



Succession Planning for California Attorneys: A Law Practice Guide

EXECUTIVE SUMMARY

No one enters the legal profession expecting to step away suddenly. But life happens—accidents, medical emergencies, or even unexpected opportunities can interrupt your ability to practice. Without a plan in place, your clients, colleagues, and reputation could be left in limbo. Succession planning isn't just about retirement; it's about responsibility, continuity, and protecting the people who rely on you most.

[Cal. State Bar Formal Opn. No. 2024-209](#) makes clear that succession planning is an extension of an attorney's duties of competence, diligence, and client communication under the [California Rules of Professional Conduct](#). Whether you're a solo practitioner or part of a firm, having a written plan in place helps ensure that client files, trust funds, court deadlines, and open cases are handled promptly and responsibly. This guide provides practical tools, checklists, and templates for creating or improving a succession plan tailored to your practice. Proactive planning protects your clients, your reputation, and your legacy.

CHAPTER 1: KEY TERMS, ETHICAL DUTIES & THE BUSINESS CONTINUITY MINDSET

I. Purpose of Succession Planning

Succession planning is more than an ethical safeguard; it is a practical business continuity strategy that ensures an attorney's clients, practice, and professional obligations are protected in the event of death, incapacity, disability, or other unexpected events. [Cal. State Bar Formal Opn. No. 2024-209](#) affirms that attorneys—particularly solo practitioners—have a duty to implement systems to protect clients if they can no longer practice. Effective succession planning honors both legal and ethical obligations while minimizing disruption to client matters, staff, and trust accounts.

II. Key Definitions

To effectively plan, it is essential to understand the key players and terms involved:

- **Planning Attorney:** The attorney who creates and implements the succession plan. This is typically a solo practitioner or firm owner but may also be an attorney who wants to ensure the continuity of client service in the event of a temporary or

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permanent inability to continue practicing due to incapacity, disability, death, or other circumstances.¹

- **Assisting Attorney:** A California-licensed attorney identified by the Planning Attorney to step in and manage client matters, protect client property, and transition the practice or wind it down if necessary. The Assisting Attorney may take over the practice, transition clients, and/or close the firm. The Assisting Attorney may be given limited authority (e.g., reviewing client files) or broad authority (e.g., contacting clients, transferring matters, disbursing trust funds), depending on the written plan. The Assisting Attorney is often a trusted colleague in the Planning Attorney’s practice area or an attorney within the same firm.
- **Authorized Signer:** A person authorized to sign on the Planning Attorney’s client trust account.
- **Emergency Practice Coordinator:** A designated person (attorney or trusted staff) who holds emergency access credentials and notifies the Assisting Attorney when the Planning Attorney is unable to act. This is an administrative role and does not require licensure.

III. The Ethical Framework: Relevant Rules of Professional Conduct

Succession planning supports compliance with multiple rules of professional conduct. Below is an overview of each relevant rule and how it connects to the process:

- **Rule 1.1—Competence:** Attorneys must perform legal services with competence. Failing to plan for foreseeable incapacity or death can result in abandonment of client matters and missed deadlines. A succession plan is a proactive way to maintain competence during periods when the Planning Attorney is unable to act.
 - See: Rule 1.1(a); [Cal. State Bar Formal Opn. No. 2024-209](#) on p. 2.
- **Rule 1.3—Diligence:** Attorneys must act with reasonable diligence. An unplanned absence or incapacity without a backup plan creates a foreseeable risk of delay or prejudice to clients. Naming an Assisting Attorney helps maintain progress in pending cases.
 - See: Rule 1.3(a); [Cal. State Bar Formal Opn. No. 2024-209](#) on p. 2–3.
- **Rule 1.4—Communication:** Attorneys have a duty to keep clients informed. A succession plan should address how clients will be notified—either in advance or through the Assisting Attorney—and about who will handle their matters if the Planning Attorney becomes unavailable.
 - See: Rule 1.4(a)(3), (b); [Cal. State Bar Formal Opn. No. 2024-209](#) on p. 3.

