

Virginia Lawyer Register

The Official Publication of the Virginia State Bar

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		Effective Date	Lifted	
Barbara Lyn Brackett	Vienna, VA	January 13, 2010		n/a
David Eugene Cecil	Grundy, VA	January 25, 2010		n/a
Paul Michael Childers	Grundy, VA	January 21, 2010		n/a
Anthony Jerome Davis	Birmingham, AL	December 16, 2009		n/a
Crystal Anita Gist Fisher	Waldorf, MD	January 6, 2010		n/a
Walter Franklin Green IV	Harrisonburg, VA	February 8, 2010		n/a
Matthew Bennett Greene	United Kingdom	January 27, 2010		n/a
Ralph E. Mirarchi	Wayne, PA	December 8, 2009		n/a
Peter Paul Mitrano	Merrifield, VA	January 8, 2010	January 20, 2010	
Donald F. Snow Jr.	Madison, CT	February 8, 2010		n/a
Joseph Louis Tantoh Tibui	Hyattsville, MD	January 22, 2010		n/a
Suspension – Failure to Comply with Subpoena				
		Effective Date	Lifted	
Phillip Stone Griffin II	Winchester, VA	February 8, 2010		n/a
Gary Lance Smith	Winchester, VA	January 25, 2010		n/a

Virginia Lawyer Register

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The Virginia State Bar publishes the *Virginia Lawyer Register* five times annually. The *Register* is primarily a compilation of disciplinary actions against attorneys licensed to practice law in the commonwealth; administrative suspensions; legal ethics opinions; and proposed amendments to the Rules of the Supreme Court of Virginia. All documents submitted to the state bar for inclusion in the Register are

subject to alteration as to typography and formatting, in order to conform to the requirements of the *Register*, without changing the intent of any document.

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The following are summaries of disciplinary actions for violations of the Virginia Rules of Professional Conduct (RPC) (Rules of the Supreme Court of Virginia, Part 6, § II, eff. Jan. 1, 2000) or another of the Supreme Court rules (Rules). References to Rules Part 6, Section IV Paragraph 13 are assumed to be the reformatted rules (effective May 1, 2009), unless otherwise indicated (effective before May 1, 2009).

Copies of complete disciplinary orders are available at the Web link provided with each summary or by contacting the Virginia State Bar Clerk's Office at (804) 775-0539 or clerk@vsb.org. VSB docket numbers are provided.

CIRCUIT COURTS

CARL HERMAN BUNDICK

Accomac, Virginia

09-021-075737

On September 24, 2009, a three-judge panel in the Virginia Beach Circuit Court imposed a public reprimand with terms on Carl Herman Bundick for violating disciplinary rules that govern diligence and communication. The misconduct occurred in his representation in a divorce. RPC 1.3(a); 1.4(a-c)

http://www.vsb.org/docs/Bundick_12-11-09.pdf

JOHN FRANCIS GONZALES

Alexandria, Virginia

07-042-070753, 07-042-2158

On January 13, 2010, a three-judge panel in the Alexandria Circuit Court suspended John Francis Gonzales's license to practice law for six months, effective February 1, 2010, and imposed terms on the suspension. The court found that he violated disciplinary rules by engaging in misrepresentation that reflects adversely on a lawyer's fitness to practice. Mr. Gonzales stipulated that he misrepresented his role in limited liability companies created in connection with loan transactions. This was an agreed disposition of misconduct charges. RPC 8.4(a),(c)

http://www.vsb.org/docs/Gonzales_02-16-10.pdf

WALTER WARE MORRISON

Virginia Beach, Virginia

08-021-072848

Effective October 15, 2009, a three-judge panel in the Virginia Beach Circuit Court suspended Walter Ware Morrison's license to practice law for ninety days for violating professional rules that govern candor toward the tribunal and misconduct that reflects adversely on the lawyer's fitness to practice. The case involved a visitation and custody dispute. RPC 3.3(a)(1); 8.4(c)

