

Succession Planning:

Cessation of Practice

Advance Designation of Custodian Attorney

Sale of Practice

Succession Planning Resources

Military and Veterans Law Section

State Bar of Texas

March 27, 2026



Cessation of Practice Myths

If something happens to me, the State Bar will take over my practice.

✘ False. The State Bar does not take over client files or assign new counsel. Instead, a court might assume jurisdiction over a lawyer's practice and appoint custodian attorneys to close the practice.

I don't need to think about succession planning until I'm getting ready to retire.

✘ False. Cessation of Practice is regulated by the Texas Rules of Disciplinary Procedure. Don't wait for a crisis to strike.

Sudden Cessations of Practice

- Court ordered well-check on absent lawyer; the lawyer died at age 49 after a drug overdose; the practice left active matters pending across multiple counties
- Lawyer reported his father (also a lawyer) suffered from dementia; soon afterword, the son died unexpectedly, leaving decades of files for both practices
- Many young lawyers and senior attorneys became debilitated or died during the Covid pandemic. Lawyers are not immune to crisis.

Emergency Cessations



**Traditionally handled ad hoc by
regional offices of the Chief
Disciplinary Counsel**



**By 2017, increase in demand for
CDC time and resources to
address cessations**

*Grievance
Oversight
Committee
Biennial Report
2018*

“[C]essation of practice cases ... are a rapidly growing part of [CDC’s] workload and often require an extensive use of CDC resources.”

**Calls
centralized
to CDC
Special
Projects**



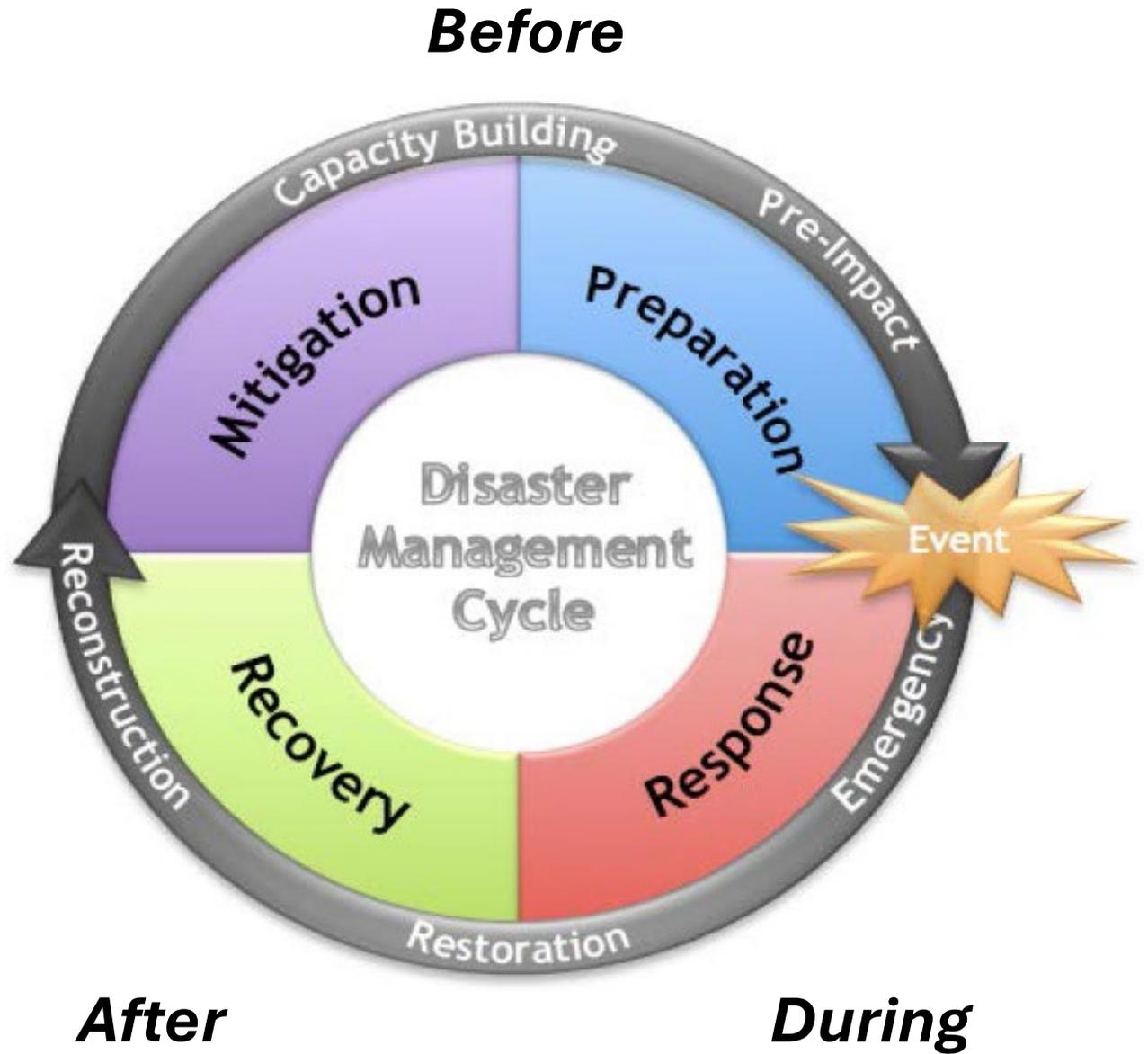
- Clients**
- Colleagues**
- Families**
- Staff**
- Landlords**
- Counsel**
- Courts**
- Other**

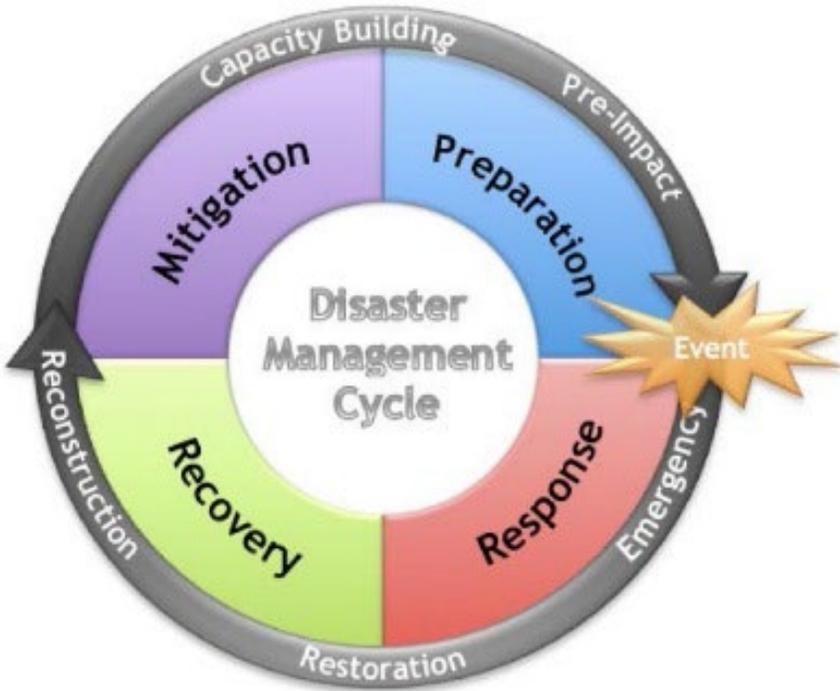
This wasn't going away

We needed to develop a method

- * Shock impact of lawyer suicides
- * Repercussions of sudden cessations
- * Suspense of “prospective” cessations
- * Underfunded IOLTAs
- * Burden of client files

We took a lesson from FEMA





Response Phase

A difficult place to start!



