

Three Honored by VSB Access Committee

The Virginia State Bar Special Committee on Legal Access has recognized two Virginia attorneys and a law student for their contributions to low-income or underserved populations. The awards were presented June 18 at the Virginia State Bar Annual Meeting.

The awards and their honorees are:

Lewis F. Powell Jr. Pro Bono Award

Recognizes dedication to development and delivery of pro bono services that benefit poor and underserved persons in Virginia.

The award was presented to William B. Reichhardt, a Fairfax County lawyer whose practice and volunteer work focus on special education law.

Reichhardt was nominated by Angela A. Ciolfi of JustChildren, a Legal Aid Justice Center program. “Bill’s contributions have been crucial to our efforts to expand the pool of qualified advocates for children in Virginia,” she wrote. “In addition to the substantial pro bono hours he has logged providing advice and consultation to low-income clients on a dizzying array of legal problems, he has dedicated innumerable hours of his time — sometimes on a moment’s notice — to mentor legal aid attorneys in the complex and dynamic field of special education law.”

Reichhardt hosts a blog, *Holding the Torch* — <http://holdingthetorch.wbrlaw.com/holdingthetorch/> — designed to help parents advocate for their children without lawyers, and to educate about policy issues that affect special education, children’s mental health services, and treatment of children in correctional facilities.

He wrote four chapters in the *Juvenile Law and Practice Manual* used by lawyers and judges across Virginia.

Reichhardt is the principal of the Law Offices of William B. Reichhardt & Associates, where he encourages his colleagues to take pro bono representations. With a master of education degree in counseling from the University of

Virginia, he was a probation officer and director of a group home and a special education school for emotionally disturbed adolescent boys before he earned his law degree from George Mason University in 1983.

Virginia Legal Aid Award

Recognizes lawyers employed at legal aid societies licensed by the Virginia State Bar. Recipients are chosen for their advocacy, quality of service, and impact beyond their service area.

The award was presented to Kathryn L. “Kathy” Pryor, who has a statewide reputation for advocacy in elder law and Social Security disability issues.

Pryor had a master’s degree in gerontology when she joined the Central Virginia Legal Aid staff as a paralegal. After she graduated from the University of Virginia School of Law in 1989, she worked for a private law firm and volunteered at CVLAS. She became a full-time staff attorney at CVLAS in 1992. In 2002, she argued a case before the U.S. Supreme Court on behalf of a client who was denied Social Security disability benefits because of his attempt to return to work.

Pryor now works for the Virginia Poverty Law Center, where her duties encompass elder law. She meets regularly with an elder law task force that includes legal aid lawyers and long-term care ombudsmen. She provides technical assistance on elder law and long-term care issues. And she works on policy involving long-term care, legal services delivery to the elderly, and other elder law concerns.

She tracks legislation and talks to Virginia legislators about bills that affect assisted living and nursing home residents, civil monetary penalties, adult protective services, supportive services, health care decision making, and guardianship.

“Kathy is considered the state expert on nursing home discharge matters,”

according to the nomination letter from her colleagues at the Virginia Poverty Law Center.

“I cannot underestimate the value of Kathy’s effort to keep a large network of advocates informed,” wrote Joy Duke, executive director of the Virginia Guardianship Association. Terri Lynch, director of the Arlington Area Agency on Aging, wrote, “Thousands of older adults who have never heard of Kathy Pryor have better lives and protected rights because of her.”

Pryor holds a bachelor’s degree from the College of William and Mary and a master’s degree from Virginia Commonwealth University.

Oliver White Hill Law Student Pro Bono Award

Recognizes a law student’s commitment to uncompensated or minimally compensated pro bono work and other public service.

The award was presented to Robert J. Poggenklass, who graduated in May from the College of William and Mary School of Law. Poggenklass has provided pro bono service on many fronts, according to the nomination letter from Robert E. Kaplan, associate dean and director of externships for the law school. Poggenklass eventually hopes to have a civil rights practice.



Reichhardt



Pryor



Poggenklass

He assisted victims of hurricanes Katrina and Rita, worked for four public defender offices in exchange for a stipend or academic credit, advocated on behalf of disenfranchised felons who have served their sentences, founded and led a W&M Law School chapter of the Student Hurricane Network, and helped revive the law school's chapter of the American Civil Liberties Union.

