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## Navigating Rule 1.3, Comment 5 to develop an attorney succession plan

*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.* — Illinois Supreme Court Rule 776, Appointment of Receiver in Certain Cases. Illinois Rules of Professional Conduct, Rule 1.3, Comment 5.

**W**e don't like to contemplate our own exit, but as sole practitioners, we must protect our clients in the event of our disability or death. In a recent article, Attorney Registration and Disciplinary Commission Senior Counsel John R. Cesario cautions the number of attorneys over 65 years of age is expected to grow substantially, perhaps more than three times in the next decade (John R. Cesario, "ARDC Thoughts," ISBA Senior Lawyer Section, February 2014 Vol. 5 No. 2, [isba.org/sections/senior-lawyers/newsletter/2014/02/ardc-thoughts](http://isba.org/sections/senior-lawyers/newsletter/2014/02/ardc-thoughts)).

The good news is there are basic steps you can take to ensure a safe and orderly transition. Make plans now and enjoy the peace of mind that comes from protecting the interests of your clients and your family.

**Designate your transition counsel and document your choice**

Choose your designated counsel carefully. Having a close relationship obviously is material, but there are other factors. Reflect on the practitioner's age and his or her long-term practice plans. Make sure the attorney communicates well with clients and has experience with the types of cases you handle.

He or she must be able to step in immediately and "review," "notify" and "determine" — make quick and appropriate evaluations of your cases, contact your clients and take appropriate protective measures. Confirm he or she is comfortable using your various software programs, and provide a guidebook with instructions. Lastly, document your choice and make sure your selected counsel will be promptly notified.

**Make smart software choices**

Making sound software choices for your practice now will smooth any transition later. Your designated counsel will need to operate your word processing, billing, calendar, accounting and

client database programs.

Using integrated or consolidated systems not only provides efficiencies in your daily work but will make the changeover as orderly and seamless as possible. Consider using established programs commonly used in the legal profession that also include technical support.

### SOLE SPEAK



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Don't hand your successor a password-discovery nightmare. There are online and desktop password utilities that list all of your programs and store every program password under a single master key.

With the use of secure cloud-based storage services, quality programs and a comprehensive document imaging protocol, you can maintain a safe, virtual ver-

little of your own practice, and begin to review, notify and determine.

Are all files located at your offices or do you have outside storage? How and where are original documents and instruments maintained? How can you quickly access all litigation deadlines, court hearings, client contacts, billing and financial records?

What are the passwords for your various programs and online accounts? How do you access your phone system? Answer those questions for a successful transition.

**Plan preparation and maintenance**

Cesario's article offers insightful suggestions for developing your transition plan. Keep current with periodic reviews and update your software. Check your counsel-of-choice for any new developments on his or her side. This will minimize potential disruptions if the time comes.

**Protect your clients and your firm's value**

Observance of Rule 1.3, comment 5, will not only protect your clients but can further serve to preserve your firm's value.

Under Rule 1.17 of the Illinois Rules of Professional Conduct, a law practice may be sold by "the estate of a deceased lawyer or the guardian or authorized representative of a disabled lawyer" if certain conditions are satisfied. Integrating your attorney succession plan with prudent estate planning can help safeguard the worth of the practice you worked so hard to build.

So get to it and develop your plan. You'll be glad you did.

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sion of your office, accessible from anywhere. Your successor will more adeptly manage the firm's affairs, and at present, your practice will be more productive.

**Put yourself in your successor's place**

To ensure your designated counsel will be effective, sit down at your desk, imagine you know