- Brooklyn Psychiatric Society: “Incapacitating Illness or Death of Psychiatrist: Worksheet and Brochure for Brooklyn Psychiatric Society Members and Spouses, 2004.
- Connecticut State Medical Society, “Closing a Physicians Practice – Suggestions for the Transition, September, 1995.
- Deacon J; Winding down a psychiatric private practice; The private practice monograph series; American Psychiatric Press, Washington, DC, 1985.
- Encyclopedia of Practice and Financial Management: Chapter 15:5. “Arranging a Practice Sale.”

- Encyclopedia of Practice and Financial Management: Chapter 15:6. “Legal Responsibilities when you close a Practice.”
- Goldberg, Joel H., “Closing Your Practice: Start Planning Years Ahead”. Medical Economics, May 23, 1994.
- Hilliard, JT. “The ‘Retiring’ Psychiatrist – Some Practical Suggestions”. Massachusetts Psychiatric Society, May/June 1998, 5:12
- Martin, JD, Tracey; “Contingency Planning... An Ounce of Prevention Now Will Pay off Later for Psychiatrist, Their Practice.” Psychiatric Times, May 5, 2000.
- MSMA (Missouri) Physicians Guide to Law and Medicine; “Closing or Relocating a Practice.”
- Washington State Medical Association; “Some Considerations in the Closing of Physicians Practice. “
- Webber, JD, Richard D., “Disposition of a Medical Practice, Michigan Medicine, October, 1990.

Websites Resources

- www.massmed.org/AM/Template.cfm?Section=Closing_a_Practice (Massachusetts Medical Society—CME online course for closing a practice. You can print out the information for the course without taking the course for CME credits.)
- www.psych.org/members/hipaa/hipaa_packet.cfm — See above for HIPAA information.
- http://www.cap-mpt.com/riskmanagement/medicalrecords_suddendeath.html —Article described under HIPAA resources.
- American Medical Association: “Ending the Patient-Physician Relationship” www.ama-assn.org/ama/pub/category/4609.html

Additional Links

- www.psych.org (American Psychiatric Association—APA website)
- www.ama-assn.org (American Medical Association)
- www.prms.com (Professional Risk Management Services, Inc.)