

120th Annual Meeting *of the* West Virginia Bar Association



The Homestead Resort
Hot Springs, Virginia
September 21 - 23, 2006

Mark your calendars now!

The West Virginia 1886
BAR ASSOCIATION

P.O. Box 2162
Huntington, WV 25722

Pre-sort Standard
U.S. Postage Paid
Permit No. 229
Huntington, West Virginia

The West Virginia 1886
BAR ASSOCIATION

The Communiqué

The Official Newsletter of The West Virginia Bar Association

Volume XII No. 1

January 2006

President's Corner

Richard A. iRicki Pill
President



**The West Virginia
Bar Association**
Founded 1886

Richard A. Pill
President

Pryce M. Haynes II
Executive Director

1111 6th Avenue
Post Office Box 2162
Huntington, WV 25722

PH: 800.944.9822
FX: 304.522.2795

Email:
director@wvbarassociation.com

It is a great honor and privilege to assume the leadership of The West Virginia Bar Association as its 121st President. We have had fine leadership in our organization for many years, including that of Charles M. Love

III, last year. Charlie is the only lawyer to serve as President of both The West Virginia Bar Association and The West Virginia State Bar in the same year and his efforts helped improve the working relationship between these organizations. Current West Virginia State Bar President Debra Scudiere and I, along with our respective boards, intend to continue this progress.

I would like to also thank O. Gay Elmore, Ronald S. Rossi and G. Thomas Battle who have completed their terms on the Executive Committee for their years of dedicated service. We welcome Anders Lindberg, Jim St. Clair and Marc Slotnick to the governing board.

The annual meeting this past September at Stonewall Resort was quite a success, filled with seminars, golf, fun, food and friendship. The dinner honoring our past presidents is always a highlight with Lacy Rice, Jack Bowman, Phil Hill, Howard Persinger, Jr., Charlotte Lane, Dick Bolen, Larry Morhous and Tyler Dinsmore and their spouses in attendance. At the Friday banquet, Tom Battle deservedly received the Award of Merit. The Stonewall Resort provided a lovely venue and, as usual, our outstanding executive director,

Pryce Haynes, his wife, Julie, and staff hosted and coordinated a fine event. This year we return to The Homestead on September 21-23, 2006, so mark your calendars now.

This past October, The West Virginia Bar Association and West Virginia State Bar had the opportunity to host the Southern Conference of Bar Presidents Annual Meeting at The Greenbrier. This event is for presidents, presidents-elect, past presidents and executive directors of eighteen southern state bar associations, and this is only the second time it has been hosted by the two West Virginia bars. Attendees went to seminars, discussed the attorney's role in society and exchanged ideas on bar association functions and management. Disaster preparedness, as it pertains to the legal profession, was a major topic presented by our colleagues from Louisiana, Mississippi and Texas. Outstanding speakers included Governor Joe Manchin, Chief Justice Joseph Albright and Professor Jack Bowman. The conference was attended by more than 200 people and was a huge success thanks to the efforts of Pryce, Tom Tinder, West Virginia State Bar President Debra Scudiere and their committees.

The Executive Committee has established a goal this year of membership growth and diversification. The Real Estate Lawyers Division and Legal Nurse Consultant Section, established in recent years, have thrived and we hope to add other law specialty sections in the future. Our 120th year should be promising for

(Continued on p.2)

119th Annual Meeting Held at Stonewall Resort

The West Virginia Bar Association held its 119th Annual Meeting at Stonewall Resort, Roanoke, West Virginia, September 22-24, 2005. Several speakers presented seminars, including: Chief Justice Joseph Albright of The West Virginia Supreme Court of Appeals; Nancie Poppema, Executive Vice-President of The Communication Council of America, Inc.; Richard A. Angelo, CLTP, Vice-President and Senior Regional Claims Counsel for First American Title Insurance Company; David L. Rader, President of WV Physicians Mutual Insurance Company; Robert Newton, CPA, CVA member of Suttle & Stalnaker, PLLC; David Bizzak, Ph.D., P.E. with Romualdi Davidson & Associates; Dr. Bobby Miller with Forensic Psychiatry PLLC; and John R. Callcott, member of Steptoe & Johnson PLLC.



Past President Charlie Love (right) congratulates The WVBA's newest leader, Rick Pill.

During the meeting, The WVBA presented its prestigious Award of Merit for outstanding lifetime of distinguished service to the legal profession and/or the judiciary in West Virginia, to G. Thomas Battle, a member of the Charleston law firm of Spilman Thomas & Battle, PLLC. Presentation of The WVBA's highest award was made by President Charles M. Love, III, who was joined by Mr. Battle's son, H. Dill Battle III.

The meeting culminated with Richard A. Pill, of Pill and Pill, Martinsburg, being elected president of The WVBA, and Logan M. Hassig, of New Martinsville, elected to the Executive Council, replacing Past President Charles M. Love III. Other members of the Executive Council at the time were Robert M. Steptoe, Jr., President-Elect, Ronda Harvey, Elisabeth H.

gan M. Hassig, of New Martinsville, elected to the Executive Council, replacing Past President Charles M. Love III. Other members of the Executive Council at the time were Robert M. Steptoe, Jr., President-Elect, Ronda Harvey, Elisabeth H.

(Continued on p.3)

(Pill, continued from p.1)

continued growth and development of The WVBA. I encourage each of our members to take advantage of the many professional and social opportunities we offer. They are high quality and a good value. Keep informed of events and CLE opportunities by visiting our web site.