His public defender work — which took place in Manassas, Norfolk, Richmond, and San Francisco — included death penalty cases and indigent defendants in federal and state courts.

When he came to Virginia for law school, he already had volunteer experience. He received the Iowa Governor's Volunteer Award in 2007 for serving on the board of directors of an organization that focused on urban revitalization.

"My parents did a really good job of instilling in me a sense that the world is bigger than just me and that I need to spend my time helping people. Otherwise I'm not living a productive life," Poggenklass was quoted as saying in a W&M publication. He added that pro bono work in courtrooms and jails is "more important than a lot of the stuff I do in class."

Poggenklass is a native of Guttenberg, Iowa. In addition to his law degree, he holds a bachelor's degree in philosophy from Cornell College. He has an upcoming fellowship planned with the Virginia Public Defender Office in Alexandria.

Indigent Defense Seminar Focuses on Evidence, Due Process

At the sixth annual Indigent Criminal Defense seminar in April, speakers talked about how to counter evidence uncovered by dogs, processed by laboratories, and identified through DNA testing.

The seminar, offered without charge to Virginia lawyers who take court-appointed cases, featured six speakers from outside Virginia who have faced challenging issues in criminal defense. They include:

Photo 1 — Stephen P. Hurley (left), with Virginia Court of Appeals Judge Walter S. Felton Jr., vice chair of the program committee. Hurley talked about how to detect when a dog has been used inappropriately to uncover evidence. He practices with Hurley, Burish & Stanton SC in Madison, Wisconsin.

Photo 2 — Jeffrey L. Fisher (right), director of the Supreme Court Litigation Clinic at Stanford Law School in California, described due process challenges to discretionary sentences. Here, he talks with Steven D. Benjamin, program committee chair.

Photo 3 — Professor John M. Burkoff (left) addressed criminal defense ethics. W. Edward Riley IV, a member of the program committee is on the right. Burkhoff teaches at the University of Pittsburgh School of Law.

The Indigent Criminal Defense seminar is designed for experienced practitioners. It is sponsored by the Chief Justice and Justices of the Supreme Court of Virginia and the Virginia State Bar. The seminar took place April 9, with the live program in Richmond and simultaneous webcasts in Wytheville and Weyers Cave.



Critical Issues Summit

Improving the Education of Lawyers In and Out of School

by Mary Z. Natkin

We continue to learn and develop over the lifetime of our careers as lawyers. This lifetime of learning was at the center of a national Critical Issues Summit held last fall. The summit—Equipping Our Lawyers: Law School Education, Continuing Legal Education, and Legal Practice in the Twenty-first Century¹—brought together judges, lawyers, professors, deans, CLE providers, in-house development professionals, and state bar officials to explore how best to develop a road map for the profession as a whole to improve lawyer education and development.²

In sixteen specific recommendations, the report urges the profession to identify core lawyering competencies and to develop effective strategies for learning and developing these throughout a lawyer's education and career.³ Many of the recommendations focus on engaging lawyers through experiential learning techniques, given how much of our professional lives are spent in self-directed learning situations rather than in a classroom. Put simply, adults learn best by doing and through reflection. Skills such as problem solving or managing a client's expectations are best learned in context and not separately from substantive law and procedure. One method for this contextual training is a traditional course in which substantive law is learned and evaluated through lawyering activities, rather than through traditional examinations. Another training method is in-house professional development and CLE programs that engage a range of skills and competencies in progressively demanding tasks, with feedback and opportunity for improvement. The report also keys in on the fundamental values of service to the profession and the duty to promote justice.⁴

There are many interesting models to explore that assist in the transition from law student to practicing lawyer, such as the Canadian articling process⁵ and the State Bar of Georgia Transition into Law Practice Program⁶. Several large law firms also have responded to the need for more substantial training of new associates. Dinker Biddle; Orrick, Harrington & Sutcliffe; DLA Piper; Howrey; and other firms are moving away from traditional advancement models and toward merit-based systems that involve significant training and evaluation of associates.⁷