http://www.vsb.org/docs/Morrison_12-08-09.pdf

DISCIPLINARY BOARD

STACY F. GARRETT III

Midlothian, Virginia

07-032-0022, 08-032-074858, 08-032-075457, 09-032-080055

On December 11, 2009, the Virginia State Bar Disciplinary Board suspended Stacy F. Garrett III's law license for one year and imposed terms on the suspension. The board found that Mr. Garrett violated disciplinary rules that govern diligence, communication, safekeeping property, declining or terminating representation, bar admission and disciplinary matters, and misconduct that reflects adversely on a lawyer's fitness to practice. The matters involved Mr. Garrett's representations in two clemency petitions, restoration of a driver's license, and pardon of a domestic violence conviction. RPC 1.3(a); 1.4(a); 1.15(c)(4); 1.16(a)(3); 1.16(d); 8.1(c); 8.4(c)

http://www.vsb.org/docs/Garrett_02-09-10.pdf

MARCUS NOAH PERDUE III

Covington, Virginia

09-080-077375

On November 2, 2009, the Virginia State Bar Disciplinary Board issued a public reprimand with terms to Marcus Noah Perdue III for violating professional rules that govern candor toward a tribunal. Mr. Perdue did not disclose to a U.S. bankruptcy court that two matters involving marital debt had been litigated and decided in a Virginia circuit court. RPC 3.3(a)(1-3)

http://www.vsb.org/docs/Perdue_02-16-10.pdf

TONJA MICHELLE ROBERTS

Danville, Virginia

10-000-081446

On November 20, 2009, the Virginia State Bar Disciplinary Board suspended Tonja Michelle Roberts's license to practice law for three years for failing to comply with the terms of a previous one-year suspension. She did not comply with the terms of her contract with Lawyers Helping Lawyers. Rules Part 6, § IV, ¶ 13-18.0

http://www.vsb.org/docs/Roberts_1-25-10.pdf

DISTRICT COMMITTEES

JOHNNYE BELINDA DUFF

Virginia Beach, Virginia

09-021-078529

On December 18, 2009, a Virginia State Bar Second District Subcommittee issued a public reprimand to Johnnye Belinda Duff for violating disciplinary rules that govern diligence and communication. The cases involved several divorce representations. This was an agreed determination of misconduct charges. RPC 1.3(a); 1.4(a)

<http://www.vsb.org/docs/Duff-011910.pdf>

ROBERT P. DWOSKIN

Charlottesville, Virginia

08-070-072379

On January 7, 2010, a Virginia State Bar Seventh District Subcommittee issued a public reprimand with terms to Robert P. Dvoskin for violating disciplinary rules that govern competence, diligence, and bar admission and disciplinary matters. The misconduct occurred in his representation of a client in an employment discrimination lawsuit. This was an agreed disposition of misconduct charges. RPC 1.1; 1.3(a); 8.1(c)

<http://www.vsb.org/docs/Dvoskin-011910.pdf>

LERON WILLIAM GILCHRIST

Norfolk, Virginia

09-021-076455, 09-021-079350

On December 18, 2009, a Virginia State Bar Second District Subcommittee issued a public reprimand with terms to Leron William Gilchrist for violating rules that govern diligence, communication, and declining or terminating representation in two court-appointed criminal cases. This was an agreed disposition of misconduct charges. RPC 1.3(a); 1.4(a),(b); 1.16(d)

http://www.vsb.org/docs/Gilchrist_1-25-10.pdf

ANNE HOLLAND HARRIS

Richmond, Virginia

09-033-077863

On December 23, 2009, a Virginia State Bar Third District-Section III Subcommittee issued a public admonition with terms to Anne Holland Harris for violating disciplinary rules that govern conflict of interest: prohibited transactions and misconduct that reflects adversely on a lawyer's honesty, trustworthiness, or fitness to practice law. This was an agreed disposition of misconduct charges. RPC 1.8(a)(1-3), (j)(1),(2); 8.4(b)

<http://www.vsb.org/docs/Harris-011910.pdf>

CLAUDIA JOY ZUCKER

Arlington, Virginia

07-041-0908

On December 11, 2009, the Virginia State Bar Fourth District Committee-Section I issued a public reprimand to Claudia Joy Zucker for violating disciplinary rules that govern candor toward the tribunal and misconduct that reflects adversely on a lawyer's fitness to practice. While testifying as an expert witness before the Board of Immigration Appeals, Ms. Zucker stated under oath that a Virginia State Bar disciplinary complaint against her had been dismissed when, in fact, it had resulted in a private reprimand, and she also misrepresented that she had not been represented by counsel in the disciplinary proceeding, when she actually was. RPC 3.3(a); 8.4(c)

http://www.vsb.org/docs/Zucker_12-11-09.pdf

PROPOSAL FOR PUBLIC COMMENT

The following proposal is published for public comment. All comments should be submitted in writing to Karen A. Gould, Executive Director, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, VA 23219, no later than end of business on the day of deadline.

