

Highlights of Virginia State Bar Council Meeting

February 18–19, 2005

At its regular winter meeting on February 18 and 19, 2005, in Richmond, the Council of the Virginia State Bar heard the following reports and took the following significant actions:

Online Legal Research Program for all VSB Members

Four vendors have submitted proposals to provide basic online legal research services to all Virginia lawyers—a project endorsed by Chief Justice Leroy R. Hassell Sr. as part of his initiative to improve services to solo and small-firm practitioners. The cost of the research package will be paid from lawyers' dues as a Virginia State Bar membership benefit, with no additional charge. The vendor selection process has been delayed by two legal challenges. In one case, a company that provides research on CD-ROM has, in a letter, accused the VSB of antitrust violations if it offers the planned program as a member benefit. Counsel in the attorney general's office has advised the bar that providing such a service would not violate antitrust laws. In the second challenge, one of the would-be vendors has been accused by competitors of offering to provide data that is not its own. The VSB is addressing that question with all the prospective vendors before it proceeds to negotiations over a contract. VSB Executive Director Thomas A. Edmonds told the Council that a vendor likely will be chosen in time for the June Council meeting. With only a few dissenting votes, the Council authorized VSB officers and staff to negotiate and enter into a contract once legal issues are resolved. Some voluntary bar associations continue to object to the VSB offering such a member benefit.

General Assembly

Bar-related legislation before the 2005 General Assembly included:

- **Increased funding and other relief to Virginia's system for defending indigent people accused of crimes.** Most

of the proposals failed to progress, despite intense support from an unprecedentedly broad cross-section of the legal community and editorial support from several daily newspapers in Virginia. The assembly did, however, set aside money to provide Internet access to public defender offices. And it budgeted a small amount to more fully fund the account used to pay court-appointed criminal defense attorneys, while continuing the current cap on their fees.

- **Clarifying procedures for putting law practices into receivership when attorneys are unable or unwilling to tend to client matters.** Both houses unanimously approved the legislation, which was requested by the VSB after a task force studied the existing receivership statutes and made recommendations for improvements.
- **Authorizing nonlawyers to represent limited liability entities in general district court.** The VSB opposed this bill, which was withdrawn by the patron in committee.
- **Requiring lawyers who do not have legal malpractice insurance to pay \$1,500 annually to the VSB Clients' Protection Fund.** The VSB took no position on the measure, which passed the House but died in the Senate Courts of Justice Committee.
- **Establishing a process to have a delayed criminal appeal heard when the client's attorney failed to file.** This measure, which passed both houses, addresses recent reports that many felons in Virginia lost their right to appeal because their lawyers missed filing deadlines or failed to take other required procedural steps.

Judicial Elections

The Council unanimously resolved that "selection of judges should be based on

merit, and judges should be selected from among candidates who have submitted their credentials to the appropriate bar organizations for consideration and recommendation." The resolution, proposed by past VSB President Joseph A. Condo, was a response to the General Assembly's recent election of judicial candidates who had not submitted themselves to the evaluation processes of bar groups.

Malpractice Insurance Notification

Lawyers who certify on their annual dues statement that they have malpractice insurance would be required to notify the VSB within thirty days if their malpractice coverage ends, under a rule change recommended by the Lawyer Malpractice Insurance Committee and approved by the Council. The proposed change will go before the Supreme Court of Virginia for its consideration.

Foreign Legal Consultants

The Council approved new rules for certifying lawyers from other countries as "foreign legal consultants." If the rules are approved by the Supreme Court of Virginia, lawyers with that designation will not be able to practice in Virginia courts or render legal services based on application or interpretation of Virginia law or the law of another United States jurisdiction. They can, however, give advice based on the law of the country where they are admitted to practice or the laws of other foreign countries, and on public and private international law. The VSB's Multijurisdictional Practice Task Force developed the rules in response to an increasing demand for uniform regulatory standards for foreign lawyers in the United States. The task force used as its model the American Bar Association's Model Rule for the Licensing of Foreign Legal Consultants.

Virginia Lawyer Register Changes

The Council approved changes to the Virginia Lawyer Register proposed by the VSB Publications and Public Information

Committee. Starting with the August-September 2005 issue, the publication will be given over entirely to official records of the VSB: disciplinary actions, legal ethics opinions, trust account depositories, Clients' Protection Fund payouts and proposed rule changes, for example. Advertising and feature articles will be limited to the glossy Virginia Lawyer magazine, which is published alternately with the Register. The loss in advertising revenue will be made up through an increase in ad rates and reduction in the cost of publishing the Register.

Circuit-Based Extraordinary Service Awards Pilot Project

The Council was told that the VSB's Special Committee on Access to Legal Services would like to launch an award program under which lawyers will be recognized by their circuits for extraordinary contributions to the justice system through pro bono work or by accepting nominally compensated court-appointed cases. The award program will start in three circuits on a pilot basis this year—the Fourth (Norfolk), Twenty-Fourth (Lynchburg and nearby counties) and Thirtieth (Lee, Scott and Wise counties). Nominations can come from members of the legal profession, bar associations and the general public in each circuit. The deadline for nominations is July 1. Winners will receive a certificate signed by the Chief Justice and the President of the VSB. The certificate will be presented at the opening term of circuit court in each locality. The Council unanimously approved the program.

Insurance News: Reduced Rates And Premium Holiday

Fortis Benefits Insurance Company, which writes the VSB group life insurance coverage sold by the Insurance Center for Virginia State Bar Members, has announced a rate reduction as of May 1, when nonsmokers will pay 10 percent less and smokers' rates will drop by 5 percent. Those already enrolled in the plan and those who applied for it by February 17 will enjoy a premium holiday for six months. Also, the Insurance Center has begun selling Health Savings Accounts

that combine high-deductible health insurance with a savings account deducted from pretax income. The money in the account may accumulate, with no "use it or lose it" deadlines.

New Election Deadlines

The Council amended the VSB Bylaws to change the deadlines for electing the president-elect. Now, candidates must file their

petitions by October 1, and, in contested elections, ballots must be returned by December 1. The task force determined that the old deadlines—March 1 and May 1, respectively—did not allow enough time for presidents-elect to train for the office.