We have a wealth of programs in Virginia that directly respond to the call to service as well as to the call for more rigorous and intentional development of core competencies. Law firms, not-for-profits, and governmental entities currently collaborate with law schools to address unmet need in the state through robust clinical and internship programs, as well as through service opportunities. At the Washington and Lee University School of Law, where I teach, our third-year students enroll in an in-house clinic, an externship (which is an internship for academic credit governed by Department of Labor regulations—see sidebar, page 35) or a transnational program. These programs do not substitute skills training for substantive learning, but instead teach the substantive law and procedure through actual legal work. Additionally, beginning last fall, each third-year student at W&L must complete a minimum of sixty hours of law-related service. A number of innovative projects arose from the service requirement. For example, law students, in connection with Blue Ridge Legal Services and the Office of the Executive Secretary for the Supreme Court of Virginia,

developed an empirical study to determine which parties are unrepresented in Virginia's general district courts. The survey instrument has been approved and will now be deployed to collect data. This type of innovative service improves access to justice while simultaneously developing important analytical skills in these soon-to-be-practicing lawyers.

The Virginia State Bar's Section on the Education of Lawyers engages these issues deeply. On June 18, during the VSB Annual Meeting at Virginia Beach, lawyers, judges, and educators discussed innovations and approaches to improving lawyer education and development in Virginia.

Endnotes:

- 1 The final report, released April 28, 2010, is at www.equippingourlawyers.org. The summit was sponsored in Scottsdale, Arizona, by American Law Institute-American Bar Association Continuing Professional Education and the Association of Continuing Legal Education.
- 2 The preamble to the summit report reads, in part: "All members of the legal community share responsibilities to initiate and maintain the continuum of educational resources necessary to assure that lawyers provide competent legal services throughout their careers, maintain a legal system that provides access to justice for all, and remain sensitive to the diverse client bases they must serve. These recommendations are offered as a blueprint for strengthening that continuum of educational resources and those values. . . ."
- 3 See previous publications on core competencies: *Legal Education and Professional Development—An Educational Continuum: The Report of the Task Force on Law Schools and the*

Profession: Narrowing the Gap, <http://www.abanet.org/legaled/publications/onlinepubs/macccrate.html>; *Educating Lawyers: Preparation for the Practice of Law*, 2007, <http://www.carnegiefoundation.org/publications/educating-lawyers-preparation-profession-law>; *Statement of Best Practices for Legal Education*, 2007, http://www.cleaweb.org/best_practices-full.pdf.

- 4 The summit report's final recommendation is that "the legal community should continue to develop programs that will prepare and encourage law students and all lawyers to serve the underserved." *Equipping Our Lawyers: The Final Report of the Critical Issues Summit*, at 12, www.equippingourlawyers.org.
- 5 *Articling In Canada*, Canada's Higher Education and Career Guide, http://www.canadian-universities.net/Law-Schools/Law_Articling.html (last visited June 7, 2010).
- 6 State Bar of Georgia, *Transition Into Law Practice Program*, http://www.gabar.org/programs/transition_into_law_practice_program/ (last visited June 7, 2010).
- 7 Amanda Becker, *Times are a changin' for associates*, CAPITAL BUSINESS, April 26, 2010, at 15.

Thinking of Bringing In an Unpaid Intern?

Much national attention has been directed to academic internships for credit.¹ The American Association of Law Schools and the American Bar Association have long regulated the award of academic credit for off-campus activities.² The ABA standards help ensure that the student intern's educational goals remain the driving force for the placement, instead of any benefit to the work site.

The U.S. Department of Labor (DOL) recently issued a fact sheet that clarifies the requirements for students to be considered "interns," rather than "employees" of for-profit private sector employers.³ The DOL standards are based on a 1947 Supreme Court case.⁴

For employers to call a volunteer worker an "intern," the DOL says the placement meet the following criteria:

- The internship, even though it includes actual operation of the facilities of the employer, is similar to training that would be given in an educational environment.
- The internship experience is for the benefit of the intern.
- The intern does not displace regular employees, but works under close supervision of existing staff.
- The employer that provides the training derives no immediate advantage from the activities of the intern, and on occasion its operations may actually be impeded.
- The intern is not necessarily entitled to a job at the conclusion of the internship.
- The employer and the intern understand that the intern is not entitled to wages for the time spent in the internship.

The DOL fact sheet clarifies that the Fair Labor Standards Act minimum wage requirements do not apply to volunteers at governmental and not-for-profit worksites.