¹ An attorney who intends to include reference to their law practice in their estate plan should consult the Probate Code regarding the appointment of a practice administrator. (See Prob. Code, §§ 2468, 9764, & 17200, subd. (b)(22) & (23); Bus. & Prof. Code, § 6185.) For further discussion of the role of an assisting attorney, see, e.g., Phila. Bar Assoc. Prof. Guidance Committee Opn. No. 2014-100, § III.

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- [Rule 1.7—Conflicts of Interest: Current Clients](#): The Assisting Attorney must evaluate whether assisting the Planning Attorney’s clients would create a conflict. Effective succession plans include advance conflict checks or mechanisms for transferring cases when necessary.
 - See: Rule 1.7(a); [Cal. State Bar Formal Opn. No. 2024-209](#) on p. 4.
- [Rule 1.9—Duties to Former Clients](#): If the Assisting Attorney previously represented a party adverse to a Planning Attorney’s client, they may be precluded from stepping in. Succession plans should account for conflict checks and alternative arrangements.
 - See: Rule 1.9(a); [Cal. State Bar Formal Opn. No. 2024-209](#) on p. 4.
- [Rule 1.10—Imputation of Conflicts](#): If the Assisting Attorney practices in a firm, conflicts may be imputed to the entire firm. The plan must ensure that both the Assisting Attorney and their firm are ethically eligible to assist.
 - See: Rule 1.10(a); [Cal. State Bar Formal Opn. No. 2024-209](#) on p. 4.
- [Rule 1.15—Safekeeping Funds and Property](#): Attorneys must properly manage client trust accounts and property. A succession plan should specify how the Assisting Attorney can access, disburse, and account for funds or property held in trust.
 - See: Rule 1.15(d)–(f); [Cal. State Bar Formal Opn. No. 2024-209](#) on p. 3–4.
- [Rule 1.16—Declining or Terminating Representation](#): If the Planning Attorney can no longer represent clients, they must take “reasonable steps” to protect client interests. A succession plan is the primary way to satisfy this obligation when representation ends unexpectedly.
 - See: Rule 1.16(d); [Cal. State Bar Formal Opn. No. 2024-209](#) on p. 3.
- [Rule 5.1—Responsibilities of Managerial and Supervisory Lawyers](#): Attorneys with management authority in a firm must ensure compliance systems are in place. Larger firms should formalize succession protocols and ensure readiness across the firm.
 - See: Rule 5.1(a)–(b); [Cal. State Bar Formal Opn. No. 2024-209](#) on p. 5.

IV. Recordkeeping as Risk Management

Thorough and up-to-date recordkeeping is one of the most effective ways to manage the risks associated with an unexpected interruption to your legal practice. By clearly documenting your succession plan, you demonstrate compliance with ethical obligations and provide a clear roadmap for the Assisting Attorney, who may need to step in. Good recordkeeping helps prevent client abandonment, reduces the risk of malpractice claims, and shows your commitment to continuity and professional responsibility—principles valued by clients, malpractice insurers, and regulatory bodies alike.

Essential documents such as a signed *Succession Planning Agreement*, secure protocols for digital access, trust account procedures, and conflict check logs serve as safeguards for you and your clients. Client communication templates and file/calendaring system instructions can help the Assisting Attorney act quickly and ethically during a transition. To ensure these tools are

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useful when needed, store them in a secure but accessible location and update them at least annually. In short, diligent recordkeeping isn't just administrative; it's a cornerstone of ethical lawyering and smart risk management.

V. Framing Succession Planning as Business Continuity

As emphasized in [Cal. State Bar Formal Opn. No. 2024-209](#), this process should be seen not only as an ethical requirement but also as a form of business continuity planning. Much like insurance or data backups, a succession plan protects your clients and your livelihood from disruption, malpractice risk, and loss of goodwill. It ensures that your practice can continue to function or wind down responsibly, even if you are unexpectedly unable to manage it yourself. By planning ahead, you preserve client trust, safeguard your reputation, and create operational resilience. In a solo or small firm setting, where the attorney is often the central pillar of the practice, having a documented, accessible succession plan is not just smart—it's essential.

