

STATE OF WEST VIRGINIA

At the Supreme Court of Appeals, continued and held at Charleston, Kanawha County, on August 13, 2020, the following order was made and entered **in vacation**:

IN RE: **Request for Public Comment on Proposed Amendments to Rule 14,
Succession Planning, of the West Virginia State Bar Administrative Rules
No. 20-Rules-08**

ORDER

On July 2, 2020, E. William Harvit, Chair, Succession Planning Committee of the West Virginia State Bar, filed a written request to amend Rule 14 Succession Planning of the West Virginia State Bar Administrative Rules. The amendments would expand the requirements under the Rule from solo practitioners to include law firms or legal entities of five or fewer lawyers.

The Court has jurisdiction pursuant to Article VIII §1 of the West Virginia Constitution. Upon review during conference on July 23, 2020, the Court decided that the proposed amendments should be published for comment for a period of thirty days. Comments must be filed in writing with the Clerk of the Court on or before September 18, 2020.

The proposed amendments are set forth below. Proposed additions are indicated by underscoring and deletions are indicated by strikethrough.

West Virginia State Bar Administrative Rules

Rule 14 Succession Planning

14.01 Succession designations

The duty of diligence ~~may requires~~ that an active members of the West Virginia State Bar ~~who is operating as a sole practitioner~~ in law firms or legal entities of five (5) or fewer lawyers, to prepare a written succession plan specifying what steps must be taken in the event that the member is unable to continue ~~their~~ the law practice due to death or disability. *See* West Virginia Rules of Professional Conduct, Rule 1.3, Comment 5. As part of any succession plan, a lawyer ~~should~~ shall arrange for one or more successor lawyers to protect the interests of the lawyer's clients in the event of death or any disability that precludes practicing law. Such designation ~~may~~ shall set out a fee-sharing arrangement with the successor lawyer or lawyers. Nothing in this rule or the lawyer's designation shall prevent a client from seeking and retaining a different lawyer or law firm. Any lawyer to be designated as a successor must consent to the designation.

14.02 Registry of successor designations

The West Virginia State Bar shall maintain a registry of successor designations and identify the existence of a member's succession plan as part of the Bar membership information. Active members who are operating in law firms or legal entities of five or fewer lawyers as sole practitioners shall disclose to the State Bar whether they have a designated successor and a succession plan. Such disclosure shall be made annually on or before July 1 and submitted in the form required by the State Bar.

A True Copy

Attest: /s/ Edythe Nash Gaiser
Clerk of Court

