



***Mandatory Succession Planning:
It Is Going to Have to Happen,
But It Doesn't Have to be that Difficult***

THE ISSUE:

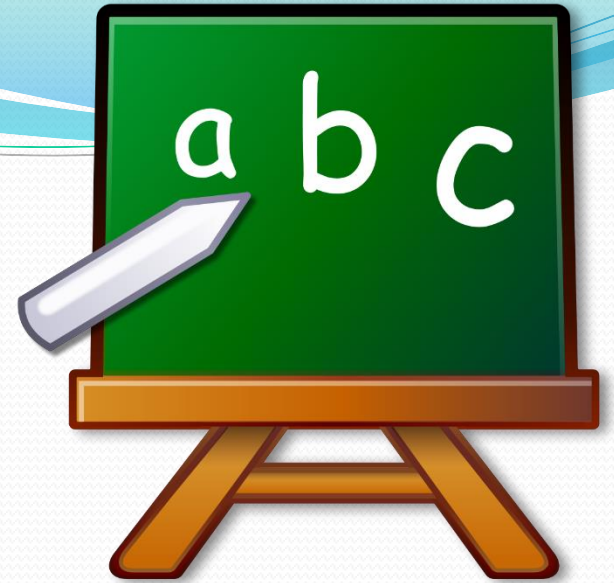
**Who would help your clients
(and you and your firm) if you
couldn't practice?**

- Sudden death/serious injury**
- Disabling illness**
- Long absence/military service**
- Disciplinary order**
- etc., etc.**



The Basics

- Rule 16-119 NMRA
 - Approved by the NM Supreme Court
October 18, 2019
 - Effective Date . . .
 - Applies to **ALL attorneys**, whether you are a solo, a gov.t, attorney, an employee of a firm, or in-house counsel.



Rule 16-119 NMRA

**EVERY LAWYER (the “Designating Lawyer”)
MUST HAVE A WRITTEN SUCCESSION PLAN
(Either alone or as part of a Law Firm Plan)**

- Identify **Assisting Lawyer(s)**
- Details on How to **Access:**
 - Active client list (PM or Case Mgt. software?)
 - Client files (electronic and physical)
 - Computer and other Passwords
 - Bank Account and Billing Info. (including IOLTA)

Some will be less involved than others



Person Responsible

- For the Law Firm/Govt./In-house Plan

Assisting Lawyer(s)

- Might be a Single Lawyer or
- Might be Several or a Pool of Lawyers (Comment 2)



Rule 16-119



- Notice to and Agreement By Assisting Lawyer (in writing)
- Notice to Clients

Wait . . . Did you say “Notify my Assisting Lawyer?”

- And explain to them the plan (show them the ropes)



- And get their consent, in writing
- And meet with him/her/them periodically

Wait . . . Did you say “Notify my Clients?”



Think about including a paragraph in your retainer agreement

- **I want to protect my clients' interests and pursuant to a Supreme Court Rule requiring all attorneys to do so, I have developed a succession plan for the unexpected and unlikely.**
- **Arranged with another lawyer to assist in closing/managing, etc.**
- **Asst. Lawyer will contact you and notify you of my inability to continue your representation**
- **And will provide you or your new lawyer your file**
- **But will not be representing you unless you choose and come to an agreement**

What About the Bank Accounts?

- IOLTA
 - Operating
 - POA if not deceased?
 - PR Access?
-
- Keep the Bank in the Loop



What About My Malpractice Carrier?



- Keep them in the loop too (both designating and assisting).

What if I Want More?

But Wait...
**THERE'S
MORE!!!**



- Tailor your agreement to fit your practice and your wishes
- The terms can be whatever you wish so long as they comply with the Rules of Professional Conduct and applicable law
- Coordinate with Estate Plan



Succession Planning Handbook For New Mexico Lawyers

Protecting Your Clients' Interests
By Providing for a Smooth Transition
After Your Retirement, Death or Disability

July 2014

New Mexico Supreme Court Lawyer Succession and Transition Committee

State Bar of New Mexico Lawyers and Judges Assistance Program,
Client Protection Fund, Senior Lawyers Division

Annual Certificate of Compliance



And What About Non-compliance?

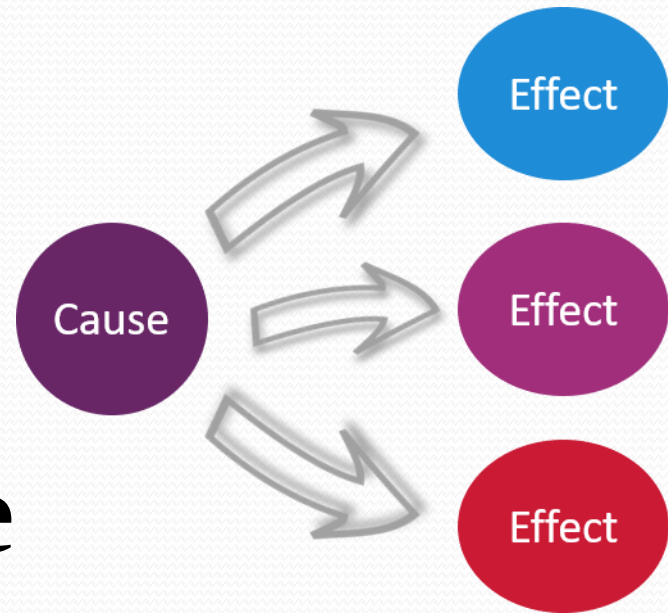


James Earl Ray III

JUST FIX IT

The Triggering Event

- What
- Who Decides
- Who Gives Notice



What Does the Rule Say?

- (1) by a court with competent jurisdiction;
- (2) as defined in the succession plan;
- (3) as certified by a competent medical professional; or
- (4) as otherwise agreed between the designating lawyer and the assisting lawyer.

What's an Assisting Lawyer to Do?



The assisting lawyer should take those steps provided for in the succession plan

Review and Update Plan

Periodic review!

-- It isn't a plan if it is obsolete

Update your information and your passwords!

Keep your Assisting Lawyer in the Loop

The Minimum



- A Checklist to Help – Let’s Look at It
- Contact the State Bar Professional Development Program:
(505) 797-6079 or
State Bar Regulatory Programs: (505) 797-5059
- AND/OR
- Look on the State Bar website www.sbnm.org, under the Member Service, Professional Development Program tab, Checklists: www.sbnm.org/Member-Services/Professional-Practice-Program/Checklists
- Or the Member Services tab – Succession planning