How Important is Succession Planning?

Hospital

10/24/23

- 6:30 pm received call from Ken telling me Bill was in the hospital
- 10:00 pm I arrived at the hospital

10/25/23

- 12:15 pm Bill passed away

Funeral Home

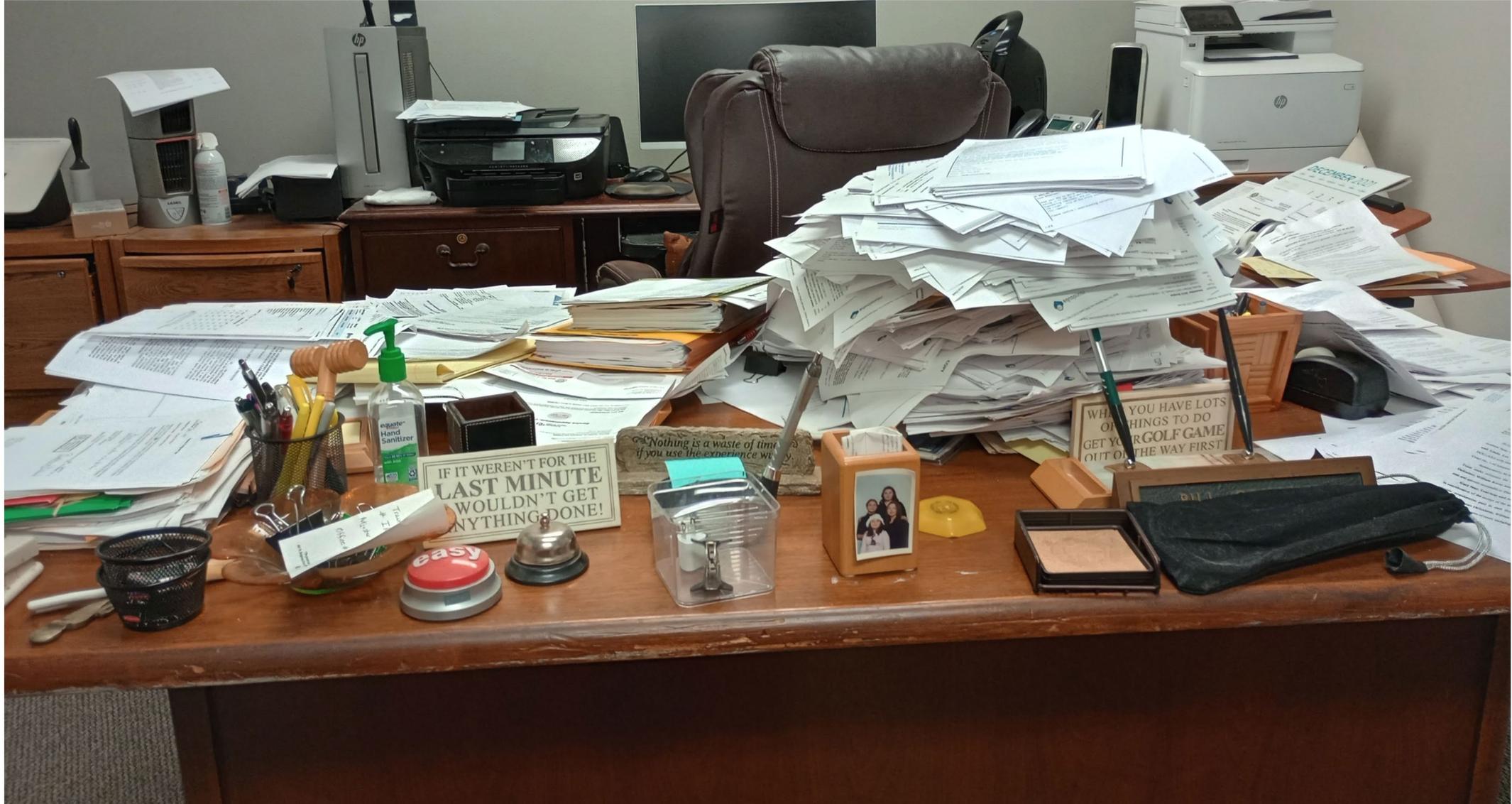
10/25/23

- 1:30 pm Ken and I met with funeral home

Law Office

10/25/23

- 3:00 pm Ken and I went to the law office





Files ready for destruction



Files ready for storage

Cessation of Practice Is Regulated

TEXAS RULES OF DISCIPLINARY PROCEDURE

PART XIII. CESSATION OF PRACTICE

13.02. Assumption of Jurisdiction: A client of the attorney, Chief Disciplinary Counsel, or any other interested person may petition ...

A. That an attorney ... has died, disappeared, resigned, become inactive, been disbarred or suspended, or become physically, mentally or emotionally disabled and cannot provide legal services necessary to protect the interests of clients.

B. That cause exists to believe that ... no other attorney licensed to practice law in Texas has, with the consent of the client, agreed to assume responsibility.

C. That there is cause to believe that ... interested persons or entities will be prejudiced

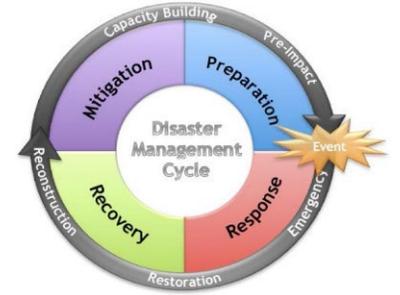
13.03. Hearing and Order on Application to Assume Jurisdiction: The court ... may issue an order to show cause ... why the court should not assume jurisdiction of the attorney's law practice. If the court finds that one or more of the events stated in Rule 13.02 has occurred and that the supervision of the court is required, the court shall assume jurisdiction and appoint one or more attorneys licensed to practice law in Texas to take such action as set out in the written order of the court ...