The West Virginia Bar Association (the oldest legal association in WV) encourages and invites lawyers from firms of all sizes, backgrounds, and types of practice to become active members. Do your colleagues a favor and ask them to join. ■

West Virginia Bar Association 2005-06 Executive Council

RICHARD A. "RICK" PILL (2000)
President, West Virginia Bar Association
Pill & Pill
P. O. Box 1938
Martinsburg, WV 25402-1938
85 Aikens Center
Martinsburg, WV 25401
Ph: 304-263-4971
Fx: 304-267-5840
Pillrpill@earthlink.net

RONDA HARVEY (2002)
Bowles Rice McDavid Graff & Love, LLP
P. O. Box 1386
Charleston, WV 25325-1386
600 Quarrier Street
Charleston, WV 25314
Ph: 304-347-1701
Fx: 304-347-1746
Rharvey@bowlesrice.com

STEPHEN R. "STEVE" CRISLIP (2004)
Jackson Kelly PLLC
P. O. Box 553
Charleston, WV 25322-0553
1600 Laidley Tower 500 Lee Street
Charleston, WV 25301
Ph: 304-340-1180
Fx: 304-340-1130
Scrislip@jacksonkelly.com

JAMES W. "JIM" STCLAIR, CHAIRMAN
Senior Lawyers Division
Huntington Realty Corp.
630 ½ Seventh Avenue
Huntington, WV 25701
Ph: 304-525-5910
Fx: 304-529-3043
Jwstclair01@hotmail.com

ANDERS W. LINDBERG
President, Young Lawyers Division
Steptoe & Johnson, PLLC
P. O. Box 2195
Huntington, WV 25722-2195
1000 Fifth Avenue, Ste. 250
Huntington, WV 25701
Ph: 304-526-8096
Fx: 304-526-8089
Lindberga@steptoe-johnson.com

ROBERT M. "BOB" STEPTOE, JR. (2001)
President-elect, West Virginia Bar Association
Steptoe & Johnson, PLLC
P. O. Box 2190
Clarksburg, WV 26302-2190
Third & Main Street
Clarksburg, WV 26301
Ph: 304-624-8142
Fx: 304-624-8183
Steptoerm@steptoe-johnson.com

ELISABETH H. "LISA" ROSE (2003)
Rose, Padden & Petty, L.C.
P. O. Box 1307
Fairmont, WV 26554
301 Adams Street
Fairmont, WV 26554
Ph: 304-363-4260
Fx: 304-363-4284
erose@rosepaddenpetty.com

LOGAN M. HASSIG (2005)
Snyder & Hassig
P. O. Box 189
New Martinsville, WV 26155
233 Main Street
New Martinsville, WV 26155
Ph: 304-455-2180
Fx: 304-455-1514
lhassig@snyder-hassig.com

MARK J. SLOTNICK, CHAIRMAN
Real Estate Lawyers Division
Bailey & Wyant PLLC
P. O. Box 3710
Charleston, WV 25337-3710
405 Capitol Street, Ste. 1012
Charleston, WV 25301
Ph: 304-345-4222
Fx: 304-343-3133
Slotnick@baileywyant.com

PRYCE M. HAYNES II
Executive Director, West Virginia Bar Association
Pryce Haynes Associates
P. O. Box 2162
Huntington, WV 25722-2162
1111 Sixth Avenue
Huntington, WV 25701
Ph: 304-522-2652
Fx: 304-522-2795
director@wvbarassociation.org



Package Details

SPACE IS LIMITED!

To register, call 800-944-9822 or email us at director@wvbarassociation.org

Package includes:

- ï 4 rounds of golf
- ï Double accommodation as per itinerary
- ï Full Scottish breakfast each day
- ï Welcome dinner at the Golf View and Rusacks Hotel
- ï Private driver guide with all transfers by luxury motorcoach
- ï Airport meet and greet
- ï Information pack
- ï Support from our Scottish office

Price per Golfer: \$3976.00

Price per Non-golfer: \$2417.00

(Air transportation to Scotland is NOT included, but will be arranged for the group prior to February 15, 2006. Estimated transportation cost is \$700.00 per person.)

(Annual Meeting, continued from p.2)

Rose, Stephen R. Crislip, G. Thomas Battle, Ronald S. Rossi, O. Gay Elmore, Jr. and Pryce M. Haynes II, Executive Director.

This meeting was sponsored by: LexisNexis; First American Title Insurance Company; CSX Corporation; Old Republic National Title Insurance Company; Moses Automotive and Moses BMW & Cadillac of Charleston; and Pryce

Haynes Associates. Exhibitors included: Access Document Systems; Disability Representation, Inc.; Legal Nurse Consultants of The WVBA; Romualdi, Davidson & Associates Inc.; and Ntelos. The generous support of these sponsors and exhibitors greatly enhanced the quality of our 119th Annual Meeting. Should you have the opportunity, let them know you appreciate their financial assistance. ■



Larry and Carolyn Morhous



Andrea and Anders Lindberg



Suzy and Lacy Rice



Judy and Seldon McNeer



Laura Wareheim and Evan Zanic



Lisa Rose, Lee and Judge Lilly

2005 Annual Meeting



John Hankins, Jack Bowman and Pryce Haynes



Evan Zanic, Glenn Dunlap and Scott Ruley



Chief Justice Albright



WVBA Past Presidents: Jack Bowman, Lacy Rice, Phil Hill, Howard Persinger, Charlotte Lane, Charlie Love, Larry Morhous, Dick Bolen and Tyler Dinsmore.



