

PROFESSIONAL RESPONSIBILITY AND DISCIPLINE

By

R. B. Reavill, Administrative Director
Minnesota Office of Lawyers Professional Responsibility

Reprinted from *Bench & Bar of Minnesota* (February 1972)

PROGRESS REPORT

The Administrative Director assumed office on January 4, 1971. Audrey J. Sterner assumed the office of Secretary on February 1, and Robert H. Meier assumed the office of Assistant Administrative Director on May 1. The last of our furniture was received about May 15.

As of December 31, 1971, the present disciplinary Rules were in effect for eleven months. The following is a report of the operations under the present procedures for that period.

- 400 complaints against 372 lawyers were received, all but about 20 of these complaints coming from laymen.
- 367 complaints were disposed of; 156 by the Administrative Director; 211 by district ethics committees.
- 28 private warnings, reprimands, or censures were issued by district committees.
- 5 lawyers were disbarred (proceedings against four of the lawyers disbarred were pending at the time the Administrative Director assumed office).
- 4 lawyers were placed on probation.
- 1 lawyer was permitted to resign.
- 1 lawyer was suspended for a period of 30 days.
- 1 lawyer was suspended by agreement not to pay the registration fee.
- 2 lawyers were reprimanded by the State Board.
- 3 matters are now pending in the Supreme Court.

The balance of the complaints were disposed of without disciplinary action being taken. A great majority of those dismissed were dismissed because of a finding of no professional misconduct. However, a

number of complaints resulted either from misunderstandings between the complainant and the attorney, or oversights on the part of the attorney, and upon being called to the attention of the attorney, were resolved and dismissed.

The average number of complaints for the first six months was 41; the average number for the last five months was 31.

However, the percentage of complaints involving neglect was 41% for the first six months, but for the entire period was 45½%. The percentage of this type of complaint is increasing rather than decreasing. It is obvious that stern measures will have to be taken, and will be taken, to put a stop to this type of professional misconduct. Two of the matters now pending before the Supreme Court involve neglect and failure to communicate.

Since February 1, 1971, we have held seven Panel Hearings, involving complaints against ten lawyers. Four of these lawyers are on probation, one has been permitted to resign, one was suspended for thirty days and reprimanded, proceedings have been commenced in the Supreme Court against two, and charges against two are still pending. One complaint was dismissed on a finding of no professional misconduct.

During the year, there were four meetings of the Board. Average attendance was 17. There were seven members present at four of the Panel Hearings, six members at two, and five members at one. There were no unexplained absences from either the Board meetings or the Panel Hearings.

During the year, the Administrative Director talked at meetings of fifteen district bar associations, and appeared before the District Judges, Probate Judges, and Municipal Judges Associations. He also met with seventeen of the twenty district bar association ethics committees, and arrangements have been made to meet with the other three. At the time we assumed office, we found that there were four district ethics committees which were not functioning at all, and that others were not functioning efficiently. We found that the reasons for this were that the committees were uncertain as to the procedures they should follow, they had no place to turn to on the state level for advice and assistance, and they found that too frequently, because of the former awkward and underfinanced procedures, complaints did not receive the attention they should have received. For these reasons, a great many of the committees were both confused and discouraged. Now that communication has been established between the district committees and the office of the Administrative Director, these committees are performing their duties as contemplated by the Rules.

The Rules have been amended in three respects as follows: Rule 5 now requires the district ethics committee to notify both the complainant and the attorney when it has dismissed a complaint on the grounds of no professional misconduct. Rule 3 now provides for three laymen to be appointed to the State Board during the next three years. Rule 9 now authorizes the Court to put a lawyer on probation until further order of the Court as well as for a stated period.

Other suggested changes and additions to the Rules are under consideration; however, it is felt that we should be slow in amending the Rules until we have had further experience under them.

When we first assumed office, it was our understanding that the principal problems faced by all states in administering disciplinary procedures was the failure of judges and lawyers to cooperate. Therefore, we assumed that we would be faced with the same problem in Minnesota. However, this is not true. We have had cooperation from lawyers and judges throughout the state, and this cooperation is growing day by day. We believe that our appearances before the district bar associations and the judges' associations, our articles in *BENCH & BAR*, and the fact that lawyers and judges are learning that complaints will receive immediate attention, have been an aid in obtaining the kind of cooperation we have had.

We have met with reporters from a number of the news media and have explained our procedures and our objectives. On the whole, publicity given our activities has been favorable.

We have had inquires as to our procedures from the states of Kansas, Connecticut, Massachusetts, Indiana, Ohio, Washington, and Colorado, as well as the American Bar Association.

Before this article is published, the Administrative Director will have served as a member of a panel discussing disciplinary procedures at the mid-winter meeting of the American Bar Association in New Orleans.

The Administrative Director acknowledges with thanks the full cooperation of all members of the Board who, without compensation, have devoted their time and skills to the implementation of the Rules.