The custodian shall observe the attorney-client relationship and privilege as if the custodians were the attorney of the client and may make only such disclosures as are necessary to carry out the purposes of this part. Except for intentional misconduct or gross negligence, no person acting under this part may incur any liability by reason of the institution or maintenance of a proceeding under this Part XIII. No bond or other security is required.



Practical Objectives Upon Cessation

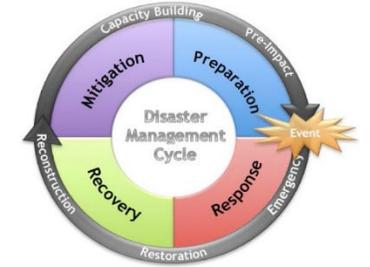
1. Access to client files
2. Notice to clients and others
3. Client direction on where client wants the file to go
4. Return of client property
 - a. The Client File
 - b. Final reconciliation of the IOLTA
 - c. Property held in trust or escrow



To Custodian Attorneys:

1. Custodian attorneys wind down the practice
2. Custodians do not become the new lawyers
3. Custodian liability protection written into the rules
4. Best handled at the local level
5. Recruit a team

To Courts and Counsel of Record:



Courts and Court Staff:

On proof of cessation, prepare case lists and reassign court appointments

Opposing Counsel:

Observe ethics rules on communications; alert the court and request status conference



To Clients:

1. Secure new counsel
2. Lawyer referral services
3. Legal service programs
4. Self-help resources (texaslawhelp.org)
5. Client Security Fund

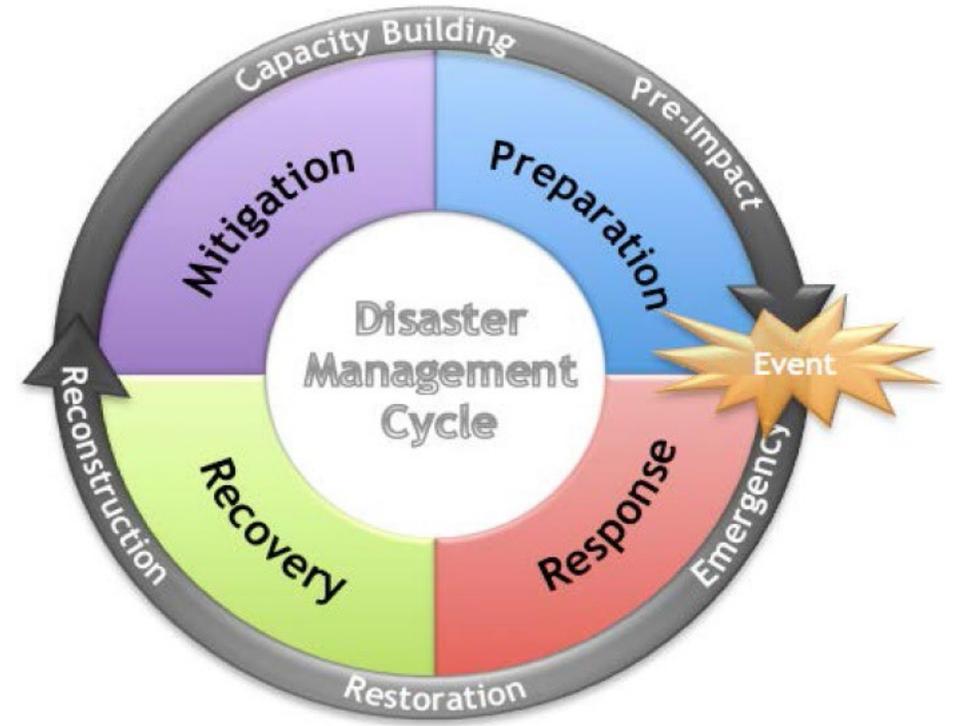


To Family and Staff:

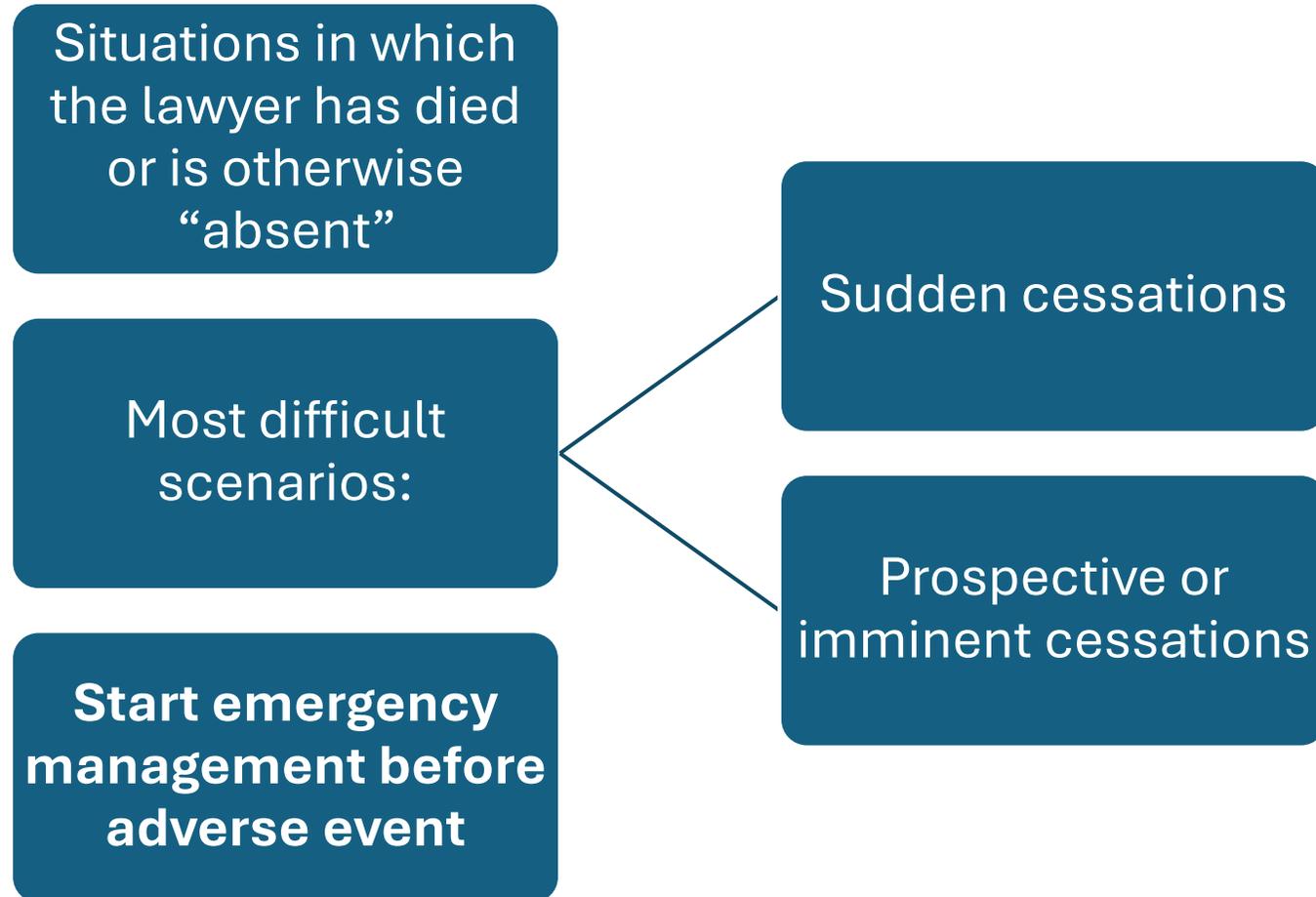
1. Empathy first, feel the loss
2. Explain cessation of practice is regulated
3. Find persons with most knowledge of the practice
4. Membership needs obituary or death certificate
5. Texas Bar Journal service to publish a memorial

