

Professional Will: Preparing a transition plan

Robin May-Davis, MD
Robin.maydavis@gmail.com

No conflicts or disclosures to report

I am not an accountant, business banker, or an attorney, but a concerned doctor who feels this can help all of us be more prepared.

This is intended primarily for independent clinical practices (big or small) but may have points helpful for many practitioners to consider.

Objectives

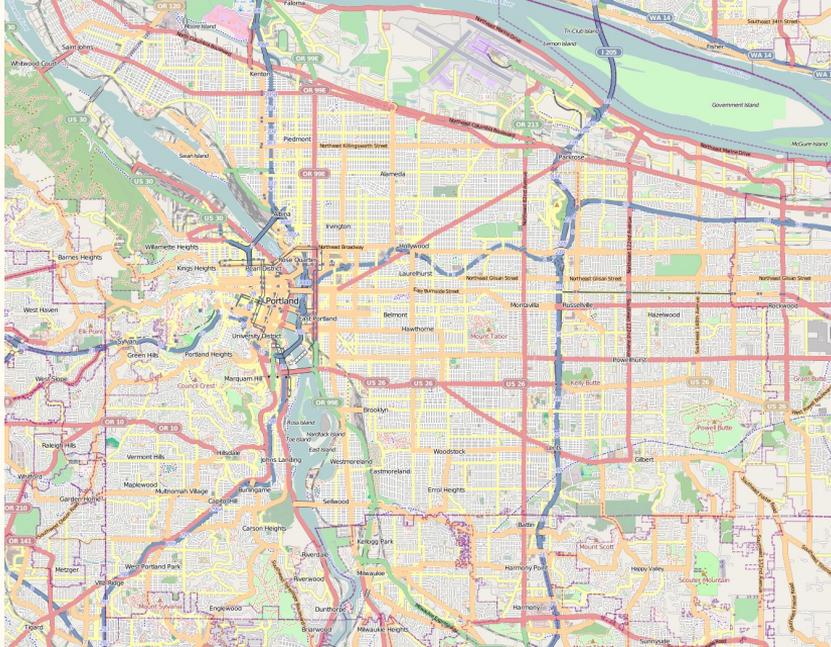
- Increase understanding of the need for a clinical transition plan should doctor s or other providers unexpectedly die or become incapacitated.
- Recognize that their obligation to assist in clinical care goes beyond their own death and preparation is needed to meet typical patient care standards.
- Clarify succession plan for business operations if needed.
- Execute documents to prepare for use after the clinician's death.

DOES NOT CONSTITUTE LEGAL ADVICE

Why do I need a professional will?



What is a professional will?



It is like a road map for your practice to prepare in case you unexpectedly die or become incapacitated.

It is not a legal document and this lecture does not constitute legal advice.

Professional will

Establishes

Who

What

How



Preparing your practice for your loss or incapacitation

In the same way that you prepare a personal will to leave directions about what you want done with your personal estate, a professional will offers this for your practice. In many institutional settings, things may be in place- but it is still critical to know how that would work as the bottom line for your patients or for the board lies with the doctor or other provider.

Set up

- Who is going to take care of things in your potential absence
- What needs to be done
- How can you prepare so it goes more smoothly

Professional will
sample (see documents)

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Special administrator



This is the “Who”

Professional of same level chosen to take care of things for you. Familiar with your field not a family member.

Decide who to choose and talk to them in advanced. If you have identified a succession plan for your business - this person would make sense.

Have HIPAA Business Associates Agreement in place for those not in your direct practice- whether acting as cross coverage or as your Special Administrator.

