

PROPOSED REVISIONS TO THE RULES OF PROFESSIONAL CONDUCT

PROPOSAL 2024-007

March 13, 2024

The Code of Professional Conduct Committee has recommended amendments to Rule 16-119 NMRA for the Supreme Court's consideration.

If you would like to comment on the proposed amendments set forth below before the Court takes final action, you may do so by either submitting a comment electronically through the Supreme Court's website at <http://supremecourt.nmcourts.gov/open-for-comment.aspx> or sending your written comments by mail, email, or fax to:

Elizabeth A. Garcia, Chief Clerk of Court
New Mexico Supreme Court
P.O. Box 848
Santa Fe, New Mexico 87504-0848
rules.supremecourt@nmcourts.gov
505-827-4837 (fax)

Your comments must be received by the Clerk on or before April 12, 2024, to be considered by the Court. Please note that any submitted comments may be posted on the Supreme Court's website for public viewing.

16-119. Lawyer succession planning.

A. **Succession plan.** Except as otherwise set forth in paragraph C of this rule, every lawyer [practicing law in the state of] with an active license to practice law in the state of New Mexico (the "designating lawyer") must have a written succession plan, either alone or as part of a law firm, department, or agency plan specifying the steps to be taken in the event of the designating lawyer's extended incapacity from practicing law, or the designating lawyer's disability or death. At a minimum, the plan must include the following:

(1) the identity and contact information of the lawyer, [or] law firm, department or agency head, or the foregoing's designee, designated to carry out the terms of the succession plan (the "assisting lawyer");

(2) the location of information necessary to access the designating lawyer's current list of active clients, client files, and other client information, if applicable, or a list of the projects, matters or other items for which the designating lawyer is responsible, including computer and other relevant passwords; and

(3) information on the designating lawyer's trust and operating accounts and corresponding records, if any, including those required by Rule 17-204 NMRA.

B. **Notice of plan.** The designating lawyer must notify the assisting lawyer of, and the assisting lawyer must consent to, the designation as an assisting lawyer in a writing signed by the designating lawyer and the assisting lawyer, or by electronic communication acknowledged by

both the designating lawyer and the assisting lawyer. Lawyers must also notify their clients of the existence of the succession plan.

C. Exceptions. Justices, judges, and court hearing officers are not required to have a succession plan, except to the extent they are also engaged in the practice of law outside of that person's judicial duties.

[E] D. Certificate of compliance. Every lawyer shall annually certify to the State Bar of New Mexico, as part of the registration statement filed under Rule 24-102.1 NMRA, that the lawyer, or the law firm, department, or agency employing the lawyer is in compliance with this rule. In the case of a single lawyer or a law firm employing only a single lawyer, the lawyer shall include on the registration statement the name or names of the assisting lawyer. In the case of lawyers or law firms, departments, or agencies employing more than one lawyer, each lawyer shall identify on the registration statement the person or persons responsible for the law firm's, department's, or agency's succession plan. The State Bar shall retain the original of each registration statement and, upon request, shall provide a copy to the disciplinary board.

[Adopted by Supreme Court Order No. 21-8300-029, effective for registration statements submitted under Rule 24-102.1 NMRA on or after October 1, 2022; as amended by Supreme Court Order No. _____, effective _____.]

Committee commentary. —

General Principles

[1] When a lawyer is unexpectedly unable to practice for an extended period of time, the lawyer's clients, staff, and practice are at risk of significant harm. By taking proactive steps to plan for an unexpected interruption in practice, including implementation of a succession plan, a designating lawyer can avert or mitigate such harm. The goal of succession planning is to protect the interests of the designating lawyer's current clients by creating and implementing a succession plan to take effect when the designating lawyer is unable to practice law due to extended incapacity, or the lawyer's disability or death. The incapacity of the designating lawyer may be temporary or permanent.

[2] The level of sophistication of a succession plan should be determined by each designating lawyer's or law firm's circumstance. For example, as part of the succession plan the designating lawyer can arrange for the assisting lawyer, or a non-lawyer designee of the assisting lawyer acting under the assisting lawyer's supervision and direction, to take steps to promptly distribute the client matters, including any trust funds due to the clients, directly to the clients or to other lawyers chosen by the clients. Alternatively, the designating lawyer may draft the plan such that, with the clients' consent, the assisting lawyer will assume responsibility for the interests of the designating lawyer's clients, subject to the right of the clients to retain a different lawyer or law firm other than the assisting lawyer. Some designating lawyers may choose to designate more than one lawyer or a pool of lawyers as the assisting lawyer. These examples are not meant to be exhaustive or exclusive, but rather to suggest that there is great flexibility allowed by the rule in the crafting of the succession plan.

