

**LAWYERS PROFESSIONAL RESPONSIBILITY BOARD
... NOT A COLLECTION AGENCY**

By

Mike Hoover, Administrative Director
Minnesota Office of Lawyers Professional Responsibility

Reprinted from *Bench & Bar of Minnesota* (March 1981)

The February, 1981 issue of *Bench & Bar* included publication of the eleven formal opinions of the Lawyers Professional Responsibility Board issued since 1972. In this column, I am devoting special attention to areas of misconduct covered by Opinions 7 and 11.

Complaints from creditors of attorneys are increasing. In one of my first columns as Director I indicated that my office and the Board could not serve as collection agencies for the creditors of attorneys. That policy continues, and many of the complaints of creditors are summarily dismissed without investigation.

Complaints concerning indebtedness incurred for professional services on behalf of clients account for the vast majority of creditor complaints which are investigated. Unfortunately, a high percentage of these complaints do involve misconduct by the lawyer in violation of Opinion 7.

I emphasize that there is no professional obligation to pay those rendering professional service on behalf of clients. Lawyers who do not desire to make payment must, however, expressly advise the provider of the service, in writing, at the time of the order or request that they will not be responsible for payment. See Amended Opinion No. 7, *Bench & Bar*, (February, 1981) at 51.

Despite both the legislative abolition of the statutory retaining lien and the promulgation of Opinion 11 by the Lawyers Professional Responsibility Board, the number of complaints involving files held hostage to the payment of fees is increasing sharply. DR 2-110(A)(2) provides that upon withdrawal the client is entitled to delivery of his or her "papers and property". Opinion 11 consists of only two sentences and flatly forbids all retaining liens, whether they be statutory, common law, contractual or otherwise. See Opinion No. 11, *Bench & Bar*, (February, 1981) at 55.

I have previously written about both of these subjects and the promulgation of opinions concerning them has also received wide publicity. Yet, strangely, we are receiving more rather than fewer complaints alleging these kinds of misconduct. I hope that in reviewing the opinions published in last month's *Bench & Bar* special attention will be paid to Amended Opinion 7 and Opinion 11.