Clinical responsibilities-- patients

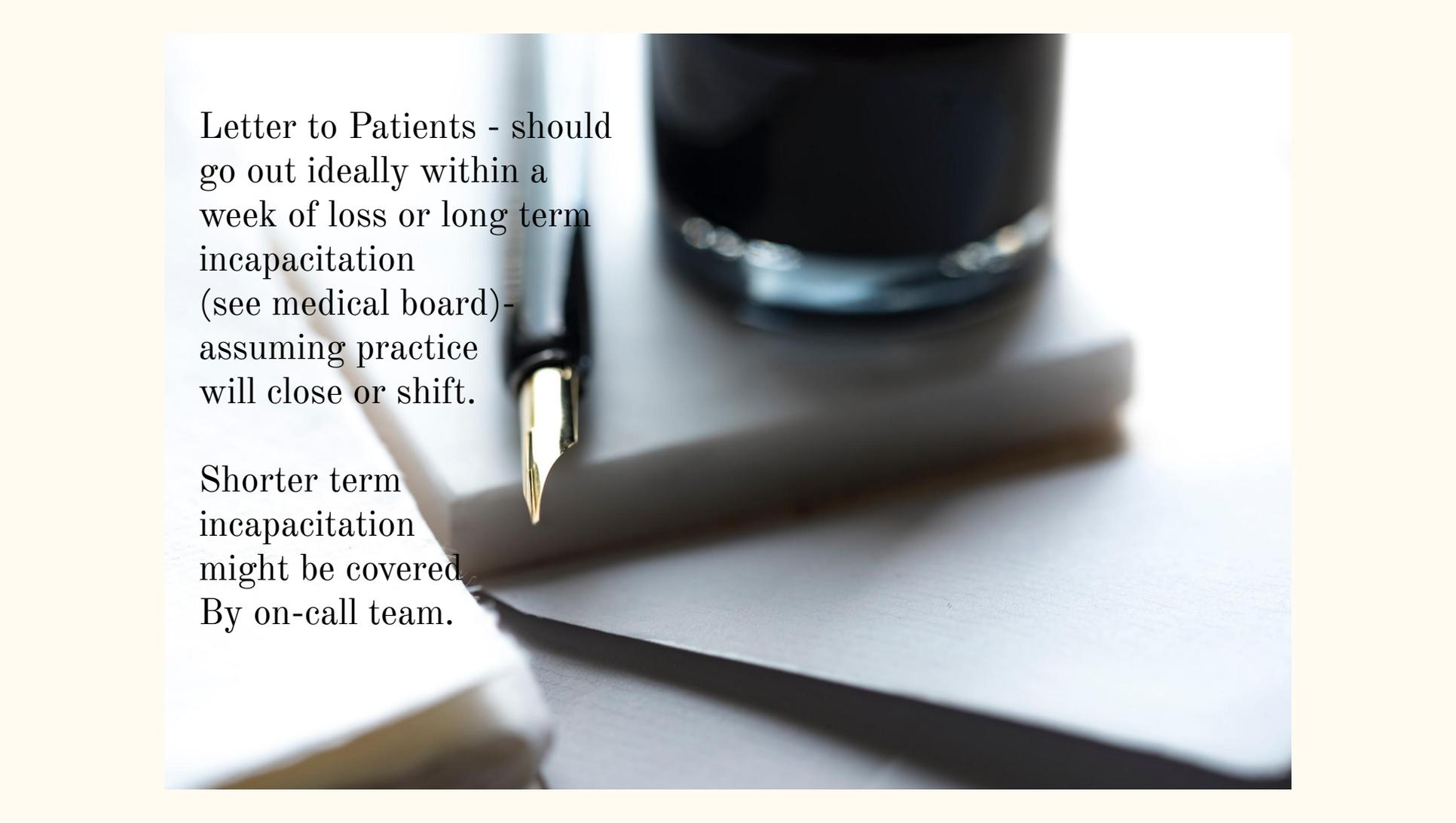


Contacting patients

Ideally letting people know about a death or long term incapacitation via letter or direct phone contact is best, instead of voicemail or posted on website, as they may have questions or strong reactions.

It is reasonable to post on website or in office that the office is closed and patients should contact the office for further information.

Most medical boards have guidance about closing or leaving a practice that are similarly applied in a death- posting notice in the office, in the newspaper of largest publication, and alerting patient by (certified) letter. Many recommend including patients active in last 3 years (check with local board).



Letter to Patients - should go out ideally within a week of loss or long term incapacitation (see medical board)- assuming practice will close or shift.

Shorter term incapacitation might be covered. By on-call team.

Letter to Patient
sample (see documents)

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Memorial or Funeral- would you or family want patients attending a service? Decide ahead as questions may arise as patients hear the news.



Clinical responsibilities- Transition of patient care



Transitioning patients

- Need immediate cross coverage solution- either in practice or local colleague(s).
- Next Set up for transition of care
 - Identify another provider in practice
 - Identifying a group of referral possibilities if in solo
 - Reasonable to offer using insurance company lists, and posted web resources- but then need to arrange reasonable cross-coverage until patients can get set up (?few months) This might vary by region/access issues. Hard to find clear standard-- again may need to check with local board.
 - Arrangements made to send electronic copies or thumb drives of electronic records or copies sent to patients of their charts. (this may not clearly absolve from all records requests requirements.)

Clinical Responsibilities- Custodian of records



Records maintenance

Records need to be maintained even after death of practitioner.