Determining Incapacity

[3] Incapacity or disability may be determined in many ways, including the following: (1) by a court with competent jurisdiction; (2) as defined in the succession plan; (3) as certified by a competent medical professional; or (4) as otherwise agreed between the designating lawyer and the assisting lawyer.

Role of Assisting Lawyer

[4] Upon reasonable confirmation of the designating lawyer's extended incapacity, disability, or death, the assisting lawyer should take those steps provided for in the succession plan. If the assisting lawyer forms an attorney-client relationship with the designating lawyer's clients, the assisting lawyer will be subject to the existing rules and duties attendant to the attorney-client relationship. Otherwise, this rule is not intended to create liability between the assisting lawyer and either the clients of the designating lawyer or the designating lawyer, absent intentional, willful, or grossly negligent breach of duties by the assisting lawyer.

Notice to Clients

[5] The designating lawyer must notify his or her clients of the existence of the lawyer's succession plan. Preferably this should be done by including the information in the retainer agreement. The designating lawyer should also inform clients that in the event the client learns of the lawyer's extended incapacity, disability, or death, the client may ~~call~~ wish to notify the State Bar of New Mexico [for further information].

Confidentiality

[6] Rule 16-106 provides that "[a] lawyer shall not reveal information relating to the representation of a client unless . . . the disclosure is impliedly authorized in order to carry out the representation." Allowing an assisting lawyer to access sufficient client information to notify clients of the designating lawyer's inability to continue representation is necessary in order for the designating lawyer to comply with the requirements of Rule 16-119 and, therefore, impliedly authorized to carry out the designating lawyer's representation. Except as necessary to notify the designating lawyer's clients and otherwise carry out the terms of the designating lawyer's succession plan, however, the assisting lawyer shall not disclose any information contained in any client files without the consent of the client to whom such file relates or as otherwise allowed under Rule 16-106.

Fees

[6] [7] ~~[Attorneys' fees]~~ Fees, if any, to be paid to the assisting lawyer shall be in accordance with Rules 16-105, 16-115, and 16-504 NMRA.

Other Resources

[7] [8] Numerous resources are available to assist a designating lawyer in engaging in effective succession planning, including those materials available on the State Bar of New Mexico's website under the tab ~~[for Members: Supreme Court Commissions: Succession and Transition Committee]~~ "Professional Development Program: Succession Planning." All lawyers are encouraged to avail themselves of these materials.

[Adopted by Supreme Court Order No. 21-8300-029, effective for registration statements submitted under Rule 24-102.1 NMRA on or after October 1, 2022; as amended by Supreme Court Order No. _____, effective _____.]



**New Mexico
Courts**

Alyssa Segura <supams@nmcourts.gov>

[rules.supremecourt-grp] Open for Comment Form submitted on Supreme Court

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Sun, Apr 7, 2024 at 1:18 PM

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Name	Charles
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	Gurd
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Phone Number	5059180960
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Email	Gurdlawyer@protonmail.com
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Proposal Number	2024-007
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Comment

Charles Gurd, a licensed New Mexico attorney, opposes the proposed revised succession rule (Proposal 2024-007) for the following reasons.:

1. The revised rule imposes new ethical duties on the Assisting Attorney.
2. The Rule tells the Assisting Lawyer that he or she can only look at the bare minimum. Problem: the Succession Plan could give the Assisting Attorney authority (with client's permission) to review the file in depth. Thus, this could create an ethical conflict between the Succession Plan and the Rule.
3. The Rule appears to impose Trust Accounting duties on the Assisting Attorney even if the Designating Attorney does not give this authority in the Succession Plan.
4. The Rule appears to require the Assisting Attorney to be more involved in the Designating Attorney's business matters than under the current succession rule..
5. The Rule expands the rule to include current the Designating Attorney's "business matters" -- not only his or hers current clients.
6. The Rule explicitly allows for a "non-lawyer" to work on succession matters under the "supervision and direction" of the lawyer. Although this is good, the question is this: Can an inactive lawyer act as an "Assisting Lawyer." That is, given this language is an "Inactive Lawyer" more akin to a non-lawyer? Can an "Inactive Lawyer" cannot serve independently as an "Assisting Lawyer", especially if the "Assisting Attorney were to take clients and manage the Designating Attorney's Trust Accounts. It is my understanding that only an active New Mexico Attorney can handle Trust Accounts. Thus, this proposed rule is too unclear to provide clear guidance for compliance.
7. Finally, if the New Supreme Court accepts the proposed revised Succession Rule, does the Court expect the Designating Attorney to revise his or her engagement letter to all current clients and to renegotiate the agreement with his or her Assisting Attorney.

