

EXAMPLE AGENCY/LAW FIRM SUCCESSION PLAN (Pursuant to Rule 16-119 NMRA)¹

Each attorney employed by [*law firm/agency*] (hereafter the “Employed Attorney”) shall comply with the following procedures to ensure the orderly transfer of active matters (litigation or otherwise) and access to work related files and information. All references to the [*law firm managing partner; law firm president; agency/firm administrator; department head, elected or appointed official; etc.*] include that person’s designee unless the context requires otherwise.

- 1) Each Employed Attorney shall input and maintain all active matters and information in the appropriate designated [*case management system; firm software system; case database; etc.*] and/or otherwise in a manner that allows immediate access by the [*law firm managing partner; law firm president; agency/firm administrator; elected or appointed official; etc.*] (hereafter the “Succession Attorney”). Employed Attorneys should not regularly maintain or store such matters on personal devices; provided that, if circumstances require the use a personal device, the Employed Attorney will promptly transfer or copy [*firm/agency*] work related matters and/or data to an appropriate work drive.

If an Employed Attorney uses a personal device, the Employed Attorney shall provide secure access information to the Succession Attorney for use in an emergency, period of incapacity or disability, or death. Delivering access information does not otherwise relieve Employed Attorneys of the duty to transfer or copy work related matters and/or data promptly and as soon as practicable in the ordinary course of legal business.

- 2) Each Employed Attorney shall maintain an updated list of active matters, including the file location (whether electronic, paper, or both) on which the Employed

¹ This example plan is provided to members of the State Bar of New Mexico for law firm/agency use in developing a succession plan. It is offered for informational purposes only and is not intended to constitute legal advice nor form any type of attorney-client relationship between any person or entity and the State Bar of New Mexico or any of its employees. The State Bar of New Mexico offers no assurance of compliance with any rules or laws by use of this example plan. Every lawyer, law firm, and agency are responsible for developing and maintaining their/its own succession plan in compliance with Rule 16-119, NMRA, tailored to each one’s specific circumstances and needs, which details the steps to be taken in the event of a lawyer’s extended incapacity from practicing law, or a lawyer’s disability or death.

Attorney is working. On a [*weekly; monthly; quarterly*] basis each Employed Attorney shall provide to the Succession Attorney the list of active matters, including the file location, as well as a summary of the status of the matter, and contact information for key people working on or associated with the matter.

- 3) Immediately prior to an Employed Attorney's voluntary separation from employment, the Employed Attorney shall provide to the Succession Attorney a current list of all active matters, including file locations, and an up-to-date description of the status of each matter on which the Employed Attorney is working. The Employed Attorney shall also provide to and/or identify for the Succession Attorney a list of all matters or items that the Employed Attorney reasonably believes require immediate or prompt attention or action, including any relevant deadlines and/or court settings. Upon receipt of this information, the Succession Attorney shall take the appropriate steps to have the matters reassigned to other [*law firm/agency*] attorneys, and to address any matters/deadlines/settings requiring immediate attention or coverage.
- 4) In the event of the involuntary separation, extended incapacity from practicing law, disability, or death of an Employed Attorney, the Succession Attorney shall access all state issued devices in the care or control of the Employed Attorney, and all records maintained or stored on such devices. The Succession Attorney shall subsequently take the appropriate steps to have the matters reassigned to other [*firm/agency*] attorneys, and to address any matters/deadlines/settings requiring immediate attention or coverage.
- 5) If the Succession Attorney separates from or is unable to continue employment for any reason, or if the Succession Attorney is otherwise unable or unwilling to perform the Succession Attorney's duties/tasks outlined above, then the Succession Attorney's duties/tasks shall be undertaken by [_____] [*to the extent allowed by law*].

This Plan is adopted/updated this _____ day of _____.

[Name and title of law firm managing partner; law firm president; agency/firm administrator; elected or appointed official; etc.]