

# Executive Director's Message

by Karen A. Gould



## Keeping Up With VSB Regulatory Requirements And Other Developments

### New MCLE Regulation

Effective November 1, 2010, you will need to satisfy your twelve-hour mandatory continuing legal education requirement with at least four hours of live interactive programs. Or, to put it in the negative, the regulations will limit the number of on-demand hours you can use to satisfy your MCLE requirement to eight hours if no live interactivity is provided with the presenter and other attendees. This would include, for example, online and CD-ROM programs.

Approved live programs include traditional live programs, live telephone seminars, live Web casts, and video replays that include live interactivity with the speaker.

With regard to carryover hours, new MCLE Regulation 102(e) provides that “[n]o more than eight (8) credit hours, of which not more than two (2) ethics or professionalism credit hours, may be carried forward for pre-recorded programs.” You will be able to carry forward 12 hours of live interactive programs under the Supreme Court of Virginia Rules of Court Part 6, § IV, ¶ 17 — Organization and Government of the VSB, but only eight credit hours of prerecorded programs under Regulation 102(e). Carryover hours earned in the 2010 compliance year ending October 31, 2010, will be credited to year 2011 under the “live” category for a maximum of 12 hours.

Please remember to certify your MCLE attendance online after you attend a program. The credits immediately post to your record, and you do not have to worry about the attendance record getting lost in the mail, misdi-

rected, or inaccurately recorded. Simply go to the MCLE Records link at <https://member.vsb.org/vsbportal/>.

### New February 1 MCLE Fee

If you did not file your MCLE compliance by February 1, you owed an additional \$100 fine. After February 1, 2010, 741 people paid that fee, and 163 people who had not paid were suspended on March 11, 2010. This is an improvement from the 195 attorneys who were suspended last March for MCLE noncompliance.

### Diversity Conference Approved by Supreme Court

The creation of a Diversity Conference has been approved, effective immediately, by the Supreme Court of Virginia. The Diversity Task Force will meet on April 27, 2010, to work on the organizational details to set up the conference: appointment of the Board of Governors, funding, and an initial project. If you wish to join the Diversity Conference, as either an organization or an individual, e-mail Valerie Breeden at [breeden@vsb.org](mailto:breeden@vsb.org) and she will add you to the membership list.

### Payee Notification Proposal Withdrawn at Court's Request

The VSB Council by a vote of 39 to 25 had authorized the officers to seek legislation at the 2010 General Assembly that would have required insurers that pay liability claims to notify claimants when they disburse settlement proceeds of \$5,000 or more to claimants' attorneys. The Supreme Court of Virginia asked the Virginia State Bar to withdraw the legislation because it had many questions and

wanted to seek the input of the seventeen statewide bar groups.

### Other Supreme Court Actions

Effective January 4, 2010, attorneys licensed or admitted to practice in Virginia must register with the Virginia State Bar within a year of licensure or admission. (Rules of Court Part 6, § IV, ¶ 2(a))

Attorneys can now request the VSB omit their names and addresses from electronic or other disclosure of the membership list in response to Freedom of Information Act requests. (Rules of Court Part 6, § IV, ¶ 3) This can be done online through the Member Login feature on the VSB website. Log in with your member number and password, go to Member Options and you will see the option to have your name and address removed from the membership list when it is distributed for other than official purposes. There will also be an option that you can check to not have your e-mail address disclosed if we have to produce our membership list in response to a FOIA request.

The Supreme Court also recently entered the following orders at the request of the VSB:

- The Standing Committee on Lawyer Advertising and Solicitation was eliminated, with its role taken over by the VSB staff and the Standing Committee on Legal Ethics, effective January 22, 2010.
- Rules 1.9 and 1.11 of the Rules of Professional Conduct were amended,

Keeping Up With VSB continued on page 38

effective January 4, 2010, which has the effect of moving [Comment 10] to Rule 1.11 into the body of the rule, since it deals with a substantive issue of lawyer conduct (disqualification of other lawyers in an agency when one of the lawyers is disqualified from a matter). The amendment to Rule 1.9, [Comment 5], provides direction to lawyers regarding law firm disqualifications when lawyers move from private to public employment.

- Rules of Professional Conduct 1.17 was amended effective January 4, 2010, to prohibit a lawyer who sells part of a law practice from engaging in the private practice of law in the same geographic area only with respect to the particular practice area that he or she sold. (Previously you were totally excluded from practicing in the same geographic area.)

On January 22, 2010, the Supreme Court rejected a petition requesting a rule change to Rules of Professional Conduct 7.4(d). The proposed amendment, approved by the council on February 28, 2009, by a vote of 30 to

25, would have permitted attorneys to identify certification through an American Bar Association-approved specialized program without including a disclaimer.

A proposal to eliminate mailing the MCLE Form 1, required by Paragraph 17 of the Rules of Court, was rejected by the Supreme Court on November 2, 2009.

#### **Miscellaneous**

The VSB will distribute permanent bar cards in late November and early December. Active members will receive a plastic card at that time. For attorneys who want to have a photo on their VSB bar card, you will have the option of paying \$10 and providing a digital photo to the membership department to have a photo identification card produced. This option will not be available until next year.

Effective January 21, 2010, Social Security numbers other than the last four digits have been eliminated from our database for all members except those with public and private discipline and those who owe costs. This was done to protect our members' Social Security numbers in the unlikely event of a security breach.

The president of the Afghan Independent Bar Association, R. Qarizada, and his interpreter, Ajmal Hamdard, will visit the bar offices at the invitation of the VSB officers on April 23, 26, and 27.

The Supreme Court has asked us to work with it on a Forms for Bar Members project. Specifically, the Court has asked that we make court forms promulgated by the Court's Office of the Executive Secretary available to VSB members through a Web-based interface between the VSB and the Judicial System website. These forms will not be placed on the Court's public website and are ones that lawyers have indicated they would like to have online. The forms will be available through the limited-access VSB.org member site at some point in the near future.

If you have any questions about what's going on at the VSB, do not hesitate to e-mail me at [gould@vsb.org](mailto:gould@vsb.org) or give me a call at (804) 775-0550. Current VSB President Jon D. Huddleston, incoming bar president Irving M. Blank, or I would be happy to speak to your bar group.