Recovery Phase

**Always ask,
What did we learn?**



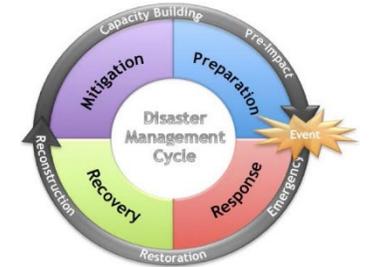
Cessation of Practice Issues



Temporary Cessations



- Lawyer suffered a stroke during trial. There was a sudden cessation, but the lawyer recovered and returned to practice.
- During the pandemic, many lawyers contracted Covid 19. One lawyer fell into a coma, survived the illness, and came back.
- Lawyers are sometimes needed by loved ones as care providers. Practice can be interrupted when a family member is seriously injured, in cognitive decline, or suffering from life threatening or terminal illness.



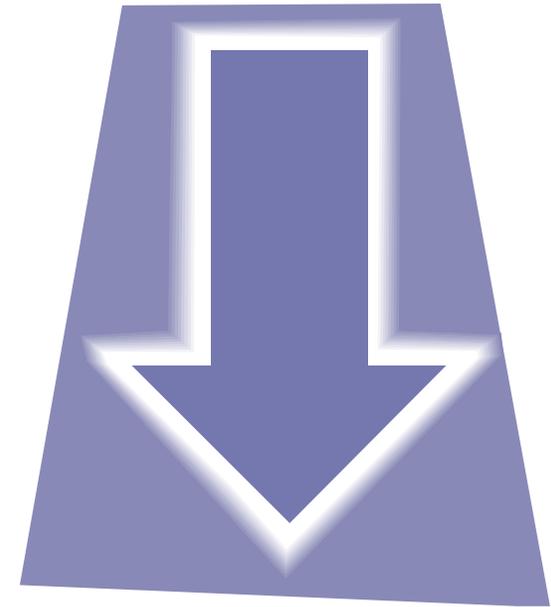
Cessations Drivers

- 1. Personal Crisis, Sudden Death or Incapacity**
- 2. Mental Illness and Substance Use Disorders**
- 3. The Graying of the Profession**
- 4. Risk of Market Disruption (AI, Legal Ops, ALSPPs)**

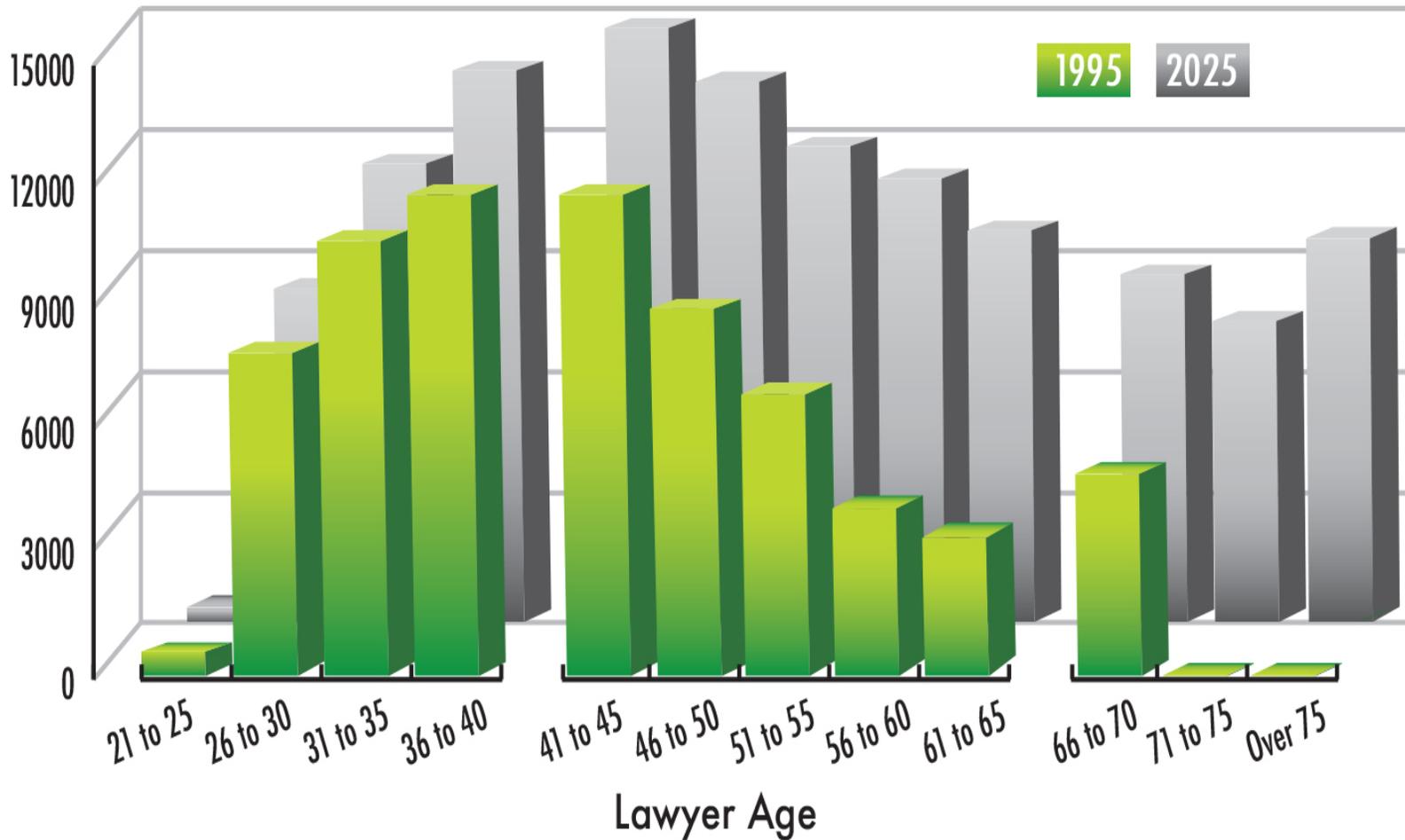
Loss of Function Hierarchy

- Community
- Spiritual life
- Recreation and avocation
- Friends
- Peers
- Family
- Work**