CHAPTER 2: IMPLEMENTING THE PLAN

I. The Importance of Having a Succession Plan

Firms that lack a concrete plan to ensure continuity in the face of an attorney's unexpected incapacity or sudden departure risk causing irreparable harm to clients and the firm itself. Without a clear plan, firms may struggle to meet urgent deadlines, protect confidential information, or manage client funds. This can lead to missed court dates, malpractice exposure, and lasting reputational harm. Succession planning is not just for attorneys approaching retirement. It is a critical strategy for ensuring continuity, protecting clients, and preserving the integrity of your practice at any stage of your career.

Effective succession planning requires identifying who will step in, establishing clear procedures and triggers, and ensuring compliance with professional duties such as competence, diligence, and communication. While larger firms may rely on coordinated efforts, solo and small firm attorneys must often take personal initiative, frequently with the help of a designated Assisting Attorney. Regardless of firm size, the goal remains the same: Minimize disruption, uphold ethical standards, and ensure that client matters are responsibly managed if you are unavailable.

II. Designate an Assisting Attorney, Authorized Signer, and Emergency Practice Coordinator

A key part of preparing your law practice for transition or closure is selecting a qualified attorney who can step in if you're unable to manage your practice due to unexpected incapacity or death. In some cases, an Assisting Attorney may begin as a temporary designee and later become a full successor, depending on the arrangement and your long-term goals. In limited cases, the Assisting Attorney may even be your personal attorney. This Assisting

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Attorney must be a California-licensed attorney in good standing. Their responsibilities should be defined clearly in the *Succession Planning Agreement* and limited to what is necessary to protect client interests and ensure compliance with legal and ethical duties. This may include notifying clients, organizing files, addressing active deadlines, and overseeing the return of client property. Ethical constraints such as maintaining confidentiality ([rule 1.6](#)), avoiding conflicts of interest ([rule 1.7](#) and [rule 1.9](#)), and properly handling trust funds ([rule 1.15](#)) apply throughout this process. To document this step, you can utilize the *Notice of Designated Assisting Attorney* sample.

The next critical step is to designate an Authorized Signer to access the client trust account(s) and operating account(s). To promote checks and balances and reduce potential conflicts of interest, consider appointing someone other than your Assisting Attorney. Without an Authorized Signer, clients' funds may remain inaccessible until a court intervenes, causing delays, added costs, and stress for your clients. On the other hand, granting access to the wrong person could result in misappropriation of funds, client harm, and professional liability. You remain ultimately responsible for the funds contained in your trust account, so it is important to select an Authorized Signer with care. Carefully evaluate your options, understand the implications, and make an informed, ethical decision. To document this step, you can utilize the *Notice of Designated Authorized Signer* sample.

The last step is to designate an Emergency Practice Coordinator. If applicable, the Planning Attorney should choose an individual (attorney or trusted staff) who holds emergency access credentials (e.g., *Law Office List of Contacts*) and notifies the Assisting Attorney when the Planning Attorney is incapacitated. This is an administrative role and does not require licensure. To document this step, you can utilize the *Notice of Designated Emergency Practice Coordinator* sample.

III. Decide What Circumstances Activate the Succession Plan and Determine the Designated Assisting Attorney's Level of Accessibility to Files and Client Trust Accounts

To activate your succession plan effectively, your *Succession Planning Agreement* must clearly define the circumstances that will trigger its implementation. You may designate this authority to a law firm partner, trusted attorney colleague, or the Emergency Practice Coordinator. The key is to ensure the standard is clear enough to trigger timely action, while also flexible enough to reflect real-world complexities. Once activated, the plan must allow your Assisting Attorney to access vital practice information, such as case calendars, emails, client files, financial records, and client trust account information.

This level of access comes with significant responsibility and must be structured to comply with [rule 1.6](#) (Confidentiality) and [rule 1.15](#) (Safekeeping Funds and Property). Accordingly, it's important to decide how much access the Assisting Attorney (or Emergency Practice Coordinator) will have to your files and accounts. Please consider the following approaches:

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Contingent access: This approach allows your Assisting Attorney to access your files and accounts during a particular period or after a specific event. You can have your Assisting Attorney, or another designated individual, determine whether the contingency has occurred.

