

As of June, 2015	Does your state have a MANDATORY rule requiring an attorney to designate a successor/surrogate/receiver in case of death or disability
Alabama	NO
Alaska	
Arizona	
Arkansas	
California	NO mandatory rule, only encouraged
Colorado	NO
Connecticut	
Delaware	NO, but it is a voluntary question on the Annual Registration statement attorneys must file with the Supreme Court
DC	NO
Florida	<p>YES</p> <p>Florida has a rule requiring most lawyers to designate an inventory attorney. It appears below:</p> <p><i>RULE 1-3.8 RIGHT TO INVENTORY</i></p> <p>(a) Appointment; Grounds; Authority. Whenever an attorney is suspended, disbarred, becomes a delinquent member, abandons a practice, disappears, dies, or suffers an involuntary leave of absence due to military service, catastrophic illness, or injury, and no partner, personal representative, or other responsible party capable of conducting the attorney's affairs is known to exist, the appropriate circuit court, upon proper proof of the fact, may appoint an attorney or attorneys to inventory the files of the subject attorney (hereinafter referred to as "the subject attorney") and to take such action as seems indicated to protect the interests of clients of the subject attorney.</p>

	<p>(b) Maintenance of Attorney-Client Confidences. Any attorney so appointed shall not disclose any information contained in files so inventoried without the consent of the client to whom such file relates except as necessary to carry out the order of the court that appointed the attorney to make the inventory.</p> <p>(c) Status and Purpose of Inventory Attorney. Nothing herein creates an attorney and client, fiduciary, or other relationship between the inventory attorney and the subject attorney. The purpose of appointing an inventory attorney is to avoid prejudice to clients of the subject attorney and, as a secondary result, prevent or reduce claims against the subject attorney for such prejudice as may otherwise occur.</p> <p>(d) Rules of Procedure. The Florida Rules of Civil Procedure are applicable to proceedings under this rule.</p> <p>(e) Designation of Inventory Attorney. Each member of the bar who practices law in Florida shall designate another member of The Florida Bar who has agreed to serve as inventory attorney under this rule; provided, however, that no designation is required with respect to any portion of the member's practice as an employee of a governmental entity. When the services of an inventory attorney become necessary, an authorized representative of The Florida Bar shall contact the designated member and determine the member's current willingness to serve. The designated member shall not be under any obligation to serve as inventory attorney.</p>
Georgia	NO
Guam	NO
Hawaii	
Idaho	NO, but it is recommended by the comment to Rule 1.3
Illinois	<p>NO, but beginning with the 2016 Annual Registration - New Rule 756(g) provides that lawyers provide the following:</p> <p><u>(g) Practice Related Information.</u> Each attorney shall provide the following practice related information:</p>

	<p><u>(1) An address, email address, and telephone number designated by the attorney as the attorney’s listings on the Master Roll;</u></p> <p><u>(2) The attorney’s residential address, which shall be deemed to be the address required by paragaraph (g)(1) above if the attorney has not provided such an address;</u></p> <p><u>(3) The name of all other states of the United States in which the lawyer is licensed to practice law; and</u></p> <p><u>(4) For attorneys on active status and engaged in the practice of law, the type of entity at which the attorney practices law, the number of attorneys in that organization, the principal areas of law in which the attorney practices, <i>and whether that organization has established a written succession plan.</i></u></p> <p><u>Information provided pursuant to paragraphs (g)(2) and (g)(4) of this rule shall be deemed confidential pursuant to this rule. Information pursuant to paragraph (g)(1) shall be confidential pursuant to this rule for a lawyer registered under paragraph (a)(5) or (a)(6) of this rule, on inactive status pursuant to former Rule 770, on permanent retirement status under paragraph (a)(8) of this rule, or exempt from payment of a fee under paragraph (a)(3) of this rule. The Administrator may release confidential information under paragraph (g)(1) of this rule upon written application demonstrating good cause and the absence of risk of harm to the lawyer. The Commission may report in the aggregate information made confidential by paragraph (g).</u></p>
Iowa	
Indiana	<p>NO, but we have a rule that calls for designation of attorney surrogate as a part of the annual registration process. However, the rule is permissive rather than mandatory. Here is the applicable subsection [Admis. & Disc. R. 23, Section 27(b)(1)]:</p> <p>(b) <i>Designation of Attorney Surrogate</i></p> <p>(1) At the time of completing the annual registration required by Ind. Admission and Discipline Rule 2(b), a Lawyer may designate an attorney surrogate in the Clerk of Courts Portal (www.in.gov/judiciary/cofc/license) provided by the Clerk of the Supreme Court by specifying the attorney number of the attorney surrogate and certifying that the attorney surrogate has agreed to the designation in a writing in possession of both the lawyer and the surrogate. The designation of an attorney surrogate shall remain in effect until revoked by either the designated attorney surrogate or the Lawyer designating the attorney surrogate. The Lawyer who designates the</p>