RULES OF PROFESSIONAL CONDUCT

AMENDMENTS TO RULES 7.1-7.5

LAWYER ADVERTISING AND SOLICITATION

Deadline for comment: April 14, 2010

The Virginia State Bar's Standing Committee on Legal Ethics is seeking public comment on proposed amendments to Rules 7.1-7.5 of the Rules of Professional Conduct.

Rules 7.1 – 7.5 regulate lawyer advertising and solicitation. Overall, the proposed amendments make the rules more general in their application by removing specific examples of lawyer advertising from the body of the rule and placing those requirements in the comments, along with examples of applications taken from this Ethics Committee's opinions on lawyer advertising.

Specifically, the proposed amendments would accomplish the following:

- Rule 7.1 as amended would delete the terms "fraudulent" and "deceptive." If a lawyer's advertising is "fraudulent" or "deceptive" it would therefore be "false" or "misleading." The committee believes that statements in lawyer advertising that are "false" or "misleading" violate Rule 7.1 regardless of any intent by the lawyer to deceive the public or defraud a consumer.
- Rule 7.2 as amended would eliminate the requirement of a disclaimer for specific or cumulative case results. Statements regarding cumulative case results are still subject, however, to the "misleading" standard of Rule 7.1 and can violate the professional rules if the withholding of material facts renders the statements misleading. Amendments to 7.2(c) would allow lawyers to participate in a qualified legal services plan or a not-for-profit legal referral service that has been approved by the Ethics Committee. New Rule 7.2(e) would require advertising lawyers to respond in a timely manner to

the VSB ethics counsel's requests for information regarding the lawyer's advertisements.

- Rule 7.3 as amended would broaden the scope of the prohibition against in-person solicitation to cover all types of matters — not only personal injury and wrongful death cases. As the last sentence in proposed Comment [1] explains, "A person in need of legal services for a divorce, bankruptcy, or criminal defense may be just as overwhelmed and vulnerable to suggestion as a person in need of legal services in cases involving personal injury or wrongful death." This ban would be expanded in Rule 7.3(b) to prohibit soliciting clients involved in a public interest matter or legal services representation where the lawyer is providing pro bono work.
- The proposed amendments to Rule 7.4 are undergoing consideration by the Ethics Committee.
- Rule 7.5 as amended would add a new Comment [3] clarifying that a lawyer should practice using the official name under which the lawyer is licensed or seek an appropriate and legal change of name from the Supreme Court of Virginia.

Details: <http://www.vsb.org/site/regulation/prop-rules-71-75>

APPROVED RULE CHANGES

The following rule amendments have been approved by the Supreme Court of Virginia:

RULES OF THE SUPREME COURT PART 6, § IV, ¶10 AND RULES OF PROFESSIONAL CONDUCT 7.2(B)

SUNSET OF STANDING COMMITTEE ON LAWYER ADVERTISING AND SOLICITATION

Effective: January 22, 2010

On January 22, 2010, the Court approved amendments to Paragraph 10 and Rule 7.2(b) that sunset the Virginia State Bar's Standing Committee on Lawyer Advertising and Solicitation, effective immediately. The VSB's Standing Committee on Legal Ethics is now responsible for responding to informal opinion requests that relate to lawyer advertising and solicitation. The VSB's legal ethics staff will continue to monitor and review lawyer advertising and issue noncompliance letters that will alert lawyers to problematic advertisements. The VSB ethics counsel will continue to review and advise lawyers on their ads in advance of dissemination on a timely basis.