Lacy Rice, Tyler Smith, Tom Battle and Rick Pill



Tyler Smith, Rick Pill, Lacy Rice and Tom Battle



Susie Fisher, Andrea Lindburg, Mitzie Hankins and Suzy Rice

Play Golf at St. Andrews!

May 18 - 25, 2006

Registration deadline: February 15, 2006

That's right, you and your guest can join The WVBA on an eight-day golf extravaganza to Scotland! Seven nights accommodations include four nights at The Rusacks Hotel, St. Andrews, a four-star hotel overlooking the first tee and the eighteenth green of the Old Course. Rusacks Hotel conceals a wealth of creature comforts and delights. Throughout the hotel, furnishings and décor create a mood of relaxed elegance. Voted one of the top ten golfing hotels in the world, every room has been individually themed to enhance the town and the hotel's unique history and tradition.

Play St. Andrews Jubilee! Opened in 1897, this course was named to commemorate the Silver Jubilee of Queen Victoria. It is the most

seaward of the St. Andrews Courses, a very popular course that offers a thorough examination of golfing ability and shot making over its recently upgraded links. It is enhanced by some marvelous panoramic scenery of the surrounding Eden Estuary, with a fantastic sunset view of the historic town from the 18th tee. (18 holes, 6805 yards, par 72) The highlight of your trip will be play on St. Andrews Old Course, the most famous golf course in the world with a unique tradition more than six centuries old! (18 holes, 6566 yards, par 72)

CLE seminars will be offered for just the right mix of business with pleasure. We don't want Uncle Sam to feel left out!





Retirement Plans for Institutions and Individuals

Investment management and consulting services

304-230-2400 • 866-306-2400

David H. McKinley, Managing Director

www.migadvisors.com



2000 Main Street
Wheeling, West Virginia 26003

2005 Annual Meeting



Dr. Bobby Miller



Howard Persinger and David Ferretti



Paul Frampton, Charlie Love, Chad Love and Mark Adkins



Jim Williams, Brian Gartley, Andy Miller and Phil Hil



Myla Bowman, Kimberly Peterson and Susie Fisher



Brian Gartley, Andy Miller and Jim Williams



Charlie Love and Dean Fisher

LNC Section News

Michelle Winters, RN, BS, NHA, CDON, LNC
President, LNC Section

As we venture into another year, I am proud to say that I am the new LNC Section President. For my first column, I'd like to introduce myself to the group, announce our new Board of Directors, and provide a report from the recent Annual Meeting.

After great consideration, and with the support of our outgoing president, I was voted into office in October 2005. Prior to assuming the role of President, I served as a Director-at-Large on the LNC Section Board of Directors. I have 5 years experience reviewing cases and functioning as an expert witness in long term care litigation for both plaintiff and defense firms. For my clinical background, I have 10 years experience in long term care, including a position as a Senior Director of Nursing. I obtained my certification as a Director of Nursing Administration, and am licensed as a Nursing Home Administrator. I currently work as a case manager with Hospice and as a charge nurse

at Thomas Hospital Skilled Unit. In my spare time I work per-diem at Select Specialty Hospital.

I look forward to working with the 2005-2007 LNC Section Board of Directors, which includes: **Michelle Winters, President; Karen Huff, Past-President; Susan Rinehart, Secretary; Elizabeth Bridgeman, Director-at-Large; Bobbie McCarty, Director-at-Large.**

The LNC Section recruited two interesting speakers for the CLE sessions at the 2005 Annual Meeting. Dr. Bobby Miller, a forensic psychiatrist from Huntington, gave a fascinating presentation on *iDetecting Malingering*. David Rader, CEO of WV Physicians Mutual in Charleston, gave a very informative presentation on *iMedical Malpractice Insurance in WV*.

We also held our annual LNC Section luncheon meeting at Stonewall Resort following the WVBA Annual Meeting. The highlight was a lively brainstorming session about the future of the LNC Section. Many ideas were discussed, and the group expressed an interest in organizing another Spring Conference in 2006. The meeting adjourned with a special presentation by two of our members: Kyle Smith discussed *iDisability Consulting* and Linda Wiater presented her views on the *iRole of the LNC at Trial*.

In closing, I would like to thank our board for choosing me as their new president. I would also like to thank Karen Huff, our past president, for all she accomplished for our organization. Our previous board worked hard to develop a strong foundation from which our group can continue to grow. I look forward to the future and many new opportunities! ■

LNC Members Blackhurst and Pritts receive LNCC

The WVBA would like to congratulate LNC Section members Sue Blackhurst and Debra Pritts for passing the national certification exam and achieving the Legal Nurse Consultant Certified (LNCC) credential. To become certified as an LNCC, eligible candidates must pass a rigorous exam and meet the experience requirement in legal nurse consulting. The LNCC program is the only certification in legal nurse consulting accredited by the American Board of Nursing Specialties and recognized by the American Association of Legal Nurse Consultants.



Blackhurst

Sue Blackhurst, BSN, RN, LNCC, has 8 years experience as a legal nurse consultant, with a background of 13 years in critical care nursing. She is currently employed by Steptoe & Johnson in Wheeling, WV. Debra Pritts, RN, LNCC, has 24 years of nursing experience, with 4 years as a legal nurse consultant. She is currently employed by Hill Toriseva & Williams in Wheeling, WV.