	attorney surrogate shall notify the Clerk of the Supreme Court of any change of designated attorney surrogate within thirty (30) days of such change. The Clerk shall keep a list of designated attorney surrogates and their addresses.
Kansas	NO
Kentucky	NO
Louisiana	NO – not at this time. There is a proposal pending before the Supreme Court at this time that would provide for naming a successor, but it may not be mandatory.
Maine	<p>TENTATIVELY YES</p> <p>Maine has proposed a mandatory proxy designation to the Court. The rule may be adopted as early as March 1. Below is the definition and proposed rule:</p> <p>Definition:</p> <p>“Proxy” means an attorney named in another attorney’s registration statement who will act to protect the interests of clients and conclude the law practice of an attorney who is incapacitated, suspended, disbarred, disappears, or dies.</p> <p>M.Bar R. 1(g)(12) if engaged in the private practice of law, the name of an attorney who has consented to serve as a proxy on behalf of the attorney (See Rule 32) must be disclosed.</p> <p>If no name is provided, and the attorney indicates that they are in private practice, that attorney will face an administrative suspension.</p>
Maryland	NO
Massachusetts	NO
Michigan	NO
Minnesota	NO – it is recommended that attorneys have a plan in place, but no requirement to do so
Mississippi	
Missouri	NO - We have a strongly worded COMMENT to Rule 1.3 (Diligence) RULE 4-1.3: DILIGENCE – see comment [5]

A lawyer shall act with reasonable diligence and promptness in representing a client.

(Adopted Aug. 7, 1985, eff. Jan. 1, 1986. Amended March 1, 2007, eff. July 1, 2007.)

Comment

[1] A lawyer should pursue a matter on behalf of a client despite opposition, obstruction, or personal inconvenience to the lawyer and take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer must also act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf. A lawyer is not bound, however, to press for every advantage that might be realized for a client. For example, a lawyer may have authority to exercise professional discretion in determining the means by which a matter should be pursued. See Rule 4-1.2. The lawyer's duty to act with reasonable diligence does not require the use of offensive tactics or preclude the treating of all persons involved in the legal process with courtesy and respect.

[2] A lawyer's work load must be controlled so that each matter can be handled competently.

[3] Perhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness.

A lawyer's duty to act with reasonable promptness, however, does not preclude the lawyer from agreeing to a reasonable request for a postponement that will not prejudice the lawyer's client.

[4] Unless the relationship is terminated as provided in Rule 4-1.16, a lawyer should carry through to conclusion all matters undertaken for a client. If a lawyer's employment is limited to a specific matter, the relationship terminates when the matter has been resolved. If a lawyer has served a client over a substantial period in a variety of matters, the client sometimes may assume that the lawyer will continue to serve on a continuing basis unless the lawyer gives notice of withdrawal. Doubt about whether a client-lawyer relationship still exists should be clarified by the lawyer, preferably in writing, so that the client will not mistakenly suppose the lawyer is looking after the client's affairs when