Details: http://www.vsb.org/docs/2010-01-25-SCV-Par-10_Rule7.2_.pdf

RULES OF PROFESSIONAL CONDUCT 1.9 & 1.11

CONFLICTS OF INTEREST FOR GOVERNMENT OFFICERS AND EMPLOYEES

Effective: January 4, 2010

On November 2, 2009, the Court approved amendments that provide direction to lawyers on law firm disqualifications when lawyers move from private to public employment.

Amendments to Rule 1.9 and 1.11 of the Rules of Professional Conduct move Comment [10] to the body of Rule 1.11, since the comment 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.

Details: http://www.vsb.org/docs/part6_rpc1-9_1-11_110209.pdf

RULES OF PROFESSIONAL CONDUCT 1.17

SALE OR PURCHASE OF A LAW PRACTICE

Effective: January 4, 2010

On November 2, 2009, the Court approved an amendment to Rule 1.17 of the Rules of Professional Conduct. The amended rule prohibits 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.

The amended rule requires a lawyer who sells a practice to sell the entire practice or area of practice to prevent the buyer from retaining the most attractive or lucrative cases at the expense of clients whose cases are not as desirable, thereby protecting clients who may find it difficult to secure substitute counsel.

Details: http://www.vsb.org/docs/part6_rpc1-17_110209.pdf

NOTICE TO MEMBERS

LICENSE FORFEITURES

The names of Virginia State Bar members who have forfeited their licenses to practice law for failure to pay annual membership fees are posted at <http://www.vsb.org/site/members/license-forfeitures/>. Forfeiture is governed by Code of Virginia § 54.1-3914, Title 54.1, Professions and Occupations. The list is current as of February 24, 2010.

For easier access to the documents cited in this magazine, the *Virginia Lawyer Register* is posted with live Internet links at http://www.vsb.org/docs/valawyer magazine/Register_2010-03.pdf.

APPROVED LEGAL ETHICS OPINION

LEO 1853

SEXUAL RELATIONSHIP WITH A CLIENT

On December 29, 2009, the Virginia State Bar Standing Committee on Legal Ethics approved advisory Legal Ethics Opinion 1853, which addresses issues involved when a lawyer enters into a sexual relationship with a client during the course of representation.

An electronic version of the opinion with endnotes is posted at <http://www.vacle.org/opinions/1853.htm>.

The text of the opinion follows:

While the Virginia Rules of Professional Conduct contain no specific prohibition against sexual relationships between lawyer and client, the Ethics Committee advises that such conduct could result in situations deemed unethical under the rules.

The Committee has been asked to address the numerous issues involved when a lawyer enters into a sexual relationship with a client during the course of the representation. The manifold ethical issues that arise from these circumstances do not require the Committee to describe the actual acts of the lawyer nor what indeed defines a “sexual relationship.” Many problems addressed arise from the impropriety and unfair exploitation of the lawyer’s fiduciary position as well as the lawyer’s untold influence and potential personal conflict. As the ABA’s Standing Committee on Legal Ethics identified in Formal Opinion No. 92-364 (1992), “[t]he roles of lawyer and lover are potentially conflicting ones as the emotional involvement that is fostered by a sexual relationship has the potential to undercut the objective detachment that is often demanded for adequate representation.” While distinctions may be drawn between sexual relationships that predate the formation of the attorney/client relationship and those that begin during the attorney-client relationship, the lawyer must always be mindful of the ethical considerations involved. Clearly, the situation where the sexual relationship develops during the attorney-client relationship risks more probable ethical breaches and in most instances forms the basis for lawyer discipline. This opinion outlines the host of ethical problems a lawyer faces in having a sexual relationship with a client during the course of a professional engagement.

