

# **NYSBA Planning Ahead Guide**

*How to Establish an Advance Exit Plan to Protect Your Clients' Interests in the Event of Your Disability, Retirement or Death*

**Law Practice Management Committee**

Subcommittee on Law Practice Continuity

**Second Edition**



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## Introduction

by Sarah Diane McShea

The original *Planning Ahead Guide* was published a decade ago and quickly became one of the NYSBA's most popular publications. Recently a subcommittee of the Law Practice Management Committee updated the *Guide*, replacing citations to the old ethics rules with current references to the Rules of Professional Conduct and revising the model forms to reflect, among other things, changes in the law and some of the newer technologies used by many practicing lawyers. The result, we hope, is as "user friendly" as the original *Planning Ahead Guide*. The *Guide* includes free downloadable forms in Word and Wordperfect and links to many of the cited references. The *Guide* will remain a work in process, as we welcome suggestions and feedback from lawyers in New York and other jurisdictions as they work with this publication.

The original *Planning Ahead Guide* was written by the NYSBA's Committee on Law Practice Continuity, chaired by David R. Pfalzgraf, Esq., a leader in the profession and the inspiring helmsman of the Law Practice Continuity Committee's work in assuring that lawyers prepare for the future and ensuring that there are safety nets for their clients and families when they have not done so.

The *Planning Ahead Guide* was the Law Practice Continuity Committee's first significant achievement. Its second significant achievement was its proposal of the Uniform Caretaker Rule to provide the necessary authorization and guidance for the appointment of caretaker lawyers to serve in emergency situations when disaster befalls a fellow member of the Bar. Although the proposed Uniform Caretaker Rule has not yet been adopted by the Appellate Division, it has nonetheless served to alert the courts and the legal profession to the need for guidance and court involvement in many situations when lawyers have not taken sufficient steps to plan for the future. Copies of the proposed model rule and the Committee's supporting memoranda are available at [www.nysba.org/ProfessionalConduct](http://www.nysba.org/ProfessionalConduct).

Special thanks go to the members of the Law Practice Management Committee's Subcommittee on Law Practice Continuity for their commitment and insights in updating the *Planning Ahead Guide*: Marion Hancock Fish, Patricia Spataro, Henry E. Kruman, Robert L. Ostertag, Anthony R. Palermo, Marian C. Rice, John R. McCarron, Anthony Q. Fletcher and Joseph F. Saeli, as well as William H. Roth, who assisted the Subcommittee in revising the updated *Guide*. Particular thanks go to the hardworking dedicated staff at the NYSBA, especially Katherine Suchocki, Jessica Patterson and Simone Smith, without whom we could not have completed this task.

We would remiss if we did not thank the leadership of the NYSBA for encouraging and consistently supporting the work of the Committee on Law Practice Continuity and the Law Practice Management Committee over the past twelve years. The original members of the Committee on Law Practice Continuity, which was responsible for the original *Planning Ahead Guide* and many continuing legal education programs around the State, included David R. Pfalzgraf (Committee Chair); James M. Altman (the original thinker behind the project), Francis X. Carroll (who has helped many lawyers in New York cope with personal and professional disasters), Anthony E. Davis, James F. Dwyer, Jeffrey M. Fetter, Susan F. Gibraltar, S. Jeanne Hall (one of the chief authors of the original *Guide* and a leading light in the profession), Paul M. Hassett, Douglas C. Johnston, Kim

Steven Juhase, Anne B. Keenan (to whom the original Guide was dedicated), Steven C. Krane, Anne Maltz, Sarah Diane McShea, Mark S. Ochs, Robert L. Ostertag, Timothy J. O’Sullivan, Anthony R. Palermo, Michael Philip, Jr., the Honorable Eugene F. Pigott (then a justice of the Appellate Division, Fourth Department, and a consistent source of wisdom and practical guidance), Barbara F. Smith (one of the best draftsmen and most thoughtful Committee members participating in the project) and Leroy Wilson, Jr. Special thanks and gratitude must go to former NYSBA staff member Terry Brooks, whose fortitude and dedication insured the publication and excellence of the original *Planning Ahead Guide*.

And, finally, we dedicate this current edition to Gary Munneke, the former Chair of the Law Practice Management Committee, whose outstanding work and astonishing level of commitment was appreciated by all involved in this update project. I sincerely apologize to those who contributed but who inadvertently are not included here. The fault is mine and later editions will correct this unintentional oversight.

Sarah D. McShea

Chair, Subcommittee on Law Practice Continuity