



A Look Inside the **SUCCESSION PLANNING TOOLKIT**

AS TECHNOLOGY CHANGES AND OUR WORK ENVIRONMENT BECOMES MORE RIGOROUS, unexpected cessation of practice is on the rise. In Texas, there is an increased number of attorneys who die unexpectedly or are absent,¹ leaving partners and even family members to obtain client documents and close practices.

For client protection and emergency preparedness, the State Bar of Texas urges lawyers to evaluate their contingency plans. With advanced preparation, a law practice is poised to adjust in times of adversity.

I'm proud to say that over the past year, under the leadership of Immediate Past President Laura Gibson and the State Bar Law Practice Management Committee, we have made great strides in the area of succession planning.

The State Bar's new Succession Planning Toolkit was created through the generous work of the committee, who acted expeditiously to address the growing concern of sudden cessation within the profession. The toolkit is accessible at texasbar.com/successiontoolkit.

The toolkit was designed to help attorneys and other legal practitioners understand and apply the necessary elements to address the growing problem of unexpected and underprepared practice cessation. This comprehensive guide includes resources from the easiest and most essential—designating a custodian—to the more comprehensive, planning a transition out of practice.

The toolkit begins with an overview of the most basic and critical step in practice cessation, designating a custodian. Many attorneys are unfamiliar with the “task” or the “ask” of advanced designation. The toolkit contains a brief overview of your responsibilities as custodian and explains how to record your advanced designation as an attorney. It just takes a few minutes to designate your custodian using the State Bar's online portal at texasbar.com/succession. And if you only do one thing, designate a custodian.

The toolkit then moves into instructions on file management, which can be used by both the practitioner and his or her designated custodian. This section includes sample clauses to help address retention, transition, and closing of client files.

A primer has also been included to address the guidelines of custodianship, disposition of client files, and the precarious task of closing IOLTA accounts. You will find an overview of Texas Rules of Disciplinary Procedure Part 13 and steps to take in the event of a temporary cessation of your practice.

The toolkit also includes tips and checklists with timelines to use as you begin to wind down your practice, including information on preparing your practice for sale and the ethical and transactional factors to consider.

I am also grateful to the committee for spearheading “Designate Your Custodian Day” on June 21, the summer solstice. We took advantage of the longest day of the year to publicize the bar's online custodian designation portal.

Scenarios in which attorneys have died or are otherwise absent are on the rise, and it affects attorneys of all ages and practice areas. Changes in technology, the increase in solo practitioners, the aging of the profession, and the ever-present rigors of legal service have all been contributing factors.

Theodore Roosevelt once said, “In any moment of decision, the best thing you can do is the right thing, the next best thing is the wrong thing, and the worst thing you can do is nothing.” Do something today. Designate your custodian and begin the processes of practice cessation. It's never too early, but it can become too late.

Sincerely,

TREY APFFEL

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Editor in Chief, *Texas Bar Journal*

Notes

1. Biennial Report for 2018, Supreme Court of Texas' Grievance Oversight Committee, pp. 25-26, https://www.txgoc.com/_files/ugd/531469_52ad9e58a16c4c64a05720c99dafb21c.pdf.