Respectfully Submitted,

Charles B. Gurd
Bar No.: 7442

Name Charles Gurd

Phone Number 5059180960

Email Gurdlawyer@protonmail.com

Proposal Number 2024-007

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2. The Rule tells the Assisting Lawyer that he or she can only look at the bare minimum. Problem: the Succession Plan could give the Assisting Attorney authority (with client's permission) to review the file in depth. Thus, this could create an ethical conflict between the Succession Plan and the Rule.
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Charles B. Gurd
Bar No.: 7442



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Tue, Apr 9, 2024 at 12:22 PM

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Name Herbert

Strassberg

Phone Number 575-523-8219

Email lcrdhms@nmcourts.gov

Proposal Number 0001

Comment In C. Exceptions, adding court staff attorneys working for the state court system to the exception lists would be beneficial, as many such attorneys do not have clients or work on projects outside of projects undertaken for judges, court staff, and administration within the courthouse they work in. However, some staff court attorneys oversee court-mandated programs in which they interact directly with members of the public and may engage with community organizations and practitioners in a collaborative effort to implement the settlement facilitation process. Court staff attorneys with such duties should still have a succession plan.

Name Herbert Strassberg

Phone Number 575-523-8219

Email lcrdhms@nmcourts.gov

Proposal Number 0001

Comment

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Tue, Apr 9, 2024 at 12:43 PM

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To: rules.supremecourt@nmcourts.gov

Name	John Crews
Phone Number	2025235779
Email	jcrews@fmc.gov
Proposal Number	16-119- Lawyer succession planning
Comment	Dear Reader:

Respectfully, I would object to the breadth of the proposed rule change to 16-119- Lawyer succession planning. By adding the words “department or agency” the rule potentially impacts “departments” and “agencies” outside the scope of the Supreme Court’s authority.

When in New Mexico I was an Assistant United States Attorney (AUSA) with the District of New Mexico. As an “line” AUSA or even when I was first and second level Supervisory AUSA I had no authority to require the United States Department of Justice (Department) to do anything. Harkening back to the late General Douglas McArthur “old soldiers never die; they just fade away” if an AUSA dies the Department just moves on.

The Department will assign another AUSA or dismiss the case or whatever the Department deems to be in its and the public’s best interest. A “line” AUSA has no ability to impact or influence, let alone require, the Department of Justice to come up with a formal “succession” plan or to share it with any agency or state authority. What would the sanction be on an AUSA in New Mexico if the Department of Justice declined to issue formal succession plan, or precluded the New Mexico AUSA from sharing with state authorities? I don’t know but I would suspect many New Mexico state agencies such as the sundry District Attorneys offices would take the same view.

In my current capacity as the Director of the Bureau of Enforcement, Investigations, and Compliance with the Federal Maritime Commission I am responsible for one Director of the Office of Enforcement and currently seven “line” Trial Attorneys in the Office of Enforcement as a part of the overarching BEIC. We conduct no business in the State of New Mexico per se (there being few seaports in New Mexico) but our jurisdiction as it relates to carriers (both Vessel Operating Common Carriers and Non-Vessel Operating Common Carriers), Ocean Transportation Intermediaries, Ocean Freight Forwarders, etc. could conceivably implicate a New Mexico business.

That said, I remain to be convinced that the New Mexico Supreme Court has the authority to require the Federal Maritime Commission to do anything. I can’t require the Presidentially appointed and

Senate Confirmed Commissioners to adopt a specific rule or succession plan. The Commission will take whatever steps it desires to take in the exercise of its independent authority and discretion as an independent federal Executive Branch authority. If the Commission declines to draft a succession plan for its lawyers, let alone publish it or share with outside agencies what penalty would be assessed against me? How would it fair and just to penalize me or a line AUSA or a Department attorney when we have ability to require the organization to do anything?

Perhaps adding a paragraph or section which exempts attorneys employed by the Federal government from this requirement should be added. After all, government attorneys – local, state, or federal – don't have clients in the same way that private practitioners do.

