

PROPOSED Louisiana Rule 1.17: Transfer of a Law Practice

A law practice may not be transferred unless the following conditions are satisfied:

- (a) The conveying lawyer has not been transferred to disability inactive status, suspended, disbarred or permanently resigned from the practice of law in lieu of discipline, and permanently ceases to engage in the practice of law, or has disappeared or died;
- (b) The entire law practice is transferred to another lawyer admitted and currently eligible to practice in this jurisdiction.
- (c) At least ninety (90) days in advance of the transfer, actual notice, either by in-person consultation or by U.S. mail, sent both first class as well as using certified mail, return receipt requested, is given to each of the clients of the law practice being transferred indicating:
 - (1) the proposed transfer of the law practice;
 - (2) the identity and background of the lawyer or law firm that proposes to acquire the law practice, including principal office address, number of years in practice in Louisiana, and disclosure of any prior formal discipline for professional misconduct, as well as the status of any disciplinary proceeding currently pending in which the lawyer or law firm is a named respondent;
 - (3) the client's right to choose and retain other counsel and/or to take possession of the client's file(s); and
 - (4) the fact that the client's consent to the transfer of the client's file(s) will be presumed if the client does not take any action or does not otherwise object within ninety (90) days of receipt of the notice.
- (d) In addition to the advance notice to each client described above, at least thirty (30) days in advance of the transfer, an announcement or notice of the transfer of the law practice, including the proposed date of the transfer, the name of the transferring lawyer, the name(s) of the lawyer(s) or law firm(s) to whom the law practice will be transferred, and the address and telephone number where any person entitled to do so may object to the proposed transfer and/or take possession of a client file, shall also be published: 1) in the *Louisiana Bar Journal*; and 2) once a week for at least two (2) consecutive weeks in a newspaper of general circulation in the city or town (or parish if located outside a city or town) in which the principal office of the law practice is located. The announcement or notice required by this Rule does not fall within the scope of Rules 7.1 through 7.10 of these Rules.
- (e) The fees or costs charged clients shall not be increased by reason of the transfer.

- (f) (1) A lawyer or law firm that proposes to acquire a law practice may be provided, initially, with only enough information regarding the matters involved reasonably necessary to enable the lawyer or law firm to determine whether any conflicts of interest exist. If there is reason to believe that the identity of a client or the fact of representation itself constitutes confidential information under the circumstances, such information shall not be provided to the acquiring lawyer or law firm without first advising the client of the identity of the acquiring lawyer or law firm and obtaining the client's informed consent in writing to the proposed disclosure.

If the acquiring lawyer or law firm determines that a conflict of interest exists prior to reviewing the information, or determines during the course of review that a conflict of interest exists, the lawyer or law firm shall not review or continue to review the information unless the conflict has been disclosed to and the informed written consent of the client has been obtained.

- (2) A lawyer or law firm that proposes to acquire a law practice shall maintain the confidentiality of and shall not use any client information received in connection with the proposed transfer in the same manner and to the same extent as if the clients of the law practice were already the clients of that acquiring lawyer or law firm.
- (g) Consistent with Rule 1.16(c) of these Rules, before responsibility for a matter in litigation can be transferred as part of a law practice, any necessary notice to and permission of a tribunal shall be given/obtained.
- (h) Notwithstanding any transfer, the client shall retain unfettered discretion to terminate the transferor or transferee lawyer or law firm at any time, and upon termination the transferor or transferee lawyer in possession shall return such client's file in accordance with Rule 1.16(d) of these Rules.
- (i) Notwithstanding any other provision to the contrary, the transfer of any and all contingency fee matters shall not be effective unless and until the client executes a new contingency fee contract with the transferee lawyer or law firm.

**APPROVED AS AMENDED
HOUSE OF DELEGATES
JUNE 7, 2012
DESTIN, FL**

**APPROVED AS AMENDED
BOARD OF GOVERNORS
JUNE 8, 2012
DESTIN, FL**