****A Medical Emergency**

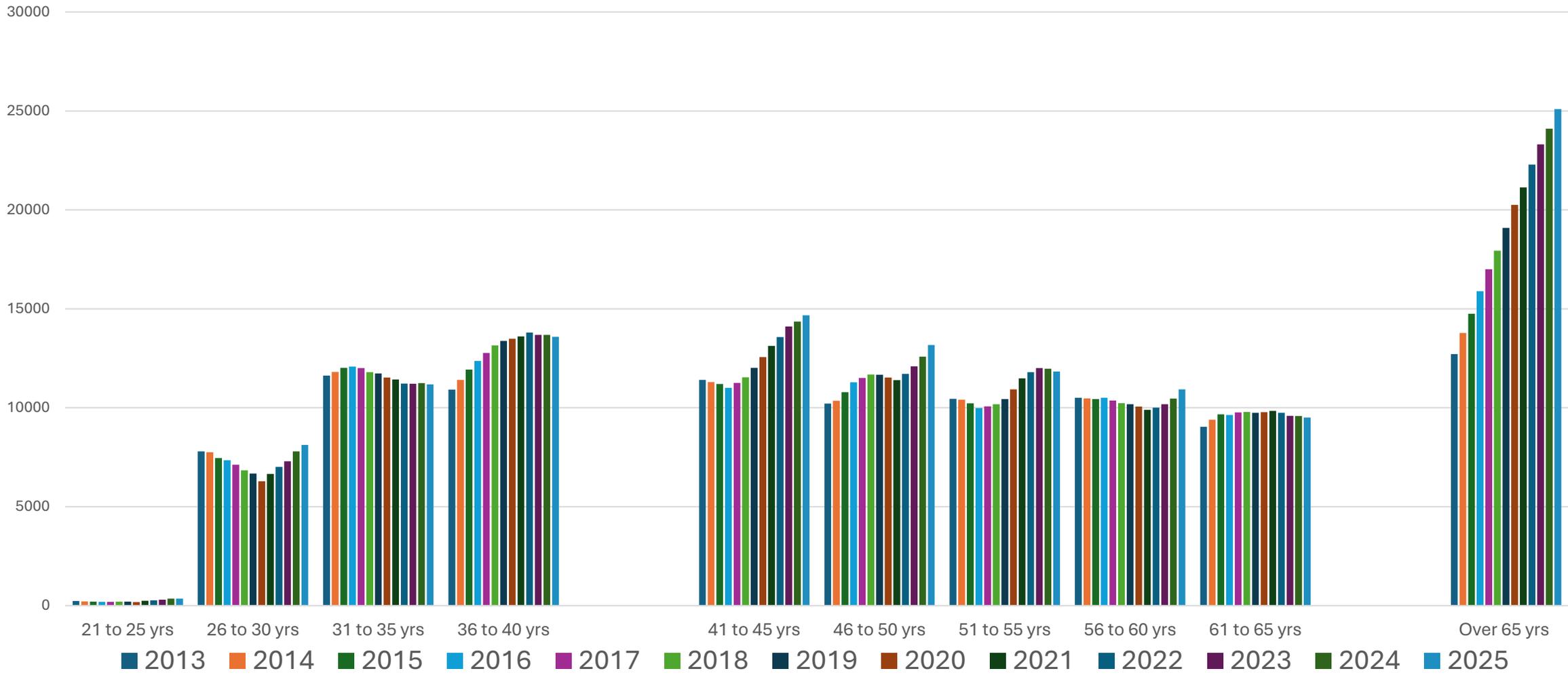


The Graying of the Profession



	1995	2025
21 to 25 yrs	573	348
26 to 30 yrs	6626	8121
31 to 35 yrs	9116	11,179
36 to 40 yrs	10,587	13,583
41 to 45 yrs	10,630	14,667
46 to 50 yrs	8785	13,172
51 to 55 yrs	5439	11,834
56 to 60 yrs	2876	10,933
61 to 65 yrs	2044	9500
66 to 70 yrs	3866*	8593
71 to 75 yrs	0	7394
Over 75 yrs	0	9105

*total includes all lawyers over 65 years of age for 1995



2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023 2024 2025

> 65: 12709 13782 14743 15892 16997 17937 19085 20254 21137 22288 23307 24109 25,092



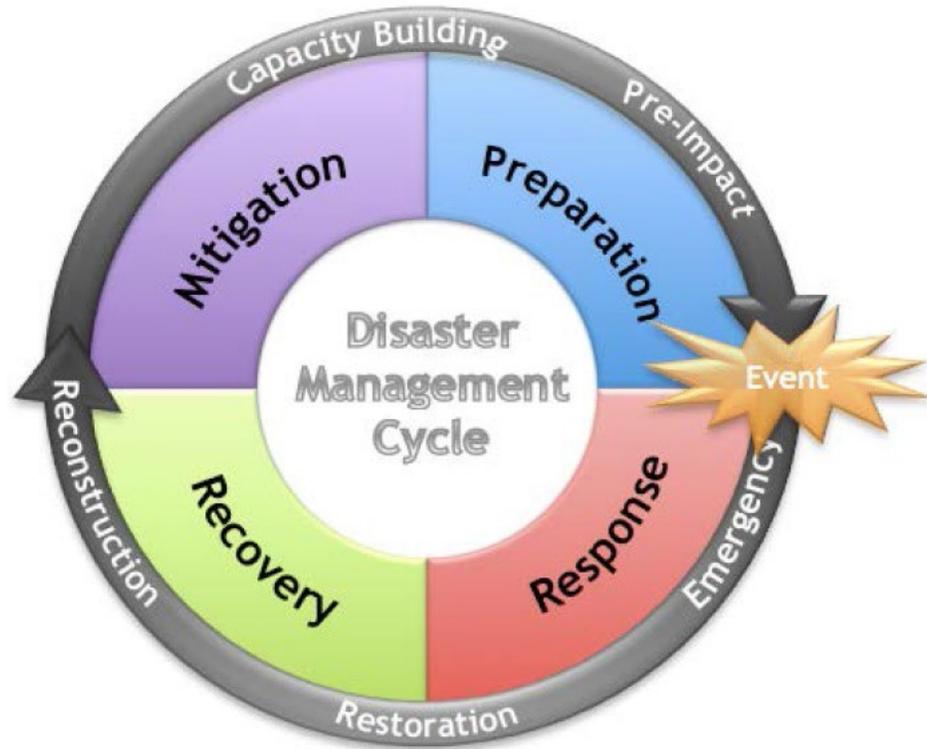
Unplanned cessations are a concern for the discipline of law practice. The scope of the problem is national.