APPLICABLE RULES

The Committee recognizes that no provision in the Virginia Rules of Professional Conduct specifically prohibits sexual relationships between lawyer and client;¹ however, the lawyer must consider that such conduct could: (1) jeopardize the lawyer’s ability to competently represent the client (Rule 1.1), (2) wrongfully exploit the lawyer’s fiduciary relationship with the client, (3) interfere with the lawyer’s independent professional judgment (Rule 2.1), (4) create a conflict of interest between the lawyer and the client (Rule 1.7, Rule 1.7 Comment [10], Rule 1.8(b) and Rule 1.10(a)), (5) jeopardize the duty of confidentiality owed to the client (Rule 1.6(a)), or (6) potentially prejudice the client’s matter (Rule 1.3(c)). Additionally, a lawyer who intentionally uses the fiduciary relationship of lawyer and client to coerce sexual favors from a client may be found to have violated Rule 8.4(b)’s prohibition against a “deliberately wrongful act that reflects adversely on the lawyer’s ... fitness to practice law.”² Also, when a lawyer solicits sexual favors in lieu of charging the client legal fees, the lawyer will have violated Rule 8.4(b).³

ANALYSIS

Competence and Diligence

Rule 1.1 states that “a lawyer must provide competent representation to a client...” While a sexual relationship with a client may not

directly impede the ability of a lawyer to provide competent representation, the danger of indirect harm or prejudice to the client nonetheless exists. Depending upon the circumstances of the client’s matter, disclosure of the relationship may prejudice the client or compromise the competency of the representation thereby violating Rule 1.3(c)⁴ of the Rules of Professional Conduct and the principles underlying the Rules outlined in the following sections as well. Accordingly, the lawyer’s conduct may play a significant factor in denying the client the full benefit of the assistance normally available in a traditional attorney-client relationship. A sexual relationship with the client creates a grave risk that the lawyer’s duties of competence and diligence will be breached.

Lawyer’s Independent Judgment

A lawyer is required to exercise detached and independent professional judgment when representing a client. Rule 2.1 states:

In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors that may be relevant to the client’s situation.

A lawyer involved in a sexual relationship with a client, especially one that arose during the attorney-client relationship, could become conflicted in providing the “straightforward advice” that “involves unpleasant facts and alternatives that a client may be disinclined to confront.” Rule 2.1 Comment [1].⁵ Additionally, the lawyer’s ability to maintain independent objectivity free from emotion or bias could be impaired because of the personal relationship. The lawyer risks losing the objectivity and reasonableness that form the basis of the lawyer’s independent professional judgment.

Fiduciary Obligations

The attorney-client relationship is a fiduciary one in which the client places trust and confidence in the lawyer in return for the lawyer’s placing the interest of the client ahead of any self-interest.⁶ This fiduciary relationship imposes the highest standards of ethical conduct on the lawyer, which requires the lawyer to exercise and maintain the utmost good faith, honesty, integrity, fairness, and fidelity. This fiduciary relationship precludes the lawyer from having personal interests antagonistic to those of the client. ABA Formal Op. 92-364

The lawyer’s position of trust places the burden on the lawyer to ensure that all dealings between the lawyer and client are fair and reasonable. Rule 1.8 Comment [1]. By nature, the attorney-client relationship is often inherently unequal: the client comes to the lawyer because he or she needs help with a problem and puts faith in the lawyer to respond reasonably and objectively on his or her behalf. Such reliance potentially places the lawyer in a position of dominance and the client in a position of vulnerability. While this dynamic might not exist in every situation, e.g., with corporate clients, clients involved in divorce, criminal, probate, and immigration matters often feel particularly dependent upon their lawyers. Such vulnerability may result from the client’s emotional state, age, social status, educational level, or the nature of the matter being handled by the lawyer for the client.⁷ The more vulnerable the client is in his or her ability to make reasoned judgments regarding the matter, the more heightened becomes the lawyer’s fiduciary obligation to avoid any improper relationship with the client. If the lawyer abuses the client’s reliance and trust, the lawyer has violated Rule 1.3(c).

The principle of Rule 1.3(c)⁸ rests on public policy and is a protection to the client that the lawyer will not take advantage of any confidence imparted by the client. Further, Rule 1.8(b)⁹ supports the fundamental principle that a lawyer may not use client confidences to the disadvantage of the client, and Rule 1.7(a)(2)¹⁰ prohibits a lawyer from

representing a client when the representation may be limited by the lawyer's own interests.