Again, respectfully, I would urge that the current rule not be changed. The current rule is appropriate for private practitioners in the State of New Mexico. The proposed language is too expansive and, I think, attempts to imbue the New Mexico Supreme Court with authority that it does not possess.

Very Respectfully,

/s/ JGC

John Grasty Crews, II

#11999

Name John Crews

Phone Number 2025235779

Email jcrews@fmc.gov

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Very Respectfully,

/s/ JGC

John Grasty Crews, II
#11999



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Tue, Apr 9, 2024 at 12:53 PM

Reply-To: noreply@nmcourts.gov

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Name	Karl
	Rysted
Phone Number	4058262148
Email	karlrysted@gmail.com
Proposal Number	2024-007
Comment	I'm writing with deep concern about the proposed changes to Rule 16-119. As you know, the existing rule requires a written succession plan for lawyers practicing in the state. The proposed changes unnecessarily broaden the scope to all lawyers with an active license. This conflicts with the committee commentary after the rule where there's a discussion about a lawyer's practice. Many attorneys, especially senior attorneys like me, have an active license but don't practice, so again, including us doesn't fit with the rationale stated in the commentary. How would we have a written succession plan if we're not practicing? It doesn't make sense. Thanks.

Name Karl Rysted

Phone Number 4058262148

Email karlrysted@gmail.com

Proposal Number 2024-007

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**New Mexico
Courts**

Alyssa Segura <supams@nmcourts.gov>

[rules.supremecourt-grp] Open for Comment Form submitted on Supreme Court

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Wed, Apr 10, 2024 at 2:26 AM

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Name MartinMcNally

**Phone
Number** 505-629-1000

Email m_k_m@sbcglobal.net

**Proposal
Number** Proposal 2024-007 – Lawyer Succession Rule

Comment

I respectfully pray that this Honorable Court please consider not ordering a change in the portion of the rule's wording that would create a succession requirement scope expansion from specifically "every attorney practicing in the State of New Mexico" to the more broad definition of "every attorney" (who has an active license), because such change to the rule arguably would then be not optimally narrowly tailored, because such a change would arguably not be further benefiting the State of New Mexico or the public, and arguably would create unnecessary financial and legal burdens on New Mexico Bar active attorneys who do not practice law in the State of New Mexico, but need their license for other reasons.

I argue that "Should States Require Private Attorneys to Maintain Succession Plans?" research regarding this matter, and my own research, indicates that this portion of the proposed change would create an extreme application of a succession rule reporting requirement that arguably would be far outside the statistical norm of the Bell curve among state bar succession reporting rules (or the lack thereof) in the United States. I argue that other state bars have either no rule at all, or when creating a rule have often used the wording, "lawyers engaged in the practice of law in (state X), and only abnormally have set forth a rule similar to the proposed change of scope of applicability portion (<https://uclawreview.org/2021/11/23/should-states-require-private-attorneys-to-maintain-succession-plans/>). I argue that such an arguably overly-broad scope change may not be sufficiently affirmatively supported by the ABA Formal Opinion on Succession Planning language to merit inclusion of such suggested portion of rule change by this Honorable Court.

Therefore, I respectfully pray that this Honorable Court please consider using this opportunity to reaffirm that New Mexico is a State that has maximally narrowly tailored regulatory paradigms, and broad-minded respect for liberty from overregulation, whenever possible, by striking this one portion of the proposed change, and retaining the previous language, specifically "every attorney practicing in the State of New Mexico." I thank the Honorable Court for consideration of this matter.

Respectfully submitted,
Martin McNally, Active Member, NM State Bar

Name Martin McNally

Phone Number 505-629-1000

Email m_k_m@sbcglobal.net

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Respectfully submitted,
Martin McNally, Active Member, NM State Bar



[rules.supremecourt-grp] Comments by NMJC Legislation and Rules Subcommittee

Judge Emilio Chavez <taodejc@nmcourts.gov>

Thu, Apr 11, 2024 at 9:49 AM

Reply-To: taodejc@nmcourts.gov

To: rules.supremecourt@nmcourts.gov, Angie Schneider <aladaks@nmcourts.gov>, Thomas Pestak <tpestak@sierraco.org>, Jennifer Attrep <coajla@nmcourts.gov>

Attached is NMJC L&R Subcommittee's comments regarding the current proposed rule changes.
Please kindly confirm receipt.