- Transferred to another provider internally in practice,
- Transfer externally to someone who buys or takes over practice (see buys/sell arrangements later)
- Transferred to a professional custodian of records.
- It is not recommended that records are kept by the provider's family who may not understand the requirements of HIPAA or other laws (both for privacy and need to provider in timely fashion)
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- Some local medical societies may be able to store records securely and there are several commercial records storage companies who are familiar with HIPAA guidelines. Of note some of these are potentially expensive to patients and their families.

Clinical responsibilities continued



Other duties

- Having cross-coverage review incoming labs, or necessary mail weeks following during transition.
- Contacting Pharmacies

Managing employees

Orient employees in assisting with patient requirements (sending letters, handling calls)

Making sure employee payroll is not disrupted

Manage employees emotions with loss and job loss if needed

Reference or assisting in promoting employee for new position if appropriate

Password/resource list
sample (see docs
addendum)

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Resource and Passwords list

Keep and update- maintain securely, multiple copies

Location of records (electronic, paper) access codes.

Database of all passwords for access needed

Contacts for necessary parties - attorney, personal estate, staff, administrators

Family considerations



Family and special administrator

Make sure you have a personal will. If you have not done it with an attorney then consider at least doing something via an on-line resource.

Make sure to include durable power of attorney if you are a business owner.

Alert your family and those named in your will (future guardian) who your special administrator is and what their roll is going to be in the setting of a loss. Make sure Special administrator, likewise, knows who your family contacts. This helps with coordination with your business and keep trust that the Special administrator is helping the family by attending to the business needs in their time of loss.

Business responsibilities of
Administrator (for small
practices and
large private
groups)



Financial duties for administrator

Collect outstanding fees

Taxes

Last Payments or
change of name for
vendors



Financial considerations

- Will and Power of attorney
- Business bank accounts- make sure solo practitioner or large practice owner are not only one on bank account!
- Business transition plan
- Paying Special Administrator- fund to cover SA for time spent on transition if appropriate (esp for solo doctor/provider)

Not to replace financial advice or talking with business banker



Passing the Baton- Succession planning



Business succession- group practice

If group practice - establishing legal documents re: business succession.

Type of succession plans:

- Assumed by partner(s) via buy/ sell arrangement.

- Designated to heir to manage partial ownership (heir must be willing and able) based on business ownership guidelines (if heir is not doctor see requirements)

Making sure partners are on financial documents and accounts

Buy/Sell agreements in advanced for partners.