Pritts

NURSING HOME malpractice & ASSISTED LIVING negligence

West Virginia, Virginia
and D.C.

JEFFREY J. DOWNEY

TEL: 202.736.2782

Mr. Downey, an attorney with Robins, Kaplan, Miller & Ciresi L.L.P., is experienced in handling complex nursing home malpractice cases involving patient abuse, bed/pressure sores, serious fractures/falls, unexplained injuries, malnutrition, billing fraud, over medication and other mis-treatment. Mr. Downey is a plaintiff's trial attorney with experience in both defending and prosecuting malpractice cases and welcomes both referrals and associations. He is admitted in the bars of West Virginia, Virginia and D.C.

ROBINS, KAPLAN, MILLER & CIRESI LLP

www.rkmc.com

1801 K STREET NW, SUITE 1200, WASHINGTON, D.C. 20006

ATLANTA BOSTON LOS ANGELES MINNEAPOLIS
NAPLES ORANGE COUNTY WASHINGTON, D.C.

Reputation for Excellence.

Serving the legal profession in
West Virginia for more than 30 years.

Providing attorneys, their
families and employees with
quality insurance and investment products
built on a solid foundation and reputation
of delivering on our word.

Structured Settlements

Insurance

- Life
- Disability
- Health
- Long Term Care

Investments

- Profit Sharing
- Mutual Funds
- 401(k) Plans
- IRAs
- Employee Benefit Programs



1-800-944-9822

www.PHAweb.com • PHA@PHAweb.com

Webcredenza CLE Seminar Schedule

To sign up for one of these Webcredenza Seminars, please call The WVBA at 1-800-944-9822.

- 01/10/06 Drafting Legal Opinions
- 01/17/06 Estate Planning for Transfers of Real Property
- 01/24/06 Understanding the Fundamentals of Securities Law, Part 1
- 01/25/06 Understanding the Fundamentals of Securities Law, Part 2
- 01/31/06 Defending Clients Against IRS Audits
- 02/07/06 Structuring Minority Interests in Businesses
- 02/08/06 Charitable Giving of Insurance Proceeds
- 02/14/06 Update for Attorneys Advising MDs
- 02/21/06 Structuring Acquisitions & Dispositions of Real Estate, Part 1
- 02/22/06 Structuring Acquisitions & Dispositions of Real Estate, Part 2
- 03/07/06 Structuring, Administrating and Defending FLPs
- 03/14/06 2006 UCC 3 (Commercial Paper) Update
- 03/21/06 Employment Taxes: Principles and Techniques in S Corps and LLCs
- 03/28/06 2006 Estate Planning Valuation Update
- 04/04/06 Letters of Credit: Use in Business and Commercial Transactions
- 04/11/06 Allocating the Economic Interests of LLC Members, Part 1
- 04/12/06 Allocating the Economic Interests of LLC Members, Part 2
- 04/18/06 Life Insurance and Charitable Giving
- 05/02/06 Sometimes It's All About Losses
- 05/09/06 Regulation of Debt Collection Activities
- 05/16/06 Estate Planning for the Non-Traditional Family, Part 1
- 05/17/06 Estate Planning for the Non-Traditional Family, Part 2
- 05/23/06 Liability Issues for Trustees: What a Trustee Must Tell Beneficiaries
- 05/30/06 Malpractice Insurance: What Attorneys Should Know
- 06/06/06 2006 Estate Planning Update

Keep Your Case Litigation Services

Counsel to Counsel LLC

Experienced attorneys assisting in high-value/complex civil litigation claims of \$1,000,000 or greater.

Some of our services include:

- ◆ **FINANCING**
Costs advanced for qualified cases.
- ◆ **EVALUATION**
C2C will analyze each case and use appropriate assessment tools, including jury focus groups and mock trials.
- ◆ **SETTLEMENT**
C2C will work with the lawyer to create an effective settlement packet for presentation to opposing parties and their insurance representative.
- ◆ **TRIALS**
C2C will assist in all aspects of trial strategy and, when appropriate, accompany the lawyer in court proceedings.

Principals, Thomas W. Henderson and Robert A. Creo, have more than 60 years experience trying and settling cases.

*For more information contact:
Tomi Lynn Herold, Coordinating Attorney
412-441-1153 or tomiherald@cs.com*

2005 LNC Annual Meeting



Karen Huff and Michelle Winters



Rebecca Miller, Michelle Winters, Karen Huff and Dr. Bobby Miller



Michelle Winters, Karen Huff and Kyle Smith



Kyle Smith, Pryce Haynes and Dr. Bobby Miller



Kyle Smith, Lennie Davis, Karen Huff, Pryce Haynes, Michelle Winters, Susan Rinehart and Linda Wiater

G. Thomas Battle Receives Award of Merit

Congratulations to G. Thomas Battle, 2005 recipient of the prestigious WVBA Award of Merit! This award is presented annually for outstanding lifetime of distinguished service to the legal profession and/or the judiciary in West Virginia. Presentation of this highest award was made by President Charles M. Love III, who was joined by Tom Battle's son, H. Dill Battle III. Tom Battle is a member of the Charleston law firm of Spilman Thomas & Battle, PLLC.

Past recipients of the Award of Merit are Edward I. Eiland, John O. Kizer, Charles R. McElwee, Charles F. Bagley, Jr., Honorable Thomas B. Miller, John L. McClaugherty, Robert M. Steptoe, Sr. and the Honorable Robert E. Maxwell.

