

Executive Director's Message

by Karen A. Gould



What You Get For Your Bar Dues in Virginia

AS VIRGINIA STATE BAR PRESIDENT W. David Harless discusses in his column in this edition of *Virginia Lawyer*, the VSB shares the distinction with one other state of having the lowest mandatory professional fees among the thirty-three mandatory bars in the nation. The VSB is tied with the West Virginia Bar for lowest mandatory professional bar dues. The West Virginia Bar uses the funds raised by its bar dues to do many of the same things that the VSB does, foremost of which is regulation of its approximately 6,800 active practicing lawyers. As of June 30, 2012, Virginia had 29,580 active lawyers licensed to practice law.

Public protection should be of paramount importance to all lawyers. The ability to self-regulate is a privilege to be zealously protected and maintained. About 65 percent of your dues goes to support and maintain the Professional Regulation Department, which supports the VSB's disciplinary system. The professional regulation staff, led by Edward L. Davis, bar counsel, consists of prosecutors, investigators, support staff, and the Intake Department.

During fiscal year 2012, the VSB received 3,867 inquiries against its active lawyers. Of those, 763 were investigated by intake and dismissed, 2,073 were dismissed without any action being taken and 1,031 were opened as complaint files. A total of 987 files were closed during the year, and sanctions were imposed in 223 of those cases. Nine district committee trials were held, and 65 post-committee trials were held either by the Disciplinary Board or by three-judge courts. Thirteen attorneys consented

to revocation. A total of 851 complaint files were carried forward to fiscal year 2013.

Included on the professional regulation staff are the attorneys acting as ethics counsel, whom you can consult about an ethical issue either through the VSB's Ethics Hotline (804-775-0564) or via e-mail through a "hot" link on the VSB website: www.vsb.org/site/regulation/ethics. Depending on the complexity of your question, you will receive either an e-mail response or a return phone call. The ethics staff strives to respond to your questions within the same day.

A key difference between West Virginia and Virginia is that Virginia's mandatory fees include the \$25 assessment for the Clients' Protection Fund (CPF), which will raise approximately \$770,000 in FY 2013. The CPF was established in 1976 to make monetary awards to persons who have suffered financial losses because of dishonest conduct by Virginia lawyers. The fund is a remedy of last resort for clients who are not able to obtain reimbursement from other sources, such as a bond, surety agreement, or the lawyer involved. The CPF is a very important element of the bar's public protection mission.

Essential to the bar's regulatory efforts are the Membership and Mandatory Continuing Legal Education Departments, supervised by Gale M. Cartwright, director of member compliance. Membership keeps the membership database current, answering members' inquiries, and processing in-good-standing requests, Virginia Corporate Counsel applications, professional corporation registrations,

CRESPA bonds, and myriad of other details. MCLE processes more than 10,000 course applications each year, under the direction and supervision of the MCLE board, as well as ensuring members' compliance with the MCLE rules.

Communication of the bar's work and information essential to ethical practice is an important part of professional regulation. Publication of the *Virginia Lawyer* and *Virginia Lawyer Register* costs about \$120,000 annually to print five issues of each. The VSB is publishing more information than ever, but through the website and the VSB E-News the information goes out faster and cheaper than the print medium. Digital documents also give each bar member the option to create a printed document. Despite reliance on resources other than the United States Postal Service, the bar continues to budget more than \$233,200 annually for postage.

The VSB is also saving money by not printing the *Professional Guidelines* annually. The *Professional Guidelines* contains Virginia's Rules of Professional Conduct, the Rules of Supreme Court of Virginia governing the Organization and Government of the VSB, and the Principles of Professionalism. You can print out a complete copy of the *Professional Guidelines*, which is kept updated with new rule changes, by visiting www.vsb.org/pro-guidelines/index.php/main/print_view. Remember to periodically update your copy after the Supreme Court adopts rule changes.

The bar's regulatory mission would fail without the support of the information technology staff and

related software, hardware, and telecommunications products. Web-based applications for VSB members are a priority. MCLE course compliance, online dues renewal, and membership updates have been accomplished within recent years. As the VSB membership grows, these web-based applications will keep costs down. The VSB is also working on a document management project (also known as enterprise content records management) to keep up with technology needs and a complex regulatory caseload.

Also included on the website is a comprehensive Virginia Lawyer Directory that provides contact information for all active-status Virginia lawyers in good standing, except those who opt out of the list. This directory permits visitors to access a lawyer's name, firm, address, and telephone number of record by searching for the lawyer's last name. E-mail addresses are not included in the directory. To opt out, go to the VSB site at www.vsb.org and log in to the member login site in the upper right corner. Go to Virginia Lawyer Directory Options and choose "opt out." If you change your mind later, you can be included by choosing "opt in." If you do nothing your name and contact information will be included in the directory.

Support of Lawyers Helping Lawyers is another priority for the mandatory bar. LHL helps lawyers avoid disciplinary problems, and it works with the bar disciplinary system to rehabilitate lawyers who have run afoul of the ethics rules because of substance abuse and mental health problems.

Supporting members with training and research tools is a priority of the bar. The Supreme Court requires the VSB to provide an online legal research program to its members (Rules of the Supreme Court of Virginia, Organization and Operation of the Virginia State Bar, Part Six, §IV, ¶21.) The bar contracts with Fastcase through a competitive process to provide this service at a cost of \$110,000. At the direction of the Supreme Court, the bar also hosts the Indigent Criminal Defense Training Initiative and the Solo and Small-Firm Practitioner Forum, which will be offered three times in calendar year 2013.

Investing in practice development and service interests of VSB members is another focus of the bar. The specialty sections help practitioners hone their skills in criminal law, family law, litigation, and seventeen other areas. Sections are supported by elective dues paid in addition to the mandatory bar dues. From its mandatory dues, the

bar funds conferences of the senior lawyers and the young lawyers. These conferences provide programs and projects that are helpful to lawyers and citizens in the commonwealth and that engender good will toward the legal profession. They are an essential part of volunteer leadership development.

Perhaps the biggest unknown in the VSB budget is the cost of receiverships ordered by courts due to the death, disability, disappearance, suspension, or disbarment of an attorney. (Code of Virginia §§54.1-3900.01 and 54.1-3936) The receivership budget for next fiscal year is \$300,000. These expenses vary, and it is difficult to know in advance what the bar's actual liability will be for receiverships. Over the past seven years, expenses have ranged from a low of \$99,435 in FY 2006 to a high of \$513,475 in FY 2008. While the attorney's nontrust assets can be assessed to reimburse the bar, those assets usually are insufficient.

Total projected revenue for FY 2013 is \$11,904,000, and projected expenditures are \$13,425,000.

Please do not hesitate to contact me with questions or concerns at gould@vsb.org or (804) 775-0550.