Law practice as a discipline is changing.

We may one day join the jurisdictions that require mandatory succession plans.



The Best Solution Is Succession Planning



Mitigation Phase

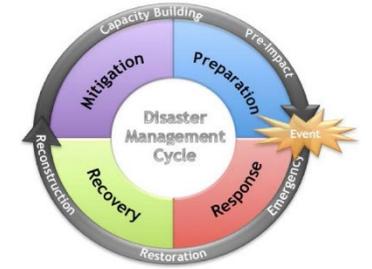
Taking action to prevent or reduce the impact of an event



State Bar Advancements to Mitigate Loss

1. Portal for Advance Designations of Custodian Attorneys
2. New Rules Soften Impact of Cessations and Temporary Cessations
3. Succession Planning Toolkit
4. Crisis Assistance Pilot Program – A Template for Local Bars

How to Get Started



The first step is to designate your custodian attorney.

Talk to a colleague you know and trust. Ask if the lawyer is willing to close your practice, if needed.

The designation can be mutual.

Advance Designation of Custodian Attorney

texasbar.com/succession



STATE BAR *of* TEXAS

Designation of Custodian Attorney

The arc of a lawyer's law practice eventually comes to an end. Ideally, the lawyer is ready, and transition from practice goes according to plan. However, in some events, cessation of practice is sudden and unexpected.

Succession planning fosters order and emergency preparedness. The Texas Supreme Court regulates cessation of practice consistent with these principles. [Texas Rules of Disciplinary Procedure](#)

For emergency management and client protection, the State Bar of Texas urges all lawyers to designate in advance one or more custodian attorneys. The role of the custodian attorney is to assist in winding down the lawyer's law practice. Practical objectives of custodianship include:

New Rules Added by Referendum Elections

- **TRDP 13.04: Voluntary Appointment of Custodian Attorney for Cessation of Practice**
 - Effective July 1, 2021
 - Enables lawyers to name their own custodian
 - Provides custodian attorney with same liability protection as court-appointed custodian

Texas Supreme Court's Comment to TRDP 13.04

Comment:

Performing the duties of a custodian under this Rule does not create a client-lawyer relationship. **If a lawyer serving as custodian assumes representation of a client, the lawyer's role as custodian terminates**, and the lawyer's actions are subject to the Texas Disciplinary Rules of Professional Conduct regarding the client-lawyer relationship.

New Rules Added by Referendum Elections

- **TRDP 13.05: Termination of Custodianship**
 - Effective October 1, 2024
 - Governs when and how to terminate a custodianship
 - Enables the appointing attorney to return to practice when competent and qualified.

Mechanics of TRDP Part 13

13.01 – Ordinary Cessations

13.02 – Extraordinary Cessations

13.03 – Court-Appointed Custodianship

13.04 – Voluntary Appointment of Custodian

13.05 – Termination of Custodianship



Succession Planning

**Traditional Transitions and
Sale of Practice**

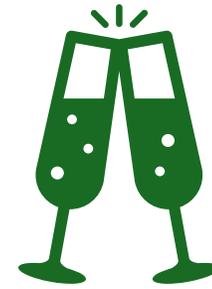


Unplanned Cessation

Abrupt closure of the practice

Abandoned files

Court-Appointed
Custodianship



Planned Succession

Orderly Transfer of files to
successor attorneys

Merge, associate, or sell the
practice

*Voluntary Custodianship

Traditional Methods of Transferring Client Matters to Successor Lawyers



Hire

Hire a younger lawyer into the firm and transfer client matters over time with client consent, then arrange departure compensation for the senior lawyer at the proper time.



Join or merge

Join or merge with another firm and introduce clients to the new firm's lawyers and arrange for permissible compensation and client consent to transfer files.



Co-Counsel

Engage outside co-counsel with client consent and enter a permissible fee sharing arrangement based on work performed or shared.

Can I Sell My Practice?

Opinion 266

Concluded that sale of practice in 1963 would violate Canons that prohibited attorney solicitation and protected confidentiality.

*“Clients are not merchandise.
Lawyers are not Tradesmen.”*

Note

The opinion predates our Texas Disciplinary Rules of Professional Conduct. Advertisement of the sale inferred it was a sale of “clientele.”

Lawyers don’t sell clients or client files. Find value in the tangible and intangible property of the practice.

No Texas disciplinary rule expressly prohibits sale of practice. However, any sale of practice must follow applicable disciplinary rules, including:

Rule 1.01 Competent and Diligent Representation

Rule 1.02 Scope and Objectives of Representation

Rule 1.03 Communication

Rule 1.04 Fees

Rule 1.05 Confidentiality of Information

Rule 1.09 Conflicts of Interest

Rule 1.14 Safekeeping of Property (IOLTA)

Rule 1.15 Declining or Terminating Representation

Rule 5.04 Professional Independence of a Lawyer

Rule 5.06 Restrictions on Right to Practice

Rule 7.04 Prohibition of Solicitation (Anti-Barratry)

Rule 8.04 Misconduct (Misrepresentation / Sham Sales)



