

REPORTS OF STANDING COMMITTEES

STANDING COMMITTEE ON UNAUTHORIZED PRACTICE OF LAW

Yvonne DeBruyn Weight, Chair

The Standing Committee on Unauthorized Practice of Law investigates complaints alleging that individuals or business entities are engaged in the unauthorized practice of law. The UPL committee also renders opinions to Virginia-licensed attorneys on whether specific conduct constitutes the unauthorized practice of law.

During the past year, 72 new investigations were opened, in addition to the 32 investigations remaining on the UPL committee's docket from previous years. Sixty investigations were closed during the year, with 11 handled as a referral to a commonwealth's attorney. The UPL committee also has the option of referring matters to the attorney general's office for prosecution. Four files were referred to that office during fiscal year 2003.

The UPL committee received no requests for opinions in fiscal year 2002. One opinion request, UPL Op. 206, was carried over from the previous fiscal year and is pending before the committee. This opinion deals with whether a non-attorney corporate officer may represent the corporation in arbitration conducted in Virginia. UPL Op. 204, which was issued in the previous fiscal year was required by the rules to be approved by the Supreme Court of Virginia. The Court approved this opinion on November 26, 2002, in which the UPL Committee issued a finding of the unauthorized practice of law with regard to lay employees filing civil warrants or motions for judgment in general district court.

During fiscal year 2003, the UPL committee proposed two new rules to be added to the UPL rules. The first proposed rule identified and defined a paralegal/legal assistant and the activities in which they are permitted to engage. The proposed rule was approved by the VSB Council in October 2002 and was submitted to the Supreme Court of Virginia for approval. In April 2003, the court issued an order rejecting the rule. The second proposed rule came after Chief Justice Carrico's formation of a Pro Se Litigants Planning Committee that was created to review policies, practices and protocols for Virginia's court system to use in the handling of cases in which the parties are self-represented. The Pro Se Committee, chaired by Justice Elizabeth B. Lacy, presented a report containing recommendations, one of which requested that the UPL committee consider drafting a new Rule of Court concerning the scope of assistance that may be provided by court personnel to self-represented litigants. In April 2003, the UPL committee issued a proposed new rule that would specifically enable clerks of court and staff to fulfill their duties, as public servants, to assist self-represented litigants who are using or are interested in the court system and its processes without improperly engaging in the unauthorized practice of law. This proposed new rule was submitted to the council at the VSB annual meeting in June 2003, and was sent back to the UPL committee for revisions. The UPL committee plans to resubmit the proposed new rule to the council at the October 2003 meeting.

I would like to thank the committee members—Hugh T. Antrim, Olin V. Hyde, Craig D. Johnston, Megan E. Kelly, Linda B. Liles, James M. Pates, Jon C. Poulson and Walter A. Wilson III—for their hard work and dedication to the mission of the UPL committee during the past year, as well as many years previous to that. I also wish to thank the particularly dedicated and hard working staff at the VSB, who have made the work on the committee as streamlined as possible.