Noncontingent access: This approach gives the Assisting Attorney complete access to your records and accounts at all times. No contingency must occur for that person to gain access. Please note: There may be confidentiality and other privacy concerns when using this approach.

If the succession plan is triggered due to death, family members, executors, or the Assisting Attorney may need to locate wills or trust instruments. In limited situations, the State Bar may provide guidance.² The Assisting Attorney should notify the State Bar by submitting a *Licensee Records and Compliance Inquiry form*. Clients may be directed to local courts or county recorders, depending on the type of legal instrument involved. The more organized and accessible your records are, the easier it will be for your Assisting Attorney or Emergency Practice Coordinator to respond effectively.

IV. Prepare Succession Plan Agreement and Necessary Authorization Paperwork with the Assisting Attorney, Authorized Signer, and Emergency Practice Coordinator

As part of developing a succession plan, you will need to prepare a written agreement and the necessary authorization paperwork for your Assisting Attorney. These documents will ensure the clarity and effectiveness of the arrangements you've made in the previous steps. First, document all relevant individuals assisting with your succession plan through the following samples: 1) *Notice of Designated Assisting Attorney*; 2) *Notice of Designated Authorized Signer*; and 3) *Notice of Designated Emergency Practice Coordinator*. Second, using the *Succession Planning Agreement* sample, prepare a written agreement with your Assisting Attorney that clarifies their role and authority, the scope of their anticipated assistance, their duties and responsibilities, and the terms of compensation. In that same written agreement, clarify the role and authority of your Authorized Signer and Emergency Practice Coordinator (if applicable) if they're different from the Assisting Attorney.

In addition, generate the necessary documentation that will authorize the Assisting Attorney and/or Authorized Signer to access your bank accounts, including your trust account. The types of documents required will depend on whether the authorization is conditional or unconditional. Conditional authorization limits access until a specific event occurs, such as your death, disability, or hospitalization. This may require institution-specific forms or a Limited Power of Attorney. Confirm in writing that your bank will accept it. Unconditional authorization, by contrast, grants immediate and full access, typically by adding the person as a co-signer on

² For further information, please access the page: [Successor Lawyer Duties When a Lawyer Dies](#).

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the account. This allows them to manage funds at any time, regardless of your health status, and removes your control over their access.

Because of the significant risks involved, particularly with unconditional authorization, it is essential to carefully select a trusted individual and understand the legal and ethical implications of your decision.

V. Discuss Your Arrangements with Appropriate Parties

A succession plan is only effective if the people responsible for carrying it out are aware of it and prepared to act. Key parties to inform include firm partners and shareholders, staff, your malpractice carrier, your accountant, your financial institutions, and anyone else involved in the operation of your practice. [Rule 5.1](#) imposes a duty on supervising attorneys to make reasonable efforts to ensure the firm is operating in compliance with professional obligations. This includes succession preparedness.

The succession plan should also be discussed with your spouse or partner, adult children, and anyone else who may be involved if you become incapacitated or pass away. Subject to [rule 1.6](#) and [Business and Professions Code section 6068\(e\)\(1\)](#), these conversations can help reduce stress and ensure your loved ones aren't left navigating unfamiliar legal or financial situations.

In addition, assembling a team of trusted advisors can help guide transitions under a succession plan. This may include financial planners, tax advisors, attorneys familiar with succession planning, and others who understand both the business and emotional dimensions of retirement. This group can provide guidance and accountability as you prepare your practice and your life for the next chapter.

VI. Notify Your Clients

Clients should be notified, ideally in writing at the outset of representation, that you have arranged for another attorney to step in if you become unable to continue practicing. Under [rule 1.4](#), attorneys are required to keep clients informed of significant developments that may affect their legal matters, including changes in who might temporarily manage their case. Clear, proactive communication preserves trust, sets expectations, and allows clients to make informed decisions regarding representation.

If clients learn of your incapacity or death from a third party, confusion, delays, and harm may result. They may turn to the State Bar to confirm your status or seek access to their files and unearned fees. Without a succession plan, clients could be forced to navigate probate, court intervention, or even your office landlord to recover their records. Notifying clients in advance helps prevent these complications and ensures ethical continuity in the event of an emergency.