Rules 1.3(c), 1.8(b), and 1.7(a)(2) reflect the fundamental fiduciary obligation of a lawyer not to exploit a client's trust for the lawyer's benefit, which implies that the lawyer should not abuse the client's trust by taking sexual or emotional advantage of a client. ABA Op. No. 92-364 The inherently unequal relationship, which is much more problematic in the sexual relationship that arises during the course of the attorney-client relationship, may provide an opportunity for the lawyer to exploit the client either emotionally, sexually, or financially. Since the attorney-client relationship is based upon trust and confidence, a lawyer has a heightened duty to protect those obligations. There are scenarios too numerous to mention in which a lawyer's sexual conduct with a client presents ethical problems for the lawyer. Client vulnerability may be even more acute in legal aid or pro bono cases because the client may lack the resources necessary to change lawyers if unwanted advances occur.¹¹ The client may feel obliged to provide sexual favors to the lawyer because he or she has no other means to compensate the lawyer for his or her work or out of fear that the lawyer will not continue to pursue his or her legal interests diligently.¹²

Conflict of Interests

The independent professional judgment of a lawyer is based solely on behalf of the best interests of the client. A lawyer involved in a sexual relationship with a client risks compromising that judgment because of personal interests. Rule 1.7(a)(2) Lawyers, like any other person, have personal emotional factors that become intertwined when they engage in a sexual relationship. When that relationship with a client begins during the attorney-client relationship, the lawyer's ability to be impartial and objective is impaired. When the lawyer's interests interfere with decisions that must be made for the client, the representation is impaired. See Rule 1.7 Comment [10].¹³

While certainly not all situations would present such a problem, these conflicting situations are likely to arise when the lawyer develops a sexual relationship with the client during the attorney-client relationship. A typical conflict arises when a lawyer has a sexual relationship with a divorce client—not only does the lawyer risk becoming an adverse witness on issues of adultery or child custody, but the lawyer's behavior actually poses a threat of additional harm to the client.¹⁴ Likewise, a sexual relationship with a client in other situations, such as a corporate client, a criminal client, and even a real estate or estate planning client, may, under some circumstances, present ethical problems for the lawyer. The same ethical considerations may be raised when the client is an organization and the lawyer's relationship is with one of the organization's representatives. If there is a reasonable possibility that the client might be harmed or that client representation may be impaired by the lawyer's engaging in a sexual relationship with the client, the lawyer should withdraw from the representation.

While Rule 1.7(b)¹⁵ provides that client consent may cure an existing conflict of interest, in these types of situations the client's ability to give informed consent is suspect because of his or her potentially impaired objectivity and emotional stability. Due to the significant danger of harm to client interests, Rule 1.7(b) provides no assistance in curing the lawyer's conflict in most situations because the client's own emotional involvement renders it unlikely that the client can give informed consent.¹⁶ Additionally, Rule 1.10(a)¹⁷ imputes the lawyer's conflict and disqualification to all lawyers in that lawyer's firm.

However, a consensual sexual relationship that predates the attorney-client relationship is not per se improper, such as the representation of a spouse or significant other with whom the lawyer has had an ongoing romantic/sexual relationship. While such representation may warrant consideration of some of the ethical problems identified in this opinion, clearly there are circumstances where a conflict may not exist

or may be waived pursuant to Rule 1.7(b); by way of example and not limitation, representation of a spouse in a real estate closing, traffic matter or contract review.¹⁸

Preservation of Client Confidences

While the lawyer has a duty under Rule 1.6(a)¹⁹ to protect client confidences, this duty may become difficult to ascertain when a sexual relationship exists between the lawyer and client. Client confidences are protected only when they are imparted in the context of the professional relationship. An intimate sexual relationship with a client blurs the line that exists between the professional and personal relationship, which in turn may make it difficult to predict if and when client confidences may be protected.

In addition, a lawyer who uses confidential client information to pursue sexual relations with a client violates Rules 1.6(a) and 1.8(b), particularly in circumstances where the lawyer acts upon client vulnerabilities to manipulate the client to participate in sexual relations. Clients in domestic, child custody, criminal, and pro bono cases are especially prone to such manipulation.²⁰

CONCLUSION

It is apparent that entering into a sexual relationship with a client during the course of representation can seriously harm the client's interests. The numerous ethical obligations of a lawyer to a client are so fundamental to the attorney-client relationship that obtaining the client's purported consent to entering into a sexual relationship with the lawyer will rarely be sufficient to eliminate any potential ethical violation. Therefore, it is the opinion of this Committee that a lawyer should refrain from entering into a sexual relationship with a client. In most situations, the client's ability to give the informed consent required by Rule 1.7(b) is overwhelmed by the lawyer's position of power and influence in the relationship and the client's emotional vulnerability.

