



KATHLEEN M. MCCUALEY

Shareholder

Chief Diversity and Employee Engagement Officer; Member, Executive Committee

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Areas of Practice:

- Medical Malpractice Defense
- Health Care Licensing and Regulatory Matters
- Employment
- Healthcare Risk Management and HR Risk Management

Kathleen McCauley concentrates her practice in complex litigation, including the defense of medical malpractice actions, provider, hospital and academic medicine liability, risk management concerns, and employment matters.

Kate represents physicians, nurses, and other licensed health care providers, hospitals, academic medical centers, housestaff and attendings, and longterm care providers in medical negligence actions. Her practice includes healthcare and hospital risk management and administrative matters, including representation before the Commonwealth of Virginia's health regulatory boards, and administrative proceedings and appeals before the VDSS, VDHG, and DMAS. She regularly counsels clients on a variety of insurance, risk management, and quality assurance matters and is called upon to assist with complex issues surrounding discharge planning, disclosure meetings, and clinical ethics. She has authored and is a national speaker on the legal issues surrounding general surgery, bariatric surgery, pediatrics, EHR, social media, telehealth, ACO liability, and general healthcare risk management.

In addition to her healthcare practice, Kate defends employers in employment related disputes, including claims of discrimination, harassment, breach of contract, employment torts including defamation, negligence in hiring and supervision, non-competition, confidentiality and trade secret disputes, wage and hour claims, and wrongful discharge. Her practice includes human resource risk management, and she regularly assists clients with internal management issues related to recruitment, employment agreements, employee counseling and separation, and covenants restricting competition. She lectures on the legal pitfalls associated with social media in the workplace, hostile work environment, workplace bullying and general HR risk management, with an emphasis in the healthcare sector.

Kate has been recognized by legal peers for her knowledge, skills, and professionalism. She was the recipient of the VTLA-VADA Civility and Professionalism award for 2020, is listed in *The Best Lawyers in America®* for medical malpractice defense, was named *Best Lawyer's* 2019 and 2023 Richmond Lawyer of the Year in that practice area, and is a member of the Boyd-Graves conference. She is a Fellow, International Academy of Trial Lawyers (IATL), a Fellow, Litigation Counsel of America (LCA) and a Fellow, American College of Trial Lawyers. Kate has been named one of the *Virginia Business "Legal Elite"* in healthcare law and as a Virginia Super Lawyer in medical malpractice defense. In the last nine years, she was named to the lists of Top 100 Virginia Super Lawyers, Top 50 Richmond Super Lawyers, and Top 50 Women Virginia Super Lawyers. In 2024, Kate was selected to the list of Top 10 Virginia Super Lawyers. Virginia Lawyers Media named Kate one of their 2013 Influential Women of Virginia and one of their 2015 Leaders in the Law. In 2021, Kate was named a "Go to Lawyer" for Medical Malpractice by *Virginia Lawyers Weekly*. She was selected to be a member of the Irish Legal 100 for the last three years.

In addition to practicing law, Kate contributes heartily to educational and community endeavors. She was an adjunct professor at the University of Richmond School of Law for 19 years, where she taught trial skills, and is a faculty member of the Virginia State Bar Harry L. Carrico Professionalism Course. Kate was appointed by the governor to the Virginia Interagency Coordinating Council, which provides oversight to all early intervention programs in the commonwealth, and was a member of the Virginia NICU EI Collaborative Council. She was *pro bono* general counsel and board member to the

Arc of Virginia, and currently serves on the boards of The Virginia Home, Commonwealth Catholic Charities, and St. Edward-Epiphany Catholic School.

EDUCATION

- **The Dickinson School of Law**
The Pennsylvania State University, Carlisle, PA, Juris Doctor 1995
- **Università di Firenze**, Florence, Italy Comparative Law Studies, Summer 1993
- **College of William and Mary**, Williamsburg, VA, Major: Government, Minor: Italian Studies, Bachelor of Arts 1990
- **Linguaviva School**, Florence, Italy, Italian Literature, Grammar, and Conversation, Summer 1989

BAR ADMISSIONS

- Virginia 1995
- U.S. District Court for the Eastern District of Virginia
- U.S. District Court for the Western District of Virginia
- U.S. District Court for the District of Columbia
- United States Court of Appeals for the Fourth Circuit

CLASSES TAUGHT

- University of Richmond, T.C. Williams School of Law, Richmond, VA. Classes taught have included Law Skills III – Trial Advocacy, Law Skills IV – Appellate Advocacy, and Bioethics
 - Adjunct Professor of Law, 2011 – 2021
 - Adjunct Associate Professor of Law, 2006 – 2011
 - Adjunct Assistant Professor of Law, 2001 – 2006
- Faculty, Harry L. Carrico Professionalism Course, VSB, 2019 – present