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VII. Prepare Pertinent Information for the Assisting Attorney

Your Assisting Attorney can only act effectively if they have access to accurate, comprehensive, and well-organized practice information. This includes a list of open cases, calendared deadlines, pending tasks, client contact details, trust account balances, passwords, and digital credentials. A separate list of personal and business contacts, including family members, your office landlord, and your bookkeeper, will aid in this process. Ideally, this information should be stored securely in both physical and digital formats and reviewed regularly for accuracy.

Depending on your practice area, it may also be wise to specify the location of important documents (e.g., wills, trusts, and deeds). While the State Bar may be able to assist in retrieving client files, its ability to do so is limited. Maintaining clear internal records ensures that your clients can receive their documents without delay.

The *Law Office List of Contacts* sample provides a template to compile much of this data to aid your Assisting Attorney.

VIII. Perform Regular Maintenance of Your Office Systems

Creating a succession plan is only the first step. To keep it effective, you must regularly maintain your office systems so that someone stepping into your role can operate the practice with minimal confusion. This means keeping your client files up to date, ensuring that calendars and deadlines are current, and maintaining accurate financial and trust accounting records. Under [rule 1.3](#) (Diligence), [rule 1.15](#) (Safekeeping Funds and Property) and [rule 5.1](#) (Responsibilities of Managerial and Supervisory Lawyers), attorneys are expected to have procedures in place that support consistent and competent representation.

If you anticipate selling or transitioning your practice, regular maintenance becomes even more important. Keeping systems organized improves the value of your practice for buyers or successors. This means investing in efficient systems, retaining trained staff, and keeping your revenue and case pipeline steady in the years leading up to your retirement or departure.

IX. Review Annually

Succession planning is not static. It must be reviewed annually to ensure it still reflects your circumstances, your practice, and your goals. Check that your Assisting Attorney is still available and willing to serve, that your contact and financial information are still accurate, and that your client files and software access credentials are up to date.

You should also monitor for any changes in law or ethics rules that may affect your plan, including updates to the [California Rules of Professional Conduct](#). Life events (e.g., health changes, relocations, or staffing shifts) can also affect your timeline and contingency plans. Having both a primary and backup plan helps you remain flexible while staying on solid ethical ground.

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X. Additional Considerations

Succession planning is not only about risk management; it's also about envisioning your future and defining what you want your final professional chapter to look like.

From a practical standpoint, you should be aware of the role that the State Bar sometimes plays in a practice closure. In certain cases, the State Bar may provide limited guidance, resources to assist with file recovery and client notification, or compensation through the Client Security Fund. Clients may be entitled to refunds or copies of their records. Additionally, family members or executors may be expected to coordinate with the State Bar to notify clients and ensure the practice is shut down appropriately. Please see [When a Lawyer Dies](#) and [Closing a Law Practice](#) on the State Bar website.

Having a succession plan in place not only protects those you serve but also ensures your career ends with the professionalism and integrity it began with.

CHAPTER 3: FAQs & ADDITIONAL RESOURCES

This chapter addresses common questions that California attorneys may have when developing a succession plan and provides links to tools, references, and support services. Whether you're a solo practitioner, small firm attorney, or managing partner, these FAQs and resources are designed to help you build a compliant, practical plan that protects clients and supports business continuity.

I. Planning Attorney: Frequently Asked Questions

1. Am I required to have a succession plan under California law?

While no rule explicitly states a requirement, [Cal. State Bar Formal Opn. No. 2024-209](#) makes it clear that the duties of competence ([rule 1.1](#)), diligence ([rule 1.3](#)), communication ([rule 1.4](#)), and protection of client property ([rule 1.15](#)) require attorneys to take reasonable steps to avoid harm to clients. For most solo practitioners, this means implementing a written succession plan.

2. What are the consequences if I don't have a succession plan?

Failing to develop a succession plan can have serious professional and practical implications. If you experience an unexpected illness, incapacity, or death without a plan, your clients may face missed court deadlines, lost opportunities, and lack of communication—all of which may constitute ethical violations under [rule 1.1](#) (competence), [rule 1.3](#) (diligence), [rule 1.4](#) (communication), [rule 1.15](#) (safeguarding funds), and [rule 1.16](#) (termination of representation). In such cases, you could face professional discipline upon returning to practice.