Thank you,

Emilio J. Chavez
Chief Judge
Eighth Judicial District
[105 Albright Street, Suite N](#)
[Taos, NM 87571](#)



NEW MEXICO JUDICIAL COUNCIL LEGISLATION AND RULES SUBCOMMITTEE COMMENTS (1).docx

21K

NEW MEXICO JUDICIAL COUNCIL LEGISLATION AND RULES SUBCOMMITTEE COMMENTS

1. Proposal 2024-002 – Permanency Review Hearings [comments begin on p. 4]
 - The proposed changes to Rules 10-345 NMRA and 10-346 are mostly stylistic and appropriate.
2. Proposal 2024-003 – Child’s First Appearance on a Delinquency Petition
 - The proposed changes to Form 10-711 NMRA: The form is for use with Rule 10-224 NMRA and should indicate at the top of the form similar to other delinquency forms. It makes sense to change arraignment to first appearance.
 - However, in the comparable criminal forms the language indicates “I understand that I am charged with the following criminal offense or offenses.” *See e.g.* 9-405 NMRA. Although the suggested change “I understand the allegations in the petition” is correct, it insert “allegations” rather than “offense,” which is the language indicated in Rule 10-224(A) NMRA. A suggestion might be to amend the language to “I understand that I am charged with the following ~~criminal~~ offense or offenses” to track the language of the rule and to be consistent with the criminal form.
 - Rule 10-224(G) NMRA reads, “the right to remain silent, and that any statement made by the respondent child may be used against the respondent child.” The proposed change to Form 10-711 regarding right to remain silent is appropriate but the change should omit “in court”. The proposed changed language might be modified as follows “the RIGHT to remain silent with the understanding that any statement I make may be used against me ~~in court~~, except any “**confidential**” statements I make to my attorney.”
See e.g. Rules 11-503 NMRA; 6-501 NMRA.
3. Proposal 2024-004 – Water Settlement Agreements
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4. Proposal 2024-005 – Garnishment [comments begin on p. 50]
 - Rule 1-065.1(E): The word “filed” is missing in the following sentence: “Notwithstanding the foregoing, for cases **filed** on or after July 1, 2023, it shall not be necessary for a judgment debtor to assert an exemption to the first two thousand four hundred dollars (\$2,400.00) held in a [depository or investment] account.”
 - Rule 2-802(B): The phrase “certificate of service shall be filed by the judgment creditor indicating” is missing in the following sentence: “A separate **certificate of**

service shall be filed by the judgment creditor indicating transmission of the writ on the judgment debtor.”

5. Proposal 2024-006 – Political Activity and Elections

- The proposed changes are stylistic and appropriate. The inclusion in 21-401(C)(7) of the language “express and implied” is superfluous.

6. Proposal 2024-007 – Lawyer Succession Rule [comments begin on p. 4]

- The proposed changes are necessary and appropriate.

7. Proposal 2024-008 – Surreptitious Recordings of Clients, Third Parties

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8. Proposal 2024-009 – Providing Financial Assistance to Clients

- The proposed change to Rule 16-108 NMRA is a much needed exception, but perhaps modest gift should be defined.

9. Proposal 2024-010 – Incorporation of Plea Deadlines [comments begin on p. 6]

- The proposed change to Rule 5-304(E) NMRA is important to define a set timeframe for plea deadlines. Instead of creating (F), the new proposed (E) might read no plea agreement shall be entered into later than five (5) days before the scheduled date for jury selection or commencement of a bench trial **unless a written finding of good cause is made by the judge that excuses the untimely submission of the agreement.**
- (F) might also include language “In addition, to finding good cause excusing the untimely plea agreement, the court may consider sanctions against the state and defense counsel.”
- In (F), the phrase “the scheduled date for jury selection or commencement of a bench” might be added in the following sentence for consistency: “A request for the court to approve an untimely plea agreement less than five (5) days before **the scheduled date for jury selection or commencement of a bench** trial shall not be granted except on a written finding by the judge of good cause that excuses the untimely submission of the agreement.”
- In the “Notwithstanding” sentence the committee may want to consider including “a defendant may plead guilty to all **legally permissible** charges . . .” There are often times where a criminal information implicates double jeopardy or there is not a factual basis supporting the allegation.

10. Proposal 2024-011 – Filing of Criminal Complaint Upon Arrest

- The proposed change to Rule 5-210 NMRA providing a definitive timeframe is a much needed change.