Where Do We Go from Here?

Jim St Clair

Chair, Senior Lawyer Division

This is the question the WV Bar Senior Lawyers Division must answer in the next few months. Under the able leadership of prior Chairs, Phil Hill and Tom Battle, the History Project is in the final stages of publication. Soon, we will be able to read of the glories of bygone years when our fore fathers made the West Virginia legal system into the one we enjoy today.

What is to be our next project? Several have been suggested, including:

1. Mentoring young lawyers;
2. Serving as discipline monitors;
3. Mentoring middle age lawyer on pre-retirement planning;
4. Provide programs on health related matters, i.e., analysis of the Medicare new drug plans, long term care, etc.;
5. Establishment of an institute to discuss timely topics concerning what is wrong with the judicial system in West Virginia and what can be done to correct it; and
6. Estate planning techniques for Seniors.

Your new Senior Lawyers Executive Council composed of Tom Battle, Phil Hill, Arch Riley, Dan Callaghan, Harold Brewster, Dick Ford and John Busch are discussing other possible topics. We invite you to submit ideas of where we should invest our efforts over the next two years.

We Seniors have the experience and more discretionary time than most younger attorneys. We can make a difference if we apply our time and our talents. ■

Please contact Jim St Clair with your comments or suggestions concerning **Where Do We Go from Here?**

Email: jimstclair@wvdsi.net
Phone: (304)525-5910
Fax: (304)525-0509

FIRST AMERICAN TITLE INSURANCE COMPANY



A Symbol of Protection

735 Main Street, Barboursville, WV 25504
Telephone: 304-736-1111
Facsimile: 304-736-1104

Laura Wareheim

Vice-President and State Manager of West Virginia

The First American Eagle Protection Policy - It covers more than you can imagine.



Access Systems

Electronic Imaging
Telecommunications
Tab Products

304.340.4288

Contact: Renee Chandler

TECHNICAL RESOURCE GROUP



Providers of Computer Based Training in Law Office Technology

WV CLE Self-Study Certified
3.6 hours, Law Office Management: \$129.00



Hamilton Computer Products, Inc.
Legal and Professional
Computer Systems

P.O. Box 7166
Charleston, WV 25356
(304) 345-2260

2005 Real Estate Conference



Dean Fisher, Clyde Smith



Alex and Becky Ross



Jim and Mickey St. Clair and Logan Hassig



Sherry and Andy Miller



Tom and Holly Price

Medical Views

Informative articles on medical issues of interest provided by our Legal Nurse Consultant Section



Triage: Heads or Tails, It's Still a Beast

Brenda Snyder Shaw, RN, PHRN

Part II - The Tail (Tale) of the Beast

Hospital Component

The Emergency Medical Treatment and Active Labor Act (EMTALA) of 1986 has had paradoxical effects upon the ED. Physicians can obtain deposits/partial payments/insurance information up front, once the medical screening exam & treatment options discussion are complete. Conversely, it's increased ED usage for *non-urgent* care. These screening exams cause overcrowding and contribute to bottlenecks. This affects EMS in two ways. The obvious one is when the non-urgent patient chooses this mode of transportation to the hospital. The second is when the ED becomes overcrowded & cannot take patients; the ED must go on diversion, which stresses the EMS system. Both can change patient outcomes by disabling EMS from working efficiently, as they must then take patients to another facility, increasing transport times & taking them out of their zone/service areas. Their objective is the nearest *appropriate* facility—it's a continuous loop.

Legal Point: Monthly, hospitals track & record Diversion, Rotation, Closed to Trauma, Closed to OB etc. status. The ED Nurse Director or Trauma Nurse Coordinator may keep those records.

Under-triage vs. Over-triage

Under-triage occurs if a patient is triaged as having a minor or non-urgent illness/injury, when realistically their condition is more serious than

the assigned category. This risks increasing: death, disability, complications, medical resource use and medical/lost productivity costs. It can also delay diagnosis/treatment. *Over-triage* is the inverse. The patient's assigned category is higher than their illness/injury really requires. Paradoxically, both cause increased: costs, medical resource use & the same ED backlog effect, by wasting the resources of EMS and EDs while someone in real need is delayed. Within a Trauma System, it's generally acceptable to have an over-triage rate of 30-50%. This precaution helps avoid missed diagnosis/delayed care during the trauma patient's Golden Hour.

Triage Tier Levels

Presently, no universal triage system exists within the United States. It varies from hospital to hospital. There is, however, standardization by the American College of Surgeons, Committee on Trauma, regarding Trauma Center Designation as either Level 1, 2, 3 or 4. These are *high* minimum standards, *not* easily obtained, especially for Levels 1 & 2. Facilities can exceed the criteria. Examples are: When a Level-3 hospital has 24-hour in-house neurosurgeon coverage or a micro vascular surgeon on staff, though not required. *Sidebar:* Locally, the D.C. Department of Health follows the ACSCOT designation criteria to a point, but has specific criteria of their own that hospitals under their jurisdiction must

(Continued on p. 10)

Brenda Shaw, a member of the WVBA LNC Section, is a legal nurse consultant and owner of Shaw Lawgistics, LLC, an independent medical-legal & life care planning practice in Leesburg, Virginia. She specializes in pre-hospital, emergency, trauma, pediatric/ burn cases & is an ACLS Instructor. She's taught in PALS/TNCC/BTLS/EMS programs and has audited the Physician ATLS Course. She's a former Flight Nurse & was the Trauma Nurse Coordinator at George Washington University Hospital in Washington D.C. from 2000-2002.

