

# REPORT . . . LAWYERS PROFESSIONAL RESPONSIBILITY BOARD

By

Mike Hoover, Administrative Director  
Minnesota Office of Lawyers Professional Responsibility

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## 1979 PANEL ACTIONS

The Rules on Lawyers Professional Responsibility provide that disciplinary proceedings are in the first instance submitted to Panels of the Lawyers Professional Responsibility Board. Three general options open to Panels are to dismiss a matter, make a private disciplinary disposition, or direct the filing of a public disciplinary petition in the Minnesota Supreme Court.

That there has been an increase in the number of public petitions filed is well known. In 1979, Panels directed the filing of 17 public disciplinary petitions.

In addition to the foregoing public cases, 33 other cases were considered by Panels of the Board during 1979. Dismissals were ordered in 7 cases, and private warnings were ordered in 5 others. The Panels also issued 2 private reprimands, and imposed private discipline in 4 other cases.

The remaining 15 cases resulted in a conditional stay of disciplinary proceedings, subject to the lawyer's compliance with various conditions. The conditions imposed often included abstinence from alcohol, prompt completion of specific legal matters involved in the individual cases, and supervision by an attorney acceptable to the Board. The periods of the conditional stays varied from one year to five years. The Board's usual practice, assuming successful completion of what amounts to private probation, is the issuance of a private reprimand at the termination of the stay. Conditional stays were imposed in a variety of cases, but most often in those involving repeated neglect or failure to communicate with clients.

## WARNINGS ISSUED IN 1979

Rule 8(c)(2), Rules on Lawyers Professional Responsibility, permits the Director to issue private warnings. The lawyer may either accept the Director's warning or request a hearing before a Panel of the Board. If he accepts the warning, the file is closed.

The following is a complete summary of the warnings issued to and accepted by Minnesota lawyers during 1979:

1. Neglecting a legal matter – DR 6-101(A)(3)

(a) Civil claims or civil litigation	10	
(b) Probate	8	
(c) Real Estate	5	
(d) Criminal	<u>1</u>	24
2. Conflicts of interest – DR 5-101 or DR 5-105		
(a) Civil claims or civil litigation	4	
(b) Marriage dissolutions	3	
(c) Real estate transactions	2	
(d) Criminal	<u>1</u>	10
3. Failure to maintain reasonable communications (Failure to respond to telephone calls or letters) – DR 1-102(A)(6) or DR 6-101(A)(3)		
(a) With clients	3	
(b) With other attorneys	1	
(c) With State agency on behalf of client	<u>1</u>	5
4. Improper ex-parte communications with courts – DR 7-110(B)		4
5. Improper assertion of attorney’s lien – DR 2-110, DR 9-102(b)(4), Formal Opinion No. 11		
(a) On client files	3	
(b) On client funds	<u>1</u>	4
6. Denial of liability for law office debts (Formal Opinion No. 7)		3
7. Threatening criminal prosecution to attempt to gain advantage for client in civil matter - DR 7-105		3
8. Improper division of fee with another attorney		

without knowledge and consent of client – DR 2-107(A)	2
9. Failure to disclose to a court information required by law to be disclosed – DR 7- 102	2
10. Failure or refusal to cooperate with investigation of ethics complaint – DR 1-102(A)(5) and DR 1-102(A)(6)	1
11. Direct contact with adverse party represented by counsel without consent of adverse counsel – DR 7-104(A)(1)	1
12. Improper withdrawal from litigation – DR 2-110	1
13. Improper debt collection practices (Formal Opinion No. 10)	1
14. Improper gifts to court officials and other public officials – DR 7-110(A)	1
15. Conviction of a misdemeanor charge of disorderly conduct – DR 1-102(A)(5), DR 1-102(A)(6)	1
16. Improperly threatening the adverse party in a dissolution action with contempt without adequately ascertaining the facts and without performing proper research – DR 7-102(A)(2)	1
17. Improper attempt to prevent filing of criminal charges against client by asserting personal knowledge of the facts – DR 7-106(C)(3)	1
18. Attempting to limit liability for malpractice in a retainer agreement – DR 6-102(A)	1

19. Failure to keep proper books and records concerning a trust account – DR 9-103	1
20. Interposing answers for an insolvent client for the admitted purpose of delaying the entry of judgments – DR 7-102(A)(2)	1
21. Extremely discourteous conduct to opposing counsel, including a vulgar and obscene outburst during a court recess in the presence of parties, witnesses, and the court reporter (EC 7-36)	1
22. Attempt to “sandpaper” a physician who would appear as a medical witness in civil litigation – DR 1-102(A)(5)	<u>1</u>
Total Warnings Issued in 1979	70

A number of the warnings issued in 1979 involved more than one Code violation. In order to simplify our record-keeping, only the most serious violation in an individual warning was recorded in the foregoing summary.