In addition, under [Business and Professions Code section 6185](#), the California Superior Court is authorized to appoint an attorney as a practice administrator “to take control of the practice of

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a deceased or disabled licensee of the State Bar” and wind it up. This statutory process often creates considerable burdens for clients, courts, and the attorney’s personal estate, which may be required to pay for the administrator’s appointment and the costs of court intervention. (See [Business and Professions Code section 6180](#) et seq., [6190](#) et seq.)

3. I work in a small firm. Do I still need a succession plan?

Yes. Even in small firms, attorneys should assess whether firm policies are sufficient. If the firm does not have a formal business continuity protocol, each attorney—especially those with sole responsibility for certain clients—should create their own plan. [Rule 5.1](#) requires managerial attorneys to ensure systems are in place to comply with ethical duties.

4. Can I appoint a nonattorney, such as a spouse or office manager, to handle my practice in an emergency?

No. Only a licensed California attorney may review confidential client files, manage legal matters, or disburse funds held in a trust. Nonattorneys may assist with administrative duties but cannot act as an Assisting Attorney unless specially authorized by the court in limited circumstances, such as in an estate or court-supervised practice termination.

5. How do I choose an Assisting Attorney?

Look for someone:

- Who has competence in your primary practice area(s)
- Who is conflict-free under [rule 1.7](#) and [rule 1.9](#)
- Willing to sign a formal *Succession Planning Agreement*
- With malpractice coverage and the infrastructure to step in quickly

If you are a solo practitioner or work in a small firm, consider reciprocal arrangements with other solo or small-firm attorneys.

6. Should I inform my clients that I’ve designated an Assisting Attorney?

Yes, ideally. While not strictly required, doing so improves transparency and helps fulfill [rule 1.4](#) (communication). A simple clause in your engagement letter or an addendum to existing clients can state that you have appointed a trusted attorney to handle matters in an emergency.

7. Do I need to compensate the Assisting Attorney?

Compensation is not ethically required, but it’s strongly recommended to encourage participation. Options include:

- Hourly fees (paid by your estate or law office)

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- Flat fees for winding down
- Percentage of collected receivables
- Reciprocal no-fee arrangements between colleagues

Details should be documented in a signed agreement.

8. What happens to my trust account if I become incapacitated?

Under [rule 1.15](#), only a licensed attorney can manage client trust funds. Your plan must grant the Assisting Attorney access and authority to handle the account in accordance with trust accounting requirements. This may require preplanning with your bank or bookkeeper.

9. What if no one is willing to act as my Assisting Attorney?

If you cannot identify a willing Assisting Attorney, you must still develop protocols for:

- Alerting clients
- Returning client files
- Communicating deadlines
- Providing contact information for the State Bar or a potential court-appointed trustee

The State Bar’s Office of Chief Trial Counsel may intervene if client harm is imminent. Avoid this outcome by taking proactive steps now.

10. What about digital access? How do I securely share passwords and case files?

Use secure password management software and store credentials in a location accessible to your designated Emergency Practice Coordinator or Assisting Attorney. Your succession plan should specify how and when this information may be accessed, including two-factor authentication, cloud storage, and case management systems.

11. How often should I review or update my succession plan?

At least once per year, or when there is a significant change in your:

- Practice structure or staff
- Health condition
- Trust account arrangements
- Case management software or file storage systems

Annual updates also ensure your Assisting Attorney remains available and capable.

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II. Assisting Attorney: Frequently Asked Questions

1. What are my obligations as the Assisting Attorney?

It is important to carefully review the document designating you as the Assisting Attorney and the *Succession Planning Agreement* so you are aware of your obligations, which may vary depending on the circumstances and may include notifying clients of the death or incapacitation of their attorney, reviewing files to determine any pressing deadlines or statutes of limitations, or taking over administration of the Planning Attorney's client trust account(s).