	<p>the lawyer has ceased to do so. For example, if a lawyer has handled a judicial or administrative proceeding that produced a result adverse to the client, the lawyer should advise the client about the possibility of appeal before relinquishing responsibility for the matter. See Rule 4-1.4(b). Whether the lawyer is obligated to prosecute the appeal for the client depends on the scope of the representation the lawyer has agreed to provide to the client.</p> <p>See Rule 4-1.2.</p> <p>[5] To prevent neglect of client matters in the event of a practitioner's death or disability, the duty of diligence may require that each 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. Cf. Rule 28 of the American Bar Association Model Rules for Lawyer Disciplinary Enforcement (providing for court appointment of a lawyer to inventory files and take other protective action in absence of a plan providing for another lawyer to protect the interests of the clients of a deceased or disabled lawyer) and Rule 5.26.</p>
Montana	NO
Nebraska	
Nevada	
New Hampshire	NO
New Jersey	
New Mexico	NO
New York	
North Carolina	NO
North Dakota	
Ohio	
Oklahoma	NO – but is very interested in this subject and some want to push for a mandatory rule
Oregon	NO

Pennsylvania	NO
Rhode Island	NO
South Carolina	<p data-bbox="500 348 565 373">YES</p> <p data-bbox="690 417 1243 447" style="text-align: center;">RULE 1.19: SUCCESSION PLANNING</p> <p data-bbox="500 491 1427 596">(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.</p> <p data-bbox="500 640 1427 926">(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.</p> <p data-bbox="500 970 1427 1075">(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.</p> <p data-bbox="899 1188 1036 1218" style="text-align: center;">Comment</p> <p data-bbox="500 1262 1427 1331">[1] The rule serves as an encouragement, especially to sole practitioners, to arrange for the orderly protection of clients.</p> <p data-bbox="500 1375 1427 1625">[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.</p> <p data-bbox="500 1669 1427 1774">[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.</p> <p data-bbox="500 1818 1427 1877">[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</p>

	<p>any arrangement under which a portion of the fee is to be shared with the absent lawyer or his estate.</p> <p>[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.</p> <p>[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.</p> <p>[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.</p> <p>Adopted by Order dated February 11, 2013, effective July 1, 2013.</p>
South Dakota	
Tennessee	<p>NO – we do not mandate such a requirement, but we do have a provision, Tenn. Sup. Ct. R. 9 §29.9, which allows for such a relationship.</p> <p>29.9. Advance Designation of a Receiver or Successor Attorney.</p> <p>An attorney may designate in advance another attorney by contract, appointment, or other arrangement to handle or assist in the continued operation, sale, or closing of the attorney's law practice in the event of such attorney's death, incapacity or unavailability. In the event an attorney to whom this rule applies has made adequate provision for the protection of his or her clients, such provision shall govern to the extent consistent with this Rule unless the trial court or the Court determines, upon a showing of good cause, that the provisions for the appointment of a receiver attorney under this Rule should be invoked. After a complaint for the appointment of a receiver attorney has been filed, the affected attorney or the guardian, conservator, or personal representative of the affected attorney may designate a successor attorney and the trial court shall respect such designation unless the trial court determines, upon a showing of good cause, that such designation should be set aside.</p>
Texas	NO

USVI	
USPTO	NO
Utah	
Vermont	NO
Virginia	NO - Virginia does not have a rule mandating succession planning, but Comment 5 to Rule 1.3 (Diligence), provides, “A lawyer should plan for client protection in the event of the lawyer’s death, disability, impairment, or incapacity. The plan should be in writing and should designate a responsible attorney capable of making, and who has agreed to make, arrangements for the protection of client interests in the event of the lawyer’s death, impairment, or incapacity.”
Washington	
West Virginia	NO - Although West Virginia does not have a mandatory rule regarding succession plans, Comment 5 to Rule 1.3 Diligence (effective as of January 1, 2015) provides: “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. Cf. Rule 28 of the American Bar Association Model Rules for Lawyer Disciplinary Enforcement (providing for court appointment of a lawyer to inventory files and take other protective action in absence of a plan providing for another lawyer to protect the interests of the clients of a deceased or disabled lawyer).”
Wisconsin	NO – although there is a committee presently studying the issue
Wyoming	