(Shaw, continued from p. 9)

follow. Hospitals in D.C. must become Level I Trauma Centers or not at all.

Legal Point: LNCs can provide the attorney specific information regarding their city, state or system. This applies to all trauma patients.

1. Spot Check Triage is a quick look assessment. It is the initial impression a medical professional gets when they look at a patient. It is best performed by experienced practitioners. It becomes so innate to the seasoned health care provider, it is hard to explain & practically impossible to teach. It is not meant to be an assumption or comprehensive in nature. The Emergency Nurses Association refers to it as "Across the Room" triage. It quickly assesses when a patient looks critical, unwell or is having difficulty with airway, breathing or circulation. It should *not* be the only form of triage an ED uses, but rather, the first step in a more complex, tiered system, which also considers the patient's chief complaint & medical history. It does expedite more serious/critical patients (especially those self-presenting) to the back where treatment is initiated before anything else is formally done. An asthmatic in acute distress is one example. Some ED Triage Stations are equipped with oxygen, bronchodilators, nebulizers, etc., so the Triage Nurse may begin treatment before other information is obtained, *without* the delay of transferring to the main ED immediately. If the treatment is successful, triage continues in a normal fashion. One such facility I worked in used three Triage Nurses. The Pre-Triage Nurse was the first person to see patients, literally as they walked in the door. S/he elicited the chief complaint, while assessing the LOC, airway, breathing & circulation. Then the four options were: Emergent ED Major side, Urgent ED Minor side, Fast Track or Triage Two.

Legal Point: LNCs assess triage systems comprehensively, as all times are not equal.

2. Two-Tier Triage utilizes Spot Check Triage followed by a more in-depth chief complaint/past medical history interview & vital signs. Patients may be sent to the Fast Track area if available. Fast Track criteria include patients whose presentation is minor & such that it is possible to work-up, treat & release within a specified time period, usually about 1 hour. Fast Track patients are seen for routine follow-up care, vaccinations, sprains, etc. Protocols should exist here.

Legal Point: An understanding of ED policy & procedure, Protocols, Standards & Patient Ratios are especially important when only two-tiered triage is used or Fast Track exists.

3. Three-Tier Triage is popular within many EDs in the U.S. The levels are: Emergent, Urgent & Non-urgent. The latter two categories can have time ranges that vary a great deal, from minutes to hours. Time ranges, rather than specific minutes are universal. It is not possible to accurately predict outcome with the limited information available in triage.

Legal Point: Too few categories can be too general rather than specific. Patient outcomes can be affected greatly by depending upon only Urgent or Non-urgent categories. Time frames can be large. What is the difference between Category 2 with a maximum range of 1 hour & Category 3 with a minimum range of 1-2 hours? Research found this lacked in *intra-rater* agreement. The LNC should check policy for reassessment time parameters for patients still in the waiting room & not yet seen for medical screening. (Note: *Intra-rater* reliability holds that the *same* person would get the *same* result on the *same* case when tested later).

4. Four-Tier Triage may use Emergent, Acute, Urgent and Non-urgent categories. Again, time ranges vary. The lesser three may have times from 15 minutes to hours in length. Research

(Continued on p. 11)

Annual Real Estate Conference Keeps on Growing

Glade Springs was the venue for the 2005 Annual Real Estate Conference hosted by the Real Estate Lawyers Division. Although it was planned to hold the meeting at Glade's new hotel, its completion was behind schedule and we made do in the old Conference Center. Enough of the new hotel was complete to see that it will be quite an addition to their property, and future WVBA events held there will find it most accommodating.



Speakers Vance Golden, Dean Fisher and Jim St. Clair

The turnout for this conference was up 25% from last year's attendance! Andy Miller stood in for Gay Elmore, past president of the RLD who was recuperating from surgery, and conducted the conference in Gay's stead. Richard Angelo with First American Title Insurance Company, Jim St. Clair, Vance Golden and Dean Fisher all gave interesting and informative presentations regarding real estate law. Following the

seminar, attendees and their guests were treated to cocktails and a prime rib dinner at the Club House. As an added bonus, First American Title Insurance Company treated attendees to golf on Glade's Cobb Course Sunday following the conference.

This is the third year for this conference, which has been generously sponsored by First American Title Insurance Company since its inception. United Bank of Beckley sponsored the lunch between seminars. Again, our loyal sponsors make it happen and we appreciate their support!

Real estate attorneys will not want to miss this year's conference, which will be held at Stonewall Resort in the fall. Be on the lookout for the date. If you are a member of the RLD, the registration fee for the conference is included in your dues! ■



Darlene and Jim Brown



Bob and Shelly Tebay



Nancy Trudel, Laura Wareheim and Bill Holmes

Southern Conference of Bar Presidents



Nick Casey and John Bailey in Margaritaville



Mary Pat Steptoe, Carolyn Morhous, Jeanne and Howard Persinger



Myla and Jack Bowman, Sally and Charlie Love



Rob Fisher



Rick Pill and Kimberly Peters

(Shaw, continued from p. 10)

has found this type of triage lacks in *reliability* and *reproducibility*.

