

RULE 1.19: SUCCESSION PLANNING

- (a) Lawyers should prepare written, detailed succession plans specifying what steps must be taken in the event of their death or disability from practicing law.
- (b) As part of any succession plan, a lawyer may arrange for one or more successor lawyers or law firms to assume responsibility for the interests of the lawyer's clients in the event of death or disability from practicing law. Such designation may set out a fee-sharing arrangement with the successor. Nothing in this rule or the lawyer's designation shall prevent the client from seeking and retaining a different lawyer or law firm than the successor. The lawyer to be designated must consent to the designation.
- (c) A registry shall be maintained by the South Carolina Bar. The successor lawyer(s) shall be identified on the lawyer's annual license fee statement.

Comment

- [1] The rule serves as an encouragement, especially to sole practitioners, to arrange for the orderly protection of clients.
- [2] A detailed succession plan should include written instructions concerning how and where client information is stored; bank account details, including operating and trust account information; information concerning disposition of closed client files, law office equipment, and payment of current liabilities; instructions to gain access to computer and voicemail passwords; and information detailing how the successor will be compensated.
- [3] Where a detailed succession plan has been prepared, the designated successor should step in to wind down the practice without need of a court appointment.
- [4] The client retains the power to select other counsel. The successor lawyer should ensure that the client is aware of that discretion and of any arrangement under which a portion of the fee is to be shared with the absent lawyer or his estate.
- [5] The lawyer may designate multiple, different successors for different types of cases. Individual client interests may be better served if multiple lawyers agree to be successors.
- [6] Law firms may also designate successors for lawyers, even if such successors are not members of the firm. Such a designation would be done according to the governing approval process of the particular law firm.
- [7] A registry is maintained for the voluntary designations. There is no requirement that a successor be listed in the registry. The registry, however, can serve as a starting point to determine if there is a succession plan in the event of the unexpected death or disappearance of a lawyer. A lawyer who names a successor should contact the South Carolina Bar and inform the Bar of the designation.

Comment 5 to Rule 1.3, RPC, Rule 407, SCACR, is amended to provide as follows:

[5] To prevent neglect of client matters in the event of a practitioner's death or disability, it is the better practice, and the duty of diligence may require, that each lawyer or law firm 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. See Rule 1.19.