

REPORT . . .
Lawyers Professional
Responsibility Board

By

R. Walter Bachman, Jr., Administrative Director
Minnesota Office of Lawyers Professional Responsibility

Reprinted from *Bench & Bar of Minnesota* (December 1977)

CHECK WITH LAWYERS PROFESSIONAL RESPONSIBILITY
BOARD STAFF ON LEGAL ETHICS QUESTIONS

Without attempting to solicit business, I would like to point out to all members of the bar that the staff of the Lawyers Professional Responsibility Board makes itself available for consultation on issues relating to legal ethics. If you have a problem relating to professional responsibility, you may call the Board's office, at (612) 296-3952, to discuss the matter on an informal basis.

The most visible aspect of the Board's work is the investigation of complaints of unethical conduct and the disciplinary proceedings arising from those complaints. However, the three attorneys who presently work in the Board's office all spend a substantial portion of time responding to telephone inquiries and letters which request informal opinions. Although we have no accurate tabulation, I would estimate that well over 1,000 such requests will be answered this year.

I would suggest that any attorney who is considering a problem of legal ethics first consult the terms of the Code of Professional Responsibility. If you cannot answer the question and wish further assistance, you may either call or write the Board's office and set forth the facts and circumstances relating to your problem. In most cases, it is our experience that a telephone conversation is sufficient. However, if the problem is particularly difficult or the informal opinion would depend upon the precise statement of the facts, we may request the attorney to send a written request for an opinion, which would be answered by letter. Such informal telephone or letter opinions do not reflect a formal opinion of the Board. Neither the Board nor the Supreme Court is bound by such informal opinions in any subsequent investigation or disciplinary proceedings. However, it is an extremely rare occurrence for an ethics complaint to be filed against a lawyer who has taken the trouble both to review the provisions of the Code of Professional Responsibility which pertain to the problem in question and to contact the Board's office.

The Board has the authority to issue formal opinions, but that authority has been used sparingly and has been limited to those instances in which doubtful issues of general concern to the profession have been raised. To date, ten such formal opinions have been issued (1971-1977). Opinions based upon specific facts or individual cases are handled by telephone or letter opinions issued by the Board's staff.

Although the subjects of inquiries on matters of legal ethics are limitless, the most frequent issues raised this past year have concerned possible conflicts of interest, advertising and professional notices, and disclosure of information which may be subject to the attorney/client privilege. Conflicts of interest issues have, in my experience, posed the most difficult problems. Once a conflicts question goes beyond a few simple situations (e.g., representing both parties in the same lawsuit), each case involves a weighing and balancing judgment based upon all potentially conflicting circumstances.

The concern I have in publicizing this service which is offered by the Board is simply for the possible deluge of requests for informal opinions. I do, however, believe that this service is helpful to the profession and the public, and we will continue offering it to the extent that resources permit. Again, however, please consult the Code before calling, as the answer may be self-evident.