11. Proposal 2024-012 – Consolidated Cases [comments begin on p. 5]

- The proposal seeks to create Rule 5-305 NMRA. The proposed new rule is generally accomplished under Rule 5-203(A) or filing a superseding indictment. Rather than creating a new rule, the same purpose might be done by amending in 5-203(A) NMRA to include similar language to 5-203(B) NMRA.
- For example after separate count “**or a separate complaint, indictment or information may be consolidated on motion of a party.**” The language “whether felonies or misdemeanors or both:” is likely unnecessary and could be removed.

12. Proposal 2024-013 – Plea Deadlines, Suppression Hearings, and Extensions for Trial [comments begin on p. 14]

- The proposed change to the committee commentary to Rule 5-212 NMRA should be included in the substantive part of the rule under (D) rather than commentary. The committee may want to consider 7-10 day requirement to allow the court time to rule and the parties to timely enter a plea after the ruling under the new proposed deadline for Rule 5-304 NMRA.

13. Proposal 2024-014 – Kinship Guardianship Forms

- The proposed changes to the forms appear to be appropriate and add consistency.

14. Proposal 2024-015 – Parentage Forms

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15. Proposal 2024-016 – Human Rights Act Intentional Discrimination

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16. Proposal 2024-017 – Firearm Enhancement

- The proposed change to UJI Special Verdict Form 14-6013 NMRA is needed to track the language of NMSA 1978 §31-18-16. The definitions are likewise clear and important for the determination. Likewise, the use note is necessary to provide clarification regarding the changes to the statute. The committee may want to consider an additional sentence to the firearm instruction that the defendant can use a gun without brandishing it

- On the sample verdict form, the committee may want to consider that there may be cases where the jury needs to determine if the firearm was either used, brandished, or discharged.
- Depending on the facts of the case the form might have Used _____ (Yes or No; Brandished _____ (Yes or No); or Discharged _____ (Yes or No)

The sentencing judge would use the highest of the three alternatives to sentence.

17. Proposal 2024-018 – Multiple Defendants

- Prior to changing UJI 14-6003 NMRA the committee should consider if the instruction is necessary? UJI 14-6005 NMRA is short and simple and illustrates the point that the counts should be considered separately as to each defendant. Also, the committee may want to look at UJI's 14-6010 and 14-6012 that include some of the proposed language.
- If a change is necessary, the proposed change to UJI 14-6003 NMRA might be clearer if the instruction read, "In this case, involving multiple defendants, you must consider separately whether each defendant is guilty or not guilty. The state must prove to your satisfaction beyond a reasonable doubt each of the elements of a crime against a defendant to render a verdict of guilty. You should analyze what the evidence in the case shows with respect to each individual defendant. [[Both] [All] defendants are charged with the same crimes.] [The defendants are charged with different offenses. Please review the verdict forms to clarify the offense(s) that [is][are] applicable to each defendant.
- The last two proposed sentences for 14-6003 are redundant as to instructions UJI 14-6010 "If you have agreed upon one verdict [as to a particular charge] [as to a defendant], that form of verdict is the only form to be signed [as to that charge] [as to that defendant] and UJI 14-6012.

Respectfully submitted,

New Mexico Judicial Council Legislation and
Rules Subcommittee

Hon. Jennifer Attrep
Hon. Emilio Chavez
Hon. Thomas Pestak
Hon. Angie Schneider



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Proposal Number 2024-007

Comment I oppose the proposed revised succession rule to the extent that it requires lawyers not engaged in the practice of law to have a written succession plan. It seems that the spirit of the rule can be satisfied by requiring lawyers in this category to certify on the registration statement (See Section D) that they will comply with the rule and provide all necessary information to the State Bar prior to engaging in the practice of law. Providing notice and the required information to the State Bar at the time the lawyer proposes to engage in the practice of law allows the lawyer to name a more appropriate assisting lawyer that is reflective of the new endeavor.

Respectfully,
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Proposal Number 2024-007

Comment

I oppose the proposed revised succession rule to the extent that it requires lawyers not engaged in the practice of law to have a written succession plan. It seems that the spirit of the rule can be satisfied by requiring lawyers in this category to certify on the registration statement (See Section D) that they will comply with the rule and provide all necessary information to the State Bar prior to engaging in the practice of law. Providing notice and the required information to the State Bar at the time the lawyer proposes to engage in the practice of law allows the lawyer to name a more appropriate assisting lawyer that is reflective of the new endeavor.

Respectfully,
Mary J. Gutierrez