PROFESSIONAL AFFILIATIONS

- Virginia State Bar
 - Faculty, Harry L. Carrico Professionalism Course, VSB, 2019- present
- American College of Trial Lawyers, Fellow
 - Chair, Virginia Committee
- Virginia Bar Association
 - Employment Law Section
 - Health Law Section
- Richmond Bar Association, 1995-present
- Virginia Association of Defense Attorneys
 - Immediate Past President, 2015-2016
 - President, 2014-2015
 - Executive Committee, 2012-2016
 - Board of Directors, 2006-2010
 - Legislative Committee, 2004-2016
 - Medical Malpractice Section, Chair 2003-2004
 - Medical Malpractice Section, Vice Chair 2002-2003
- Defense Research Institute, 1995-present
 - Medical Liability Committee
- Member, Boyd-Graves Conference, 2019-present
- John Marshall Inn of Court, 2002-present

HONORS AND AWARDS

- Fellow, International Academy of Trial Lawyers
- Fellow, American College of Trial Lawyers
- Fellow, Litigation Counsel of America

- Best Lawyers® in America - Medical Malpractice Law (Defense), 2014 to present
- Best Lawyers' Richmond Lawyer of the Year - Medical Malpractice Law Defense, 2025, 2023, 2019, 2015
- Top 10 Virginia Super Lawyers, 2024
- Top 100 Virginia Super Lawyers, Top 50 Richmond Super Lawyers and Top 50 Women Virginia Super Lawyers, 2015-present
- Virginia Super Lawyers, 2011-present
- Virginia Super Lawyers Rising Star, 2007-2008
- VTLA-VADA Civility and Professionalism Award, 2020
- Virginia Business Legal Elite (Healthcare)
- Virginia Lawyers Weekly Influential Women of Law, 2024
- Virginia Lawyers Weekly Go to Lawyer, Medical Malpractice, 2021
- Virginia Lawyers Weekly Influential Women in the Law, 2020
- Virginia Lawyers Weekly Leaders in the Law, 2015
- Virginia Lawyers Weekly Influential Women of Virginia, 2013
- Irish Legal 100

PUBLICATIONS

- Kathleen M. McCauley, et al., *Professional Liability Insurance*, in Insurance Law in Virginia (Virginia CLE, eds., 2020)
- Kathleen M. McCauley, et al., Theories of Recovery and Defenses, in Medical Malpractice Law in Virginia (Malcolm P. McConnell, III ed., 4th Ed. 2017)
- Kathleen M. McCauley, et al., Negotiation and Settlement, in Medical Malpractice Law in Virginia (Malcolm P. McConnell, III ed., 4th Ed. 2017)
- Kathleen M. McCauley, et al., *Theories of Recovery, Pleading and Defenses*, in *Medical Malpractice Law in Virginia* (Virginia CLE eds., 2016 Supp.)
- *Legal Considerations of the Bariatric Surgery Practice*, in Minimally Invasive Bariatric Surgery, 2nd Ed. Schauer, Phillip R., Schirmer, Bruce D., Brethauer, Stacy (Eds.) Springer (2013)
- Co-author, *Your First Trial: What You Need to Know to Survive* Virginia CLE (2010)
- Co-author, *Health Care Law* 44 U.RICH.L.REV. 473 (2009)
- Co-author, *Medical Malpractice Law* 43 U.RICH.L.REV. 227 (2008)
- *Legal Considerations of the Bariatric Surgery Practice*, in Minimally Invasive Bariatric Surgery Schauer, Phillip R., Schirmer, Bruce D., Brethauer, Stacy (Eds.) Springer (2007)
- Cottam D, Lord J, Wolfe B, Higa K, McCauley K, Schauer P: *Medicolegal Analysis of 100 Malpractice Claims Against Bariatric Surgeons* Surg Obes Relat Dis 2007 Jan-Feb; 3(1):60-6.
- Co-author, *Medical Malpractice Law* 41 U.RICH.L.REV.231 (2006) Co-author, *Discovery Divide: Virginia Code Section 8.01-581's Quality Assurance Privilege and its Protection of Healthcare Provider Policies and Incident Reports* 39 U.RICH.L.REV. 101 (2004)
- *Health Care Law* 38 U.RICH.L.REV. 137 (2003)
- Co-author, *Theories of Recovery, Pleading and Defenses*, in *Medical Malpractice Law in Virginia* (Virginia CLE eds., 2003 Supp.)
- Contributing author, *Medical Malpractice*, in Defense Research Institute Forms Book (DRI eds., 2002)
- Co-author, *Professional Liability Insurance*, in *Virginia Insurance Law and Practice* (Virginia CLE, eds., 2002)
- *COBRA/EMTALA - Its Application and Impact on the Individual Physician* MD News August 2000
- Co-author, *Medical Malpractice Damages*, in *The Law of Damages in Virginia* (Virginia CLE eds., 2000)
- Co-author, *Theories of Recovery, Pleading and Defenses*, in *Medical Malpractice Law in Virginia* (Virginia CLE eds., 2000)
- Co-author, *A Survey of Medical Malpractice Damages in Virginia* 33 U.RICH.L.REV. 919 (1999)
- *Women on the Commission and Court of Human Rights: Would Equal Representation Provide More Effective Remedies?* 13 DICK.J.INT'L.L. 151 (1994)