This opinion is advisory only and not binding on any court or tribunal.

PROFESSIONAL GUIDELINES TO BE PUBLISHED ONLINE IN SEARCHABLE FORMAT

The Virginia State Bar *Professional Guidelines* for the first time are being published online in a searchable HTML format that will allow users to quickly access the sections they are looking for without flipping through pages or waiting for PDFs to download.

Because the format will meet most VSB members' needs, print copies of the *Professional Guidelines* were not mailed with the October 2009 issue of *Virginia Lawyer*. A limited number of copies will be printed and provided to members on request.

The print version is published each fall and contains the rules and regulations of the bar, including the Rules of Professional Conduct, attorney trust account regulations, mandatory continuing legal education regulations and forms, Virginia Consumer Real Estate Settlement Protection Act regulations, and portions of the Rules of the Supreme Court that outline VSB governance and the procedure for disciplining attorneys.

The online HTML version will allow members to browse the Rules of Professional Conduct by using a table of contents with hot links. Previously, the *Professional Guidelines* were available on the VSB website only as PDF files. The HTML version will be updated throughout the year to provide a current version at all times. The print version is updated once a year. Changes approved by the VSB Council and the Supreme Court of Virginia are published online as a supplement.

Watch your first-of-the-month VSB E-News for further details.

**NOMINATIONS SOUGHT
FOR
SPECIAL BOARD AND COMMITTEE VACANCIES**

The VSB Nominating Committee, consisting of Chair Manuel A. Capsalis, John Y. Richardson, Jr., Judith L. Rosenblatt, Aubrey J. Rosser, Jr., and Edna Ruth Vincent, calls for nominations for special board and committee vacancies to be filled by Council in June.

Vacancies in 2010 are listed below. All appointments or elections will be for the terms specified, beginning on July 1, 2010.

EXECUTIVE COMMITTEE: 6 vacancies (of which 3 current members are eligible for reelection and 3 current members are not eligible for reelection). Filled from ranks of bar Council for 1-year terms by Council election.

CLIENTS' PROTECTION FUND BOARD: 2 member-at-large vacancies and 5 lawyer vacancies (of which 1 member-at-large is not eligible for reelection, 4 current lawyer members from the First, Second, Fourth, and Fifth disciplinary districts are not eligible for reelection, 1 current lawyer member is eligible for reelection, and 1 lay member-at-large is eligible for reelection). May serve 2 consecutive 3-year terms. Elected by Council.

JUDICIAL NOMINATIONS COMMITTEE: 3 vacancies and 1 member-at-large vacancy (of which 1 vacancy is to be filled by a member from the 16th, 20th or 26th judicial circuits; the 2nd vacancy is to be filled by a member from the 9th or 15th judicial circuits, the 3rd vacancy must be filled by a member from the 19th or 31st judicial circuits; and 1 member-at-large is not eligible for reelection). May serve 1 full 3-year term. Elected by Council.

VIRGINIA LAW FOUNDATION BOARD: 2 lawyer vacancies and 1 lay member vacancy (of which 1 current lawyer member is eligible for reelection and 1 lay member is not eligible for reelection). May serve 2 consecutive 3-year terms. Elected by VLF Board on recommendation of Council.

VIRGINIA CLE COMMITTEE: 6 lawyer vacancies (of which 6 lawyer members are eligible for reelection to 1-year terms). Elected by VLF Board on recommendation of Council.

AMERICAN BAR ASSOCIATION DELEGATES: 2 vacancies (of which 1 present delegate is eligible for reelection and 1 present delegate does not seek reelection). May serve 3 consecutive 2-year terms. Elected by Council.

Nominations, along with a brief résumé, should be sent by **April 30, 2010**, to
VSB Nominating Committee, c/o Valerie Breeden, Virginia State Bar,
707 East Main Street, Suite 1500, Richmond, VA 23219-2800