Sole proprietor - transition/closing of business

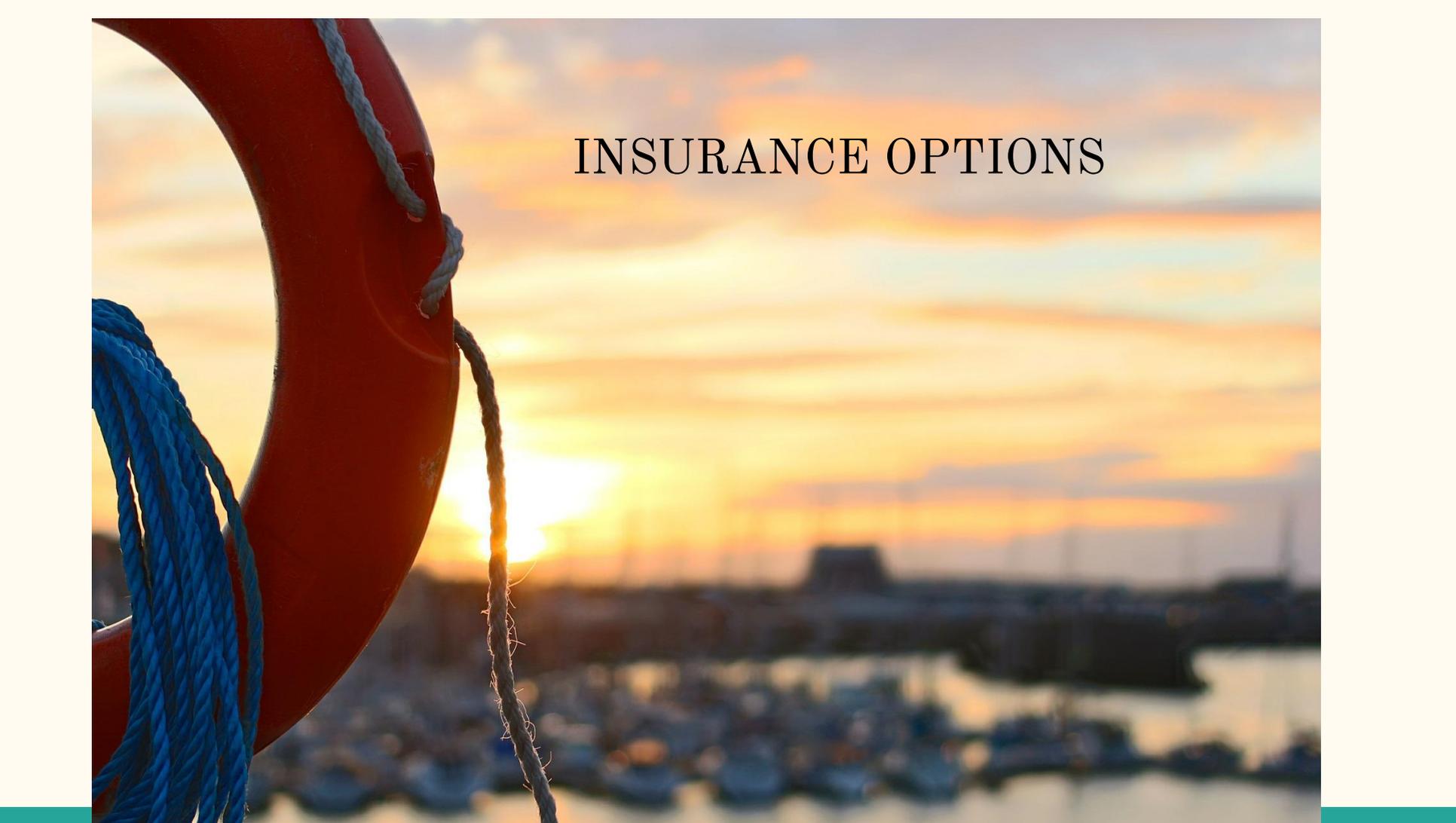
Sale of practice / buy- sell arrangement in advance.

Selling practice at time of death- may be large workload for Special Administrator- make sure they are ok with plan and family in agreement

Business dissolution

Steps to close practice- contact secretary of state office and IRS for guidance locally



A red lifebuoy with blue rope is in the foreground on the left. The background shows a harbor with many boats at sunset. The sun is low on the horizon, creating a warm orange and yellow glow. The sky is filled with soft, colorful clouds. The text "INSURANCE OPTIONS" is centered in the upper half of the image.

INSURANCE OPTIONS

Insurance options.

Have life insurance policy to cover the practice, if you have not set aside cash reserve

Life insurance with buy/sell agreement (for partners) policy covers buy-out

Key Person insurance for leadership person in a larger business

Other considerations

In small or solo practices, make sure more than one individual is on business banking accounts (these do not roll over to beneficiaries like person banks do)

Could add professional will provision to privacy practices document

References

Frank, E. et al. “Mortality rates and causes among US physicians” American Journal of Preventive Medicine. 2000.

Rowan, G. “Rapid response: What do doctors die from?” British Medical Journal Dec 22, 2008.

Yaghamour, N. et al. “Causes of death of residents in ACGME-accredited programs 2000 through 2011: Implications for the learning environment.” Academic Medicine July 2017

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Frankel, Steven and Alban, Adam. “Professional wills for psychiatrists” Clinical Lawyer January 19, 2011.

George, C. “After doctor’s death, records can land in limbo” Houston Chronicle June 7 2013.

Mechlinski, J. “What happens when your doctor dies unexpectedly?” National Pain Review. Dec 14, 2017.

Images from pixabay and unsplash

Post- test

1. Is a professional will legally binding? Y N
2. Do clinicians need to make records available even after they die? Y N

Changes to practice

Complete a professional will and associated documents

Discuss with my colleagues and/or employees plans in case of my death

Formulate a comprehensive plan for care of patients, medical records, and medical practice in case of untimely death or incapacitation.

I do not plan to make any changes to my practice at this time.

Resources

Your State Medical Association or Medical Board

Malpractice website

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2790691/>

<http://www.massmed.org/Physicians/Legal-and-Regulatory/Physician-s-Survivor-Information-%28pdf,-24-pages%29/>

<https://www.score.org/resource/small-business-owner-guide-succession-planning>

<https://www.medicaleconomics.com/medical-economics-blog/tips-succession-planning-private-practices>

<https://www.physicianspractice.com/blog/succession-planning-101-private-practices>

