

DO YOU HAVE A TRANSITION PLAN?

The Iowa Rules of Professional Conduct require that a lawyer act with reasonable diligence and promptness in representing a client.

Rule 32:1.3, *Comment [5]* directly addresses succession planning for sole practitioners:

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.

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Effective January 1, 2017, Iowa Court Rule 39.18 requires that each sole practitioner have a written plan that designates a primary and an alternate active Iowa attorney to serve in the event of their death or disability.



- ◆ PRESERVE THE VALUE OF YOUR PRACTICE
 - ◆ AVOID MALPRACTICE CLAIMS
- ◆ MINIMIZE STRESS & ADVERSE MONETARY CONSEQUENCES FOR YOUR FAMILY AND ESTATE

Office of Professional Regulation

Judicial Branch Building
1111 East Court Avenue
Des Moines, Iowa 50319

Phone: 515-725-8029
Fax: 515-725-8032
E-mail: client.security@iowacourts.gov

Office of Professional Regulation

CLIENT SECURITY TRUST FUND

SUCCESSION PLANNING FOR SOLE PRACTITIONERS



TEL: 515-725-8029



SUCCESSION PLANNING FOR A SMOOTH TRANSITION

Why should I develop a plan now?



The median age of sole practitioners in Iowa continues to rise.

Disability...

Rule 34.17 provides a mechanism for suspension of license and appointment of a lawyer as trustee to administer the practice of a lawyer under disability. The trustee is entitled by the rule to seek reasonable fees and expenses from

the disabled attorney, and otherwise by application to the Client Security Trust Fund.

Death...

If a probate proceeding is opened to administer your estate, Iowa Code section 633.84 authorizes court appointment of another lawyer to inventory the files and fulfill the duties necessary to close the practice. In the absence of a personal representative clothed with authority to administer the practice, Rule 34.18 provides a mechanism for appointment of a lawyer as trustee to administer the practice. The fees incurred by the personal representative or trustee may be taxable as administrative costs to the attorney's estate.

RULES 34.17 AND 34.18 ARE INTENDED TO PROTECT THE INTERESTS OF CLIENTS, NOT TO PRESERVE YOUR PRACTICE INTACT OR PROTECT ITS VALUE— AND THEY DO NOT DISCHARGE YOUR ETHICAL DUTIES UNDER RULE 32:1.3 OR RULE 39.18.

Plan for Continuity

1. Find someone, preferably an attorney, to close the practice in the event of your death or disability;
2. Develop a written agreement which specifically addresses possible conflict and trust account issues;
3. Include mention of the succession plan in your standard attorney fee contract or engagement letter;
4. Make certain a trusted person knows how to access logins/passwords, and leave directions on how to produce a client list with addresses;
5. Calendar all important dates diligently;
6. Thoroughly document all client files;
7. Keep your time and billing records up to date, balance your trust account monthly;
8. Familiarize the assisting attorney with your office;
9. Renew your written agreement with the assisting attorney annually; and
10. Do not keep any of your clients' original documents.

Planning Ahead: A Guide to Protecting Your Clients' Interests in the Event of Your Disability or Death, Oregon State Bar Professional Liability Fund, 1999

- Resources -

You can find detailed articles on the subject online and in various publications

{Specific to Iowa}

Succession Planning for Iowa Lawyers, Paul H. Wieck II; handbook, outline, forms and PowerPoint presentation
http://www.iowacourts.gov/Professional_Regulation/Attorney_RegulationCommissions/Client_Security/

{General Planning— Plus Template Forms!}

Planning Ahead: A Guide for Solo Practitioners, New York State Bar Association's Committee on Law Practice Continuity, 2005
<http://www.nysba.org> under "publications"

{Articles on Practice Continuity}

American Bar Association General Practice, Solo & Small Firm Division
<http://www.abanet.org>

Another avenue to consider is CLE

Check out the Office of Professional Regulation's website at <https://www.iacourtcommissions.org> for up-to-the-minute listings of accredited programs.

For more helpful hints and resources, call us at:

(515) 725-8029.



"LET OUR ADVANCE WORRYING BECOME ADVANCE THINKING AND PLANNING"
-WINSTON CHURCHILL