— Mary Z. Natkin

Endnotes:

- 1 See, e.g., *The Unpaid Intern*, Legal or Not, N.Y. Times, April 2, 2010, <http://www.nytimes.com/2010/04/03/business/03intern.html>.
- 2 See ABA Standards and Rules of Procedure for Approval of Law Schools, Standard 305, <http://www.abanet.org/legaled/standards/20072008StandardsWebContent/Chapter%203.pdf>.
- 3 U.S. Department of Labor, Wage and Hour Division, April 2010, at <http://www.dol.gov/whd/regs/compliance/whdfs71.htm>.
- 4 *Walling v. Portland Terminal Co.*, 330 U.S. 148 (1947).

Lifting the Financial Burden of Cancer

by Patrick T. Keith, Suzanne Miller-Cormier, and Mirna Hernandez

Jane never imagined a routine exam would land her in an oncologist's office and ultimately lead to her cancer diagnosis. Her immediate concerns were how this would affect her husband and two small children. The family was struggling financially, and her out-of-pocket medical expenses were going to significantly increase. Jane underwent two surgeries and began treatment. As a part-time secretary, she was not eligible for paid leave. As a result the household income decreased and the family fell behind on all of its bills.

Overwhelmed, Jane was battling her creditors as well as her cancer. She wasn't able to focus on getting better because of her inability to earn a living while going through treatment. A hospital social worker recommended the nonprofit LINC (Legal Information Network for Cancer). LINC's mission is to ease the burden of cancer for patients and their families by providing assistance and referral to legal, financial, and community resources. LINC referred her to the Boleman Law Firm for bankruptcy counseling and Clearpoint Credit Solutions for debt management and credit counseling. Both worked with creditors and the hospital to get the household's finances in order. These collaborative efforts eased the financial burden of Jane's diagnosis and allowed her to focus on her health.

Cancer patients frequently endure treatments that dramatically impair their ability to financially support their families. Patients often incur significant medical debts, and they use credit cards to supplement their income and pay for medications. This added financial stress is harmful in their battle to overcome disease. Many LINC clients are young and some have small children. They worry about how their sickness will affect their families. It is overwhelming for them to confront their creditors on

their own, and providing an advocate for them dramatically reduces their stress.

Patrick T. Keith of the Boleman Law Firm, a pro bono attorney with LINC, said, "Many people decide to obtain their law degree so they can provide a positive impact in people's lives. LINC provides attorneys this opportunity. As a bankruptcy attorney, I am able to assist clients that are suffering significant financial issues, and provide them relief and hope for their future. Providing pro bono services to LINC clients is rewarding, as you can truly make a tangible difference in the lives of cancer patients and their families. LINC provides them with advocates to ensure they are not alone in facing the financial realities that cancer can create.

"When a resolution is discussed, it is common for the clients to sob as they release the stress they have been holding back. The client has a renewed sense of hope, and this can only positively impact their battle against cancer.

Cancer patients frequently endure treatments that dramatically impair their ability to financially support their families.

"As a pro bono attorney with LINC, you will be rewarded with the realization that you have assisted a person on their road to recovery against this much-too-common disease."

LINC was founded in 1996 by attorneys Ann C. Hodges and Phyllis C. Katz who are breast cancer survivors. During their treatments, they met other cancer patients who were not receiving needed treatments or were not able to

provide for their basic needs because they lacked the financial resources. They saw the need for an organization to help cancer patients find the means to sustain themselves and their families during treatment.

LINC also provides educational services to cancer patients and the medical community. LINC believes that education enables individuals to be more effective advocates. With LINC's information, resources, and skills training, patients are better able to meet the day-to-day challenges of cancer. Individualized support provided by LINC allows cancer patients to find the means to sustain their lives while in treatment, which enables them to focus their energies on fighting the disease.

LINC provides services free of charge to clients and uses other community resources that charge nothing or a nominal fee. Attorneys who partner with LINC agree to a sliding fee

scale or charge nothing, depending on the client's finances.

LINC needs attorneys and certified financial planners willing to help on a pro bono or nominal fee basis. To learn more about LINC, give of your time to help a LINC client, or make a donation, go to www.cancerlinc.org.