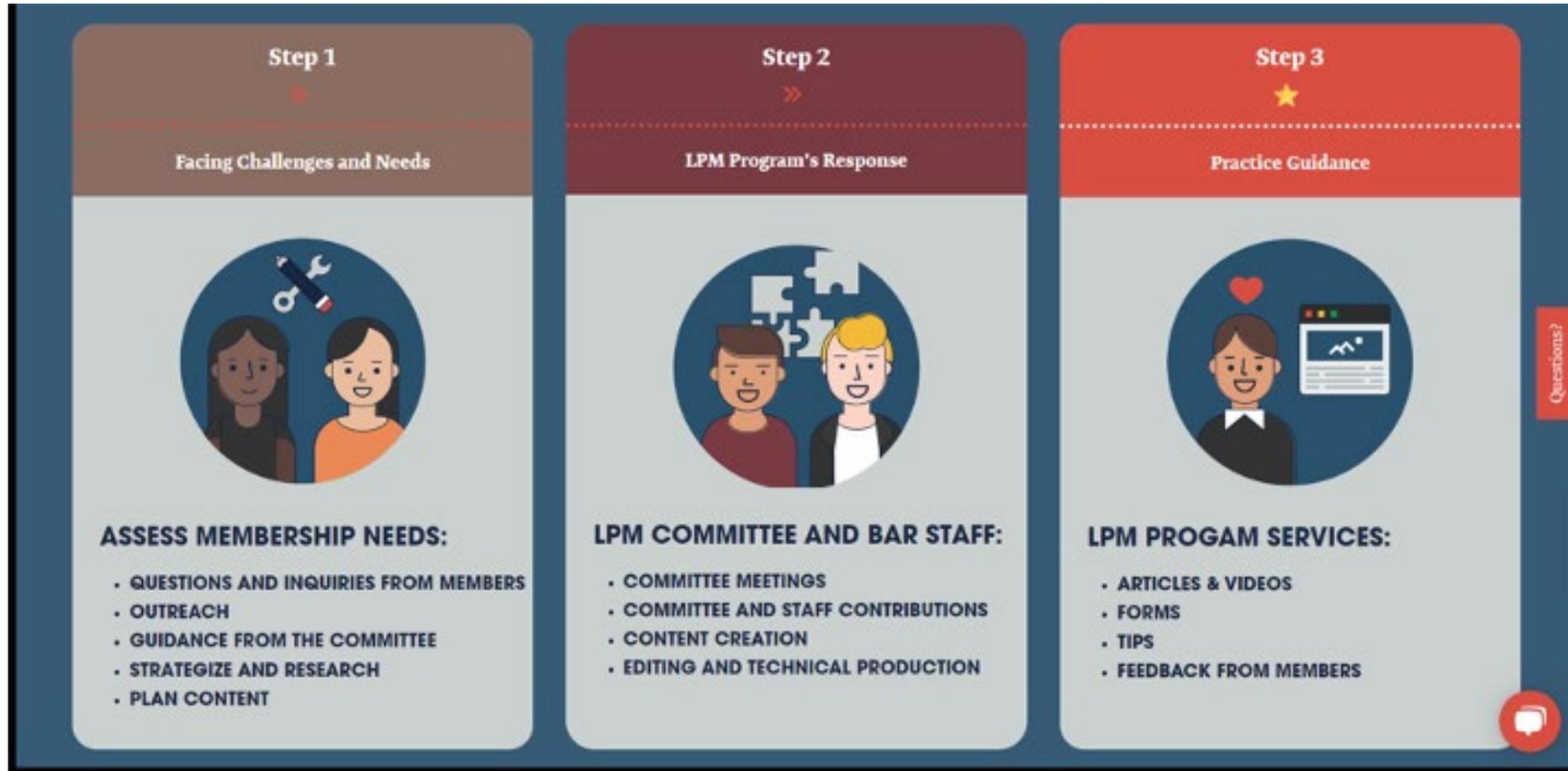
For Developments on Sale of Practice

Consult with counsel

Due to action by the CDRR, watch for comments by the Texas Supreme Court

Watch for movement toward an opinion from the Professional Ethics Committee

Law Practice Management Program



Law Practice Management Resources



texasbarpractice.com

Starting a Practice

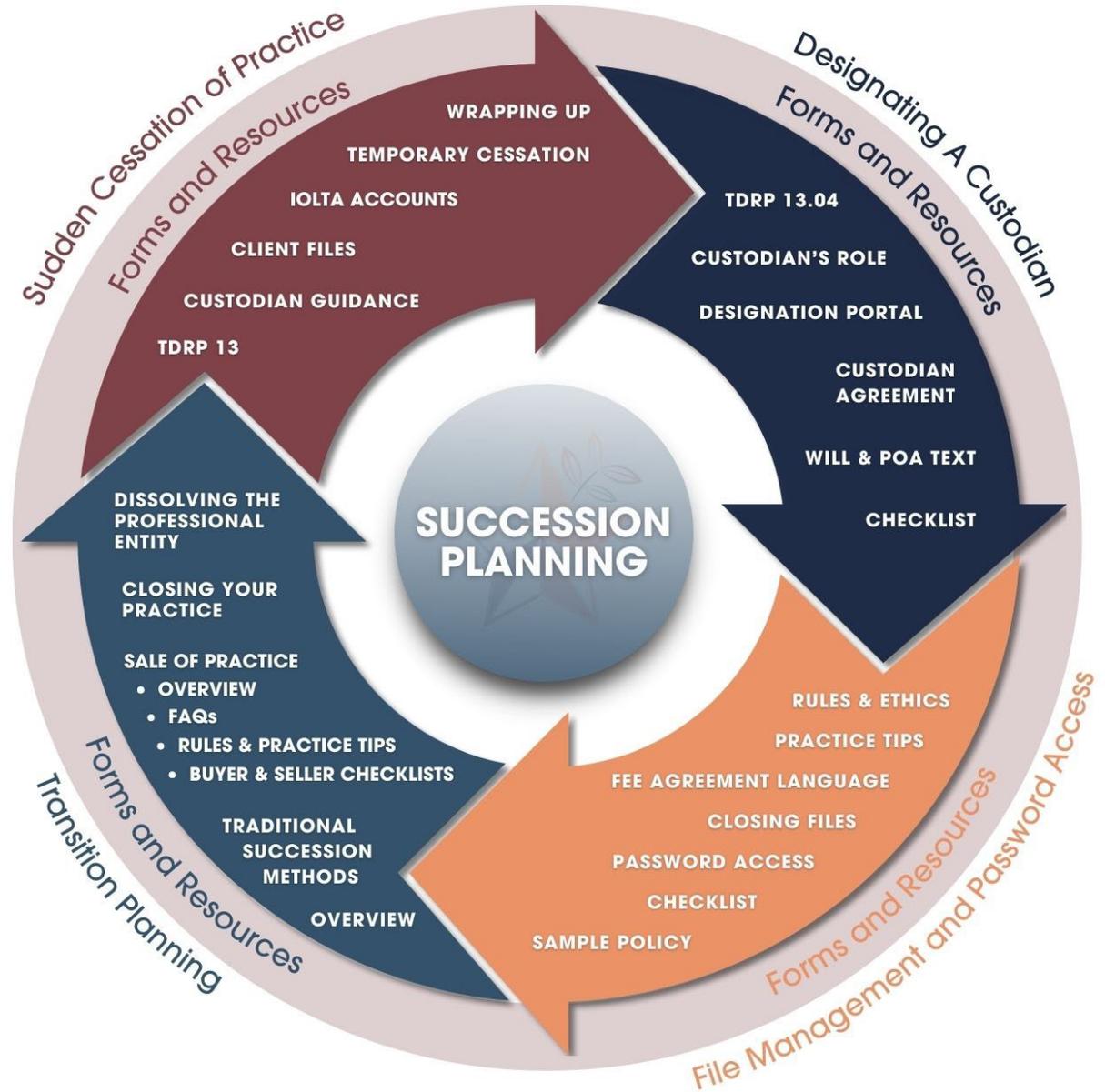
Growing a Practice

Succession Planning

Closing a Practice

texasbarpractice.com

Succession Planning Toolkit



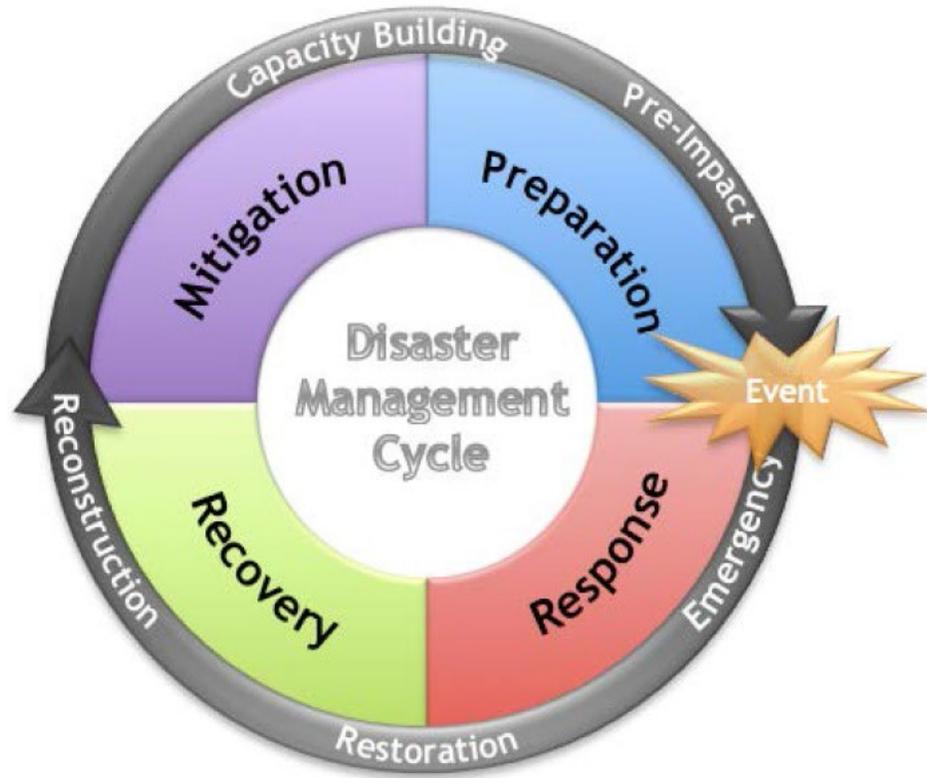
***Succession
Planning
Toolkit***





Tools for Custodians

- Guidelines for custodianship
- Guidelines for final disposition of client files
- Guidelines for handling IOLTA and other trust and escrow accounts, and
- Template pleadings and correspondence
 - To give clients notice and get consent while acting as a custodian attorney.



Preparation Phase

Education, training, and experience

How Your Bar Community Can Help



Emergency cessations are best handled at the local level. Recruit members and organize teams.

For emergency preparedness, custodian attorneys can be trained and available when needed for appointment by local courts.

Implement a crisis assistance program. It's good for lawyers, clients, courts, and lawyers' families.

Austin Bar Association and Austin Bar Foundation:

Crisis Assistance Pilot Program



Steal This Idea: **CRISIS ASSISTANCE PILOT PROGRAM**

I'M EXCITED TO SHARE WITH YOU SOME DETAILS OF AN INNOVATIVE PROGRAM that helps attorneys during some of the toughest circumstances they might ever face.

Created by the Austin Bar Association and the Austin Bar Foundation, the Crisis Assistance Pilot (CAP) program helps lawyers in the greater Austin area who need to temporarily step away from their practice to get treatment for addiction, mental health, physical illness, or other issues. The Austin Bar created this pilot program as a template for other local bars after the need was identified by State Bar of Texas Immediate Past President Steve Benesh during his term as president.

The program ensures that attorneys' cases can continue while they are away, giving them confidence that they can concentrate on needed treatment without losing their livelihood. This is crucial, as worry about their caseload is often one of the main reasons that some of our colleagues don't seek treatment they need—treatment that will help them and, in turn, their clients and their practice.