5. Five-Tier Triage was first developed in Australia in 1993. It was proposed for national use by both the Canadian Association of Emergency Physicians & the British Association of Accident and Emergency Medicine in 1995 and 1996 respectively. Categories 1-5 may use times such as 0, 10, 30, 60 & 120 minutes respectively.

Legal Point: Triage times are assigned according to how long a patient can *safely* wait to receive a medical evaluation/treatment. This is itime to physicianî not iwait time to a stretcherÖto wait some more.î LNCs can evaluate the isystemî considering inherent delays such as disrobing, Vital Sign (VS) checks by a tech, being seen first by a Medical Student (who then reports to the Resident, who then reports to the ED Attending physician, who then has to find the chart) etc. The Triage Nurse should consider this in his/her categorization also. LNCs can evaluate Staff Ratios & the Performance Improvement (PI) Program, depending upon discovery issues.

Triage Practice Caveats

1. The Five-Tier Triage Scale is more accurate
2. Use time ranges, not absolutes.
3. Time ranges within a Level should be accurate enough to truly prioritize patients.
4. When a patient scenario falls on the borderline, itriage up.î
5. Establish timeframes for reassessment of VS/patient condition.
6. Set guidelines for who reassesses. (RN, LPN, ED Tech, NA?)
7. Reassessment guidelines should reflect priority level. (Non-urgent shouldn't need VS every 30 minutes & Urgent shouldn't get VS every 1 hour).
8. Triage takes longer for patients who have: moderate to severe pain (5+ on a 10 scale), moderate to severe nausea/vomiting, communication/language barriers, infection control needs or acute psych needs.
9. Triage takes longer for those who are: Pediatric, Geriatric or Obstetric patients.
10. Triage takes longer for patients who give vague/changing/false medical history information. Outright lies affect ED throughput in general & pose greater risks for errors.
11. Triage nurses following protocols for administering treatments, medications or ordering labs/x-rays, will automatically take more (upfront) time, but less ED time overall, so itimesî must be considered with perspective.
12. Triage time means they should only wait ithisî long for a medical exam.
13. Not all Emergent or Urgent patients need admission, i.e. asthma attackÖtreated & released & some Non-urgent patients need admission, i.e., pneumonia.
14. Backlog will happen & wait times will increase during an active Trauma Code.

(Continued on p. 12)

Young Lawyers Division is Fired Up!

Anders Lindberg
Chair, Young Lawyer Division

The coming year should be an exciting and enjoyable one for The West Virginia Bar Association's Young Lawyers Division. I have appointed an energetic and capable Executive Council consisting of Michael Markins, Huntington; Nate Tawney, Charleston; Mindy Dugas, Martinsburg and Eric Holmes, Ripley. We will work hard to ensure that this year's Young Lawyer events are a complete success.

Plans for this year include the annual Bench and Bar Reception in Charleston, co-hosted with the Kanawha County Bar Association. This event will be held at the Charleston Marriot on March 22 from 5:00 - 8:00 p.m. There will also be a iLegal Ease reception and CLE in a location TBA. We are currently leaning toward Beckley because it is one of the few areas in the state where The Bar Association has not recently hosted this event. However, this is still undecided and I would like your input on possible locations and topics.

There are also plans for a BIG reception immediately following the July Bar Exam

(Shaw, continued from p. 11)

Are the policies adequate? Were they followed? Did the patient/other impede the processing? Triage is complex & should be done by experienced/well-trained providers. New grads put in this position will likely benefit no one, check training programs.

It's the nature of the beast to receive patients who don't belong at a facility, due to over-triage, under-triage (requiring specialists) or self-presentation. Not all ED itimes are alike. It's highly specialized, requiring that

in honor of those who make it out of the Charleston Civic Center that day. It will take place at a conveniently located watering hole near the test site where we will welcome in our state's newest lawyers with a bang. This year we will make a concerted effort to attract as many currently practicing Young Lawyers as possible to this event in order to meet and greet our profession's newest members. The event will be fun and a great opportunity for West Virginia's newest lawyers to meet us and feel part of the Bar Association.

Finally, it is not too early to start making plans to attend the 120th Annual Meeting next September 21st thru 23rd at The Homestead. As an added incentive to increase attendance, I will make a proposal to the Executive Council providing that any Young Lawyer that attends the annual meeting at The Homestead will get this year's membership dues either waived or reimbursed. Make your plans soon, good golf, good food, good times and CLE hours await!

Please contact me at lindberga@steptoe-johnson.com to share your ideas, comments and suggestions for this upcoming year. ■

same eye to pick out zebras from horses. Questions are as important as answers. But it's paramount to understand that Emergency Medicine/Nursing vastly differs from all other specialties: Medicine approaches conservative to aggressive. Emergency Medicine *must* assume worst-case scenarios FIRST and then deductively rule out, eliminating life & limb threats.

Triage demands the best judgment, with the least amount of information & resources, in the shortest amount of time—beast indeed. ■

Southern Conference of Bar Presidents



Bob and Mary Pat Steptoe



Debra Scudiere and Rick Pill



Jack and Myla Bowman



Julie and Pryce Haynes



Logan's own Bob Noone



Tom and Rebecca Tinder

Southern Conference of Bar Presidents Meeting a Huge Success

On October 27-30, 2005, The WVBA co-hosted with the WV State Bar the 36th Annual Meeting of the Southern Conference of Bar Presidents at The Greenbrier. This prestigious conference is held once a year by one of the 21 member bar associations (West Virginia, Virginia and North Carolina having two bars) from 18 southern states. Included in these conferences are presidents, past presidents, presidents elect and executive directors of the respective bars.

