K. Jennekens recently left the Lawyers Board after 25 years, stepping down as director to accept an appointment to the Washington County District Court bench. This is a milestone event, since Ken has been with the Board for his entire professional career, having begun work for the Board as a law clerk while in law school. His tenure spans a large part of the history of the Board. These have been good years for Ken and for lawyer discipline in Minnesota. His departure is an occasion for reflection on what works well and why.

THE RULES
In 1971, when the first Lawyers Board and director were appointed, Minnesota lawyers' conduct was governed by the canons and ethical considerations contained in the Code of Professional Responsibility. These rules were replaced in 1995 by the Rules of Professional Conduct, which were recently substantially amended effective October 2003. The rules have progressed from broadly stated principles of ethical conduct to a regulatory framework that codifies case law, best opinion, and treaties on lawyer ethics. In some respects, lawyers are now held to stricter and more detailed standards of practice and behavior. However, the rules offer clear guidance to lawyers and clearer standards for enforcement.

THE BOARD
The UBRA consisted initially of a chair and 18 members, three of whom were not lawyers. The Board has since expanded to a chair and 27 members, including nine nonlawyer members. The chair of the UBRA is a partner in the Minneapolis law firm of Bassford Remels, where he practices in the areas of legal malpractice defense, legal ethics, appeals. He chairs the Lawyers Board from 1996 to 2004.

Charles E. Lundberg

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supervisory and adjudicative functions of the Board have been divided: an executive committee supervises the office, while other members hear complaints, appeals from discipline, and serve on panels that determine the probable cause for public discipline and hear admission appeals and reinstatement petitions. The contributions of nonlawyers are especially noteworthy; they are unique and valuable perspectives.

THE DIRECTOR AND STAFF
The first director, R.B. Bevill, took office January 1, 1971. A secretariat was added in February, and an assistant director was hired in May. In 1982, when Ken was hired, the office employed five lawyers. The office now employs nine lawyers and 13 paralegals and other support staff.

One of the remarkable features of the staff is its longevity and consistency. Nine employees, including Ken, First Assistant Director Mary Cole, Senior Assistant Director Betty Shaw, and Administrator Janine Dainovick, have more than 20 years of service.

DISTRICT ETHICS COMMITTEES
District ethics committees continue to perform an important role in investigating complaints and recommending discipline or dismissal. Minnesota is in a diminishing minority of jurisdictions that continue to utilize volunteer committees in the discipline process. Many states have accepted with recommendations to assign all investigative functions to professional staff. Minnesota's experience with district committees continues to be positive. More than 327 lawyers and nonlawyers currently serve as committee members, and they contribute valuable time in investigating complaints. Their recommendations are informed by experience and familiarity with local practices, and their participation lends credibility to the discipline system. Board members are often drawn from the ranks of district committee members.

OVERSIGHT
The Supreme Court adopts the disciplinary rules, appoints the director and members of the Board, and administers all public discipline. For many years the Court has appointed one of its justices as a liaison to the Board. The Court has appointed the work of the Board, provided needed resources, and given appropriate recognition to the contributions of staff and volunteers.

PROSECUTIONS
The Board and staff continue to devote a majority of their time and energy to prosecuting violations of the rules. The volume of complaints rose until the late 1990s, when the volume leveled off and declined as a percentage of the number of licensed attorneys. Common complaints continue to involve failures of diligence and communication. A disturbing recent trend is the increase in the more serious infractions — defalcations, deceit, and other criminal acts. Many infirmities involve complex financial transactions that absorb staff time and resources. Vigorous and timely prosecution continues to be the hallmark of the Board.

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CJMENT SECURITY
Ken also served as director of the Minnesota Citizens Security Board (“MCS”), which regulates the attorneys of attorney theft. The MCS has been a remarkable success. Since its establishment in 1997, the MCS has paid all allowed claims, while the annual assessment has not increased to the current $2.11 per lawyer, even though the fund balance has grown to the current $150,000 (one of the highest in the U.S.).

ADVISORY AND EDUCATIONAL FUNCTIONS
One of the striking changes during Ken’s tenure with the Board is the increasing emphasis on advisory and educational functions. The Board issues opinion interpreting the Rules and stating its enforcement positions. The staff has prepared and disseminated a computer program for trust account management. The director and other staff lawyers write monthly columns on professional responsibility in the Bench & Bar and other publications. Staff lawyers are frequent lecturers at continuing legal education programs.

Ken has managed the Board’s advisory service for almost 10 years, and during that time it has grown and become a vital and integral part of the Board’s work. Advisory opinions are issued by the staff to answer lawyers’ questions on ethical issues. A total of 2,042 such opinions were issued last year. As the advisory service has developed, the volume of complaints has dropped, and several informally observed believe there is a direct cause and effect relationship.

CONCLUSION
Since the creation of the Lawyers Professional Responsibility Board, the Court has twice appointed blue ribbon committees to review the functioning of the discipline system and recommend changes. It is expected that another such committee will be appointed in the near future. The committee should find the discipline system to be functioning well, thanks in large measure to the service of Ken and other dedicated and talented staff and volunteers.

NOTES
3. A total of 2,177 opinion requests were submitted; 1,155 requests were declined for various reasons.