The program is especially helpful to attorneys in solo practice or in small firms, who don't have the help of the many attorneys within a large firm that can assist them in times of need.

Here's how CAP works: The program matches the impacted lawyer with volunteer attorneys in the same or similar practice areas who are willing to assist with cases while the attorney steps away for up to 90 days.

There are a few rules an attorney must follow before entering the CAP program. First, they must designate a custodian attorney with the State Bar, which can be done easily online. Second, the attorney must grant the program permission to privately notify the courts where they have pending cases.

Right now, the program assists civil law practitioners, but there are plans to expand it to the criminal bar next year.

I think it's a great model of how we can help our fellow attorneys and get help ourselves when we need it most, and I commend the Austin Bar for its pioneering work. I hope that other local bar associations across the state will consider implementing their own versions. To help spread the word about the CAP program, it was the subject of a presentation at this year's State Bar of Texas Local Bar Leaders Conference in July.

If your local bar would like more information on the program, contact Austin Bar Association Executive Director DeLaine Ward at 512-472-0249, ext. 104, or delaine@austinbar.org.

And as always, I want to remind you of the great resources available to all Texas attorneys, law students, and judges from the Texas Lawyers' Assistance Program. TLAP provides legal professionals confidential help for substance use and mental health issues through a variety of resources. For more information, check out tlaphelps.org.

Sincerely,

TREY APFFEL
Executive Director, State Bar of Texas
Editor in Chief, *Texas Bar Journal*

Sometimes, you don't see it coming.

An interruption or cessation of your practice can be sudden and unexpected. Visit the Bar's Succession Planning Portal and designate a colleague to act as a custodian attorney if the need arises.

Scan the code using your cell phone camera, and tap the notification to open the link to the Succession Planning Portal. Or, visit texasbar.com/succession.



3 Points to Take with You

1

Emergency
Cessations Are a
Problem, But Can
Be Managed

2

With Succession
Planning: Lawyers
Do Better, Clients
Do Better, and
Lawyers' Families
Are Protected

3

The LPM Program Is
Ready with
Succession
Planning Resources

Q & A

For additional questions, contact the Law
Practice Management Program:

Email: lpn@texasbar.com

Phone: 512.427.1300