PRESENTATIONS

- *Point-Counterpoint: Not Crossing the Ethical Fine Line*, VTLA Annual Tort Law Seminar (May, 2022)
- *Social Media in Healthcare*, Riverside Health System, Grand Rounds, Newport News, Virginia (August, 2019)
- *Social Media in Healthcare*, Riverside Health System Leadership Conference, Williamsburg, Virginia (October, 2018)
- *Defensive Documentation in the age of EMR*, Grand Rounds, Riverside Health System, Newport News, Virginia (October, 2018)
- *Legal Issues in Pediatric and Adolescent Sports Medicine, Employment Agreements: Tips and Pearls for the Trainee*, 27th AMSSM Annual Meeting, Orlando, Florida (April, 2018)
- *Legal Aspects of Sports Medicine*, 11th Annual Pediatric and Adolescent Sports Medicine Update 2017, Children's Hospital of the King's Daughters, Norfolk, Virginia (June, 2017)
- *Keeping your Expert and Excluding Theirs: Designations, Discovery, Motions to Exclude and Voir Dire*, Virginia Association of Defense Attorneys, Spring Section Series - Product Liability and Medical Malpractice, Staunton, Virginia (May, 2017)
- *Social Media in Healthcare - Implications for the Surgery Practice*, ASMBS Annual Meeting/Obesity Week, Los Angeles, California (November, 2015)
- *ACO, EMR, and Medical Record Documentation: Emerging Liability*, Hudson Healthcare Risk Management Seminar, Jackson,

Mississippi (October, 2014)

- *Ethics in Amicus Representation*, Virginia Association of Defense Attorneys Spring Section Series, Charlottesville, Virginia (May, 2014)
- *ACO and Enterprise Risk Management: Expanding Challenges and New Opportunities*, Hudson Healthcare Risk Management Seminar, Greensboro, Georgia (April, 2014)
- *Social Media in Health Care: The Good, the Bad and the Ugly*, Virginia Medical Group Management Association, Spring Meeting, Richmond, Virginia (April, 2014)
- *ACOs-New Models of Care and New Competencies for the Risk Management*, VASHRM, Richmond, Virginia (September, 2013)
- *Movement, Hormones and Protecting Your Practice*, ASMBS Spring Educational Event, New Orleans, Louisiana (May, 2013)
- *Bariatric Surgery Malpractice Suits: How are we doing? Bariatric Nursing: Do Nurses Need to Worry About Malpractice Suits?* Bariatric Summit, Charleston, South Carolina (September, 2012)
- *Legal Issues with the EMR*, Clinical Update Summit, Riverside Health System, Newport News, Virginia (January, 2012)

COMMUNITY SERVICE

- Virginia Interagency Coordinating Council (VICC) 2011-present
- Virginia NICU EI Collaborative Advisory Council 2016-2018
- The Virginia Home, Board of Trustees 2019-present
- St. Edward-Epiphany Catholic School, School Advisory Board 2015-present
 - Chair, School Advisory Board 2016-present
 - Chair, Principal Search Committee 2018-2019
- Commonwealth Catholic Charities, Board of Directors 2008-present
 - Immediate Past Chair, Board of Directors, 2016-2018
 - Chair, Board of Directors, 2012-2016
- The Arc of Virginia, Board of Directors 2008-2012
- The Arc of Virginia, Pro Bono General Counsel 2012-2018
- Richmond Bioethics Consortium, Board of Directors 2002-2010
- HealthSouth Medical Center Ethics Committee 1999-2001
- Bon Secours - Stuart Circle Hospital Ethics Committee 1998-99
- Bon Secours - St. Mary's Hospital Ethics Committee 1999-2007
- Bon Secours Richmond Acute Care Ethics Committee 2007-2012
- Caring Congregations Parish Nurse Network, Advisory Board 1999-2002
- Caring Congregations, Inc., Board of Directors 2002-2004

PRIOR EMPLOYMENT

- Goodman Allen & Filetti, PLLC, Shareholder, 1998-2014
- Wright Robinson Osthimer & Tatum, Associate, 1997-1998
- Spotts, Smith, Fain & Rawls, Associate, 1995-1996



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