More than 200 bar leaders attended this year's meeting from all 18 southern states, which made it one of the more successful SCBP conferences in recent years. We were honored to have presentations made by Governor Joseph A. Manchin III, Supreme Court Chief Justice Joseph P. Albright, WVU Law School Emeritus Professor and our own past president Forest J. Bowman. Everyone especially enjoyed the entertainment on



Larry and Carolyn Morhous



Jack Bowman and Nick Casey

Friday evening provided by Bob Noone from Logan, and Saturday evenings bluegrass musicians Johnny Staats and The Delivery Boys from Ripley. Among the WVBA attendees were Rick Pill, President; Bob Steptoe, Jr., President-Elect and Past Presidents Howard Persinger, Jr., John P. Bailey, Charlie Love, Larry Morhous and Jack Bowman. Next year's meeting will be held October 12-15, 2006 in Charleston, South Carolina.

Among the corporate sponsors were: Legal Directories Publishing Company; LexisNexis; Martindale Hubble; ALPS; Old Republic National Title Insurance Company; BB&T; and MBNA. We were extremely fortunate to have the following law firms and attorneys support this meeting: Bailey, Riley, Buch & Harman; Bowles Rice McDavid Graff & Love; Brewster, Morhous, Cameron, Caruth, Moore & Kersey; Burton & Kilgore; Charles V. Critchfield; Flaherty, Sensabaugh & Bonasso, Ford Law Firm; C. Howard Hardesty; Kay, Casto & Chaney; Lewis, Glasser, Casey & Rollins; Manchin & Aloj; Martin & Seibert; Offut, Fisher & Nord; Persinger Law Office; Richardson & Davis; Steptoe & Johnson; Tinney Law Firm; Robert J. Wallace. The generosity of these sponsors made it possible for The WVBA and the WV State Bar to provide a memorable meeting enjoyed by all. Thank you each and every one of you! ■

WVBA Upcoming Events

Bench & Bar Reception

March 22, 2006

5:00 p.m. - 8:00 p.m.

Charleston Marriott

LNC Spring Conference

May 19, 2006

Charleston Marriott

YLD After-Exam Party

July 2006

Legal Ease Reception

TBA

Real Estate Conference

Fall 2006

WVBA Annual Meeting

September 21-23, 2006

The Homestead Resort

LNC Annual Meeting

September 23, 2006

The Homestead Resort

Join us!

Why Join the WVBA?

As a member of The West Virginia Bar Association, you can take full advantage of a number of great quality services!

A Comprehensive Insurance Program...

The WV Bar Association endorses the benefit plans (including life, disability, health, and long-term care) administered by Pryce Haynes Associates in Huntington, WV.

The Communiqué... A quarterly newsletter designed to keep you informed about programs and activities.

An Annual Meeting...

Members have the opportunity to attend this annual meeting that features nationally recognized speakers, social events and CLE opportunities.

Representation in Charleston... The WVBA advocates the interests of West Virginia lawyers during the legislative sessions.

A Legislative Update...

The WVBA provides its members information about any information affecting the practice of law on the state and federal levels.

Visit our website to learn more!

www.wvbarassociation.org

In Remembrance

James Bruce Bartlett
D.O.D.: 12/19/05
Charleston, WV

Chester Lovett
D.O.D.: 8/14/05
Charleston, WV

Richard George Rundle
D.O.D.: 11/08/05
Pineville, WV

Honorable Clarence L. Watt
D.O.D.: 10/16/05
Charleston, WV

WV Supreme Court Holds Session at Marshall University

On September 20, 2005, the WV Supreme Court of Appeals held a regular session of the Court at the Joan C. Edwards Center of Performing Arts on Marshall University's main campus.

Following the Court session, The WVBA and The John Deaver Drinko Academy co-hosted a luncheon for the Justices and invited members of the legal and Marshall University community. Charlie Love, our President, delivered a welcome presentation in which he remarked about the involvement of The WVBA along with The John Deaver Drinko Academy, established by nationally renowned attorney John Drinko. This momentous occasion for the WV Supreme Court of Appeals, on the campus named after former U.S. Supreme Court Chief Justice John Marshall, was held



2004-05 WVBA President Charlie Love

during the week declared iConstitution Celebration Weeki by Senator Robert C. Byrd's sponsored Congressional Proclamation.

This was a very well attended and highly successful event. Due to its success and the warm reception given the Justices, the WV Supreme Court of Appeals will return to Marshall University in 2006 for another regular session of the Court. The WVBA was pleased and honored to participate in this opportunity and is eager to be a part of this year's event.

Generous financial support for this luncheon was provided by the following law firms: Campbell, Woods, Bagley, Emerson, McNeer & Herndon P.L.L.C.; Farrell, Farrell & Ferrell, L.C.; Huddleston Bolen, LLP; Jenkins Fenstermaker, PLLC; Kenneth P. Hicks, L.C.; and Lloyd Jackson, Attorney at Law. On behalf of The John Deaver Drinko Academy, we thank these benefactors in helping to make this auspicious occasion all it could be. ■



Kemp Morton and David Baker

WV Supreme Court at Marshall



Bob Levy, Jack Vital, DC Offutt



Justice Maynard, Ret. Judge Egnor



Justice Benjamin, Charlie and Sally Love



Bill McGee and Tom Scarr



Joe Farrell and Paul Farrell