

Bar Programs Help Attorneys Avoid Disciplinary System

by Phillip V. Anderson, 2005–2006 VSB President



When I was twenty-five years old and childless, I had all the answers about how other people should discipline their kids. Many years and three teenage sons later, with the gray hair to show for it, I have far fewer answers but one tried and true observation: Discipline comes in many forms and seldom is a one-size-fits-all proposition.

For sixty-seven years, the Virginia State Bar has been about the regulation of Virginia's lawyers. With the help of 135 lawyers and 55 lay volunteers, the VSB works diligently to enforce the Rules of Professional Conduct and ensure that the public is protected from unscrupulous and incompetent lawyers in the commonwealth. Each year, those 190 volunteers will hear cases on 17 District Committees or the Disciplinary Board. In addition, the bar staff will process 3,100 complaints and field another 1,650 inquiries.¹

Regulation and discipline, however, are about more than simply responding to inquiries and complaints and enforcing the rules against the violators. Equally important in this mission of protecting the public and regulating the profession is providing Virginia's lawyers with the necessary tools and education that will hopefully keep them from becoming statistics in the VSB's regulatory system.

As part of that effort, the VSB will, within the next several months, provide an online legal research tool, which will be available to all Virginia lawyers at no additional charge. The basic research package will ensure that all lawyers in the commonwealth have the tools necessary to represent their clients well. This asset should be of particular benefit to solo practitioners and lawyers in smaller firms who, due to either lack of resources or the size of a case, have not been able to justify the extra cost of legal research on certain cases. Lawyers engaged in pro bono efforts or representation of indigents in criminal cases will no longer have to personally underwrite the cost of legal research in order to adequately represent their clients. Those among us who are willing to give of their time to represent Virginia's less fortunate should not have to choose between self-funding legal research or doing without. The online legal research tool should elevate the

quality of legal services provided not only to the less fortunate citizens of the commonwealth, but to all clients.

Another significant step in providing lawyers assistance in avoiding the VSB's disciplinary system is the Solo and Small-Firm Forum. This program will be offered for the third time on January 27, 2006, at the College of William & Mary. First offered in March 2005 in Abingdon and followed last fall in Harrisonburg, the central theme of the daylong Solo & Small-Firm Forum is avoidance of disciplinary claims and tips on law office management. The free program is followed with a "town hall" style meeting where attendees can address questions and concerns with Supreme Court Justices and VSB officials.

Most lawyers do not set out to engage in misconduct. Sure, there are those who cleverly and intentionally set out to craft ways to steal from their clients and breach the sacred trust invested in them. Thankfully, they are the exception rather than the rule. Most lawyers simply arrive in the disciplinary system by virtue of making poor choices, sometimes driven by competitive pressures, by personal problems that are neglected, by failure to implement sound office management procedures, or by simply not recognizing the inevitable and properly planning for winding down their law practices. The program provides lawyers with information and education tailored to help them make good choices and avoid the situations that lead to disciplinary complaints.

The VSB offers other programs designed to assist lawyers in avoiding disciplinary problems. Using the Ethics Hotline, Virginia lawyers can seek free, confidential ethics advice by calling the bar office. Lawyers can request formal Legal Ethics Opinions from the Standing Committee on Legal Ethics. Free advice on legal malpractice avoidance, claims repair, and professional liability insurance issues are offered to all Virginia lawyers. A confidential analysis of law office management issues is offered at reduced

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rates. These are just a few of the services that help Virginia lawyers avoid the disciplinary system.

Providing information and resources that help lawyers avoid disciplinary problems and provide better legal services to their clients is an integral part of the VSB's mission to regulate the legal profession and improve the quality of legal services available to the public. Every time we help a lawyer avoid a bar complaint by providing information and research tools, we save bar dues that would otherwise be spent investigating and perhaps prosecuting the lawyer, we protect the public, and we hopefully preserve a career.

The regulation of Virginia's thirty-nine thousand lawyers is, at times, a daunting task. Certainly, the prompt and thorough investigation and prosecution of disciplinary complaints, when warranted, is the centerpiece of that mission; however, just as our profession has grown and become multifaceted over the last sixty-seven years, so must our approach to regulation and discipline. We must be bold enough to be creative and flexible enough to realize that discipline can be preventive as well as reactive. ⚖️

Endnote:

1 Based on 2005 data.