



Succession Planning – Protect Your Clients and Your Loved Ones

Several times every year, I am contacted by the family members after a lawyer has unexpectedly died or become incapacitated. Lacking any kind of plan or preparation on the part of the lawyer, the family is left to scramble to put together the pieces, necessarily adding to the pressure and difficulty of an already stressful situation. Clients, too, are left without any sort of support or guidance, adding possible claims and complaints to the mix.

Preparation for this situation is addressed by the rules in RPCs 1.1 (competence) and 1.3 (diligence).

To prevent neglect of client matters in the event of a sole practitioner's death or disability, the duty of diligence may require that each sole practitioner prepare a plan, in conformity with applicable rules, that designates another competent lawyer to review client files, notify each client of the lawyer's death or disability, and determine whether there is a need for immediate protective action....

RPC 1.3, Cmt [5].

If you haven't done so already, we strongly encourage you to establish a plan to avoid this circumstance. Many states have guidance on topic, including:

- [What are a lawyer's ethical obligations to engage in succession planning?](#) California State Bar Formal Opinion No. 2024-209
- [AFTER ALL, YOU ARE ONLY HUMAN: THE SOLO PRACTITIONER'S HANDBOOK FOR DISABILITY AND DEATH](#) Issued by The Solo and Small Firm-General Practice Section of the State Bar of Wisconsin
- [Lawyer Death and Disability Planning Seminar](#), Iowa State Bar
- [Deceased and Disabled Lawyers; Client Property; Trust Accounts](#), Arizona Ethics Op. 04-05
- [Competent Representation, Information Relating to the Representation of a Client: Responsibilities on Death of a Sole Practitioner](#), Oregon Ethics Op. 2005-129

The ABA also has [available guidance](#), in addition to [ABA Ethics Op. 92-369](#). A [chart dated October of 2019](#) provides an outline of succession planning requirements by state. Be sure to check your state for requirements.

Regardless of what is required by rule or duty, consider the disastrous outcomes to your family, friends, and clients if you fail to plan for sudden death or disability. If you'd like to discuss this issue in more detail, or seek guidance in the preparation of plans, please contact one of our senior risk management counsel at [Attorneys Risk Management](#), and click on the "Request a Risk Management Consultation" button.



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