2. I know sensitive information about the Planning Attorney. The Planning Attorney's former client is asking questions. What information can I give the Planning Attorney's former client?

This answer depends on your relationship with the Planning Attorney and their clients. If you are the Planning Attorney's attorney, you are limited to disclosing only information that the Planning Attorney consented to disclose. You should make clear to the Planning Attorney's clients that you do not represent them and that they should seek independent counsel. If the Planning Attorney did not consent to the disclosure of information about their condition to the client, you may not do so. This is often a delicate situation to navigate, so plan your conversations with the Planning Attorney's former clients carefully.

3. In addition to transferring files and helping to close the Planning Attorney's practice, I want to represent the Planning Attorney's former clients. Am I allowed to do this?

Whether you are permitted to represent the former clients of the Planning Attorney depends on (1) whether the clients want you to represent them and (2) who else you represent.

If you are representing the Planning Attorney, you cannot also represent their clients on a malpractice claim, ethics complaint, or fee claim against the Planning Attorney. Regardless of whether you represent the Planning Attorney, your ability to represent their clients is limited by potential conflicts arising from your other cases and clients. You must check your client list for possible client conflicts before undertaking representation or reviewing confidential information of a Planning Attorney's former client.

Even if a conflict check reveals no conflicts, you can always refer the case to another attorney.

4. What do I need to consider if I do not want to create an attorney-client relationship with the Planning Attorney's clients and only want to assist in transitioning their matters?

This ultimately depends on the circumstances, as the attorney-client relationship can be implied from the conduct of the parties. Factors may include (1) the arrangements made between the Planning Attorney and yourself, detailed in the *Succession Planning Agreement*; (2) advance consent from the Planning Attorney's clients on this topic; (3) each client's understanding of

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your role; and (4) other factors discussed in [Cal. State Bar Formal Opn. No. 2024-209](#). It is important to keep these factors in mind while interacting with the Planning Attorney's clients, so you do not unintentionally create an attorney-client relationship.

5. If I discover an ethical violation, do I have to tell the Planning Attorney's former clients or report the Planning Attorney to the State Bar of California?

The answer depends on the arrangement you have agreed upon with the Planning Attorney. The answer is:

- No, if you are the Planning Attorney's attorney
 - Maybe, if you are not representing the Planning Attorney or their former clients
 - Yes, if you are the attorney for the Planning Attorney's former clients
6. If the Planning Attorney stole client funds, do I have exposure to an ethics complaint against me?

You do not have exposure to an ethics complaint for the Planning Attorney's theft of client funds, unless you aided or abetted the unethical conduct. Whether you have an obligation to inform the Planning Attorney's former clients of the misappropriation depends on your relationship with the Planning Attorney and their former clients. Whether you must report the Planning Attorney to the State Bar of California depends on your relationship with the Planning Attorney and their former clients. (See questions 6 and 8 in the Planning Attorney FAQs above.) If you are the new attorney for a former client of the Planning Attorney and you fail to advise the client of the Planning Attorney's ethical violation, you could be exposed to the allegation that you have violated your ethical responsibilities to your new client.

ADDITIONAL RESOURCES

Below is a list of recommended resources to support your planning efforts:

- [Cal. State Bar Formal Opn. No. 2024-209: Succession Planning](#)
- [California Rules of Professional Conduct](#)
- [State Bar of California – Guidance for Clients and Family Members of a Deceased Lawyer](#)
- [State Bar of California – Guidelines for Closing or Selling a Law Practice](#)
- [State Bar of California – Transfer of Estate Planning Documents](#)
- [State Bar of California Ethics Hotline](#)—In CA: 800-238-4427; outside of CA: 415-538-2150
- [State Bar of California Certified Lawyer Referral Services](#)
- [Free Legal Help](#)
- [California Lawyers Association: Practitioner's Checklist](#)
- [ABA Formal Opinion 92-369: Disposition of Deceased Sole Practitioners' Client Files and Property](#)
- [ABA Disaster Resources for Lawyers and Law Firms](#)

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- [ABA: Surviving a Disaster: A Lawyer’s Guide to Disaster Planning](#)
- [Ready.gov: Business Continuity Planning](#)

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