

REPORT . . .
Lawyers Professional
Responsibility Board

By

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Although more than 600 ethics complaints were lodged against Minnesota lawyers during 1977, a far larger number of telephone inquiries and complaints were fielded by the staff of the Lawyers Professional Responsibility Board during the same period. A substantial portion of staff time is spent on such telephone calls. Many, many clients who call the Board's office do not have a complaint which could potentially comprise a violation of the Code of Professional Responsibility.

Many clients who call the Board are simply dissatisfied with the outcome of litigation or are frustrated with their lack of understanding of legal procedure. Others call in an effort to seek legal advice, to obtain the recommendation of an attorney, or to ask whether the advice their attorney has rendered is correct. To all such callers, we attempt to explain that the Lawyers Professional Responsibility Board is not, and cannot serve as a substitute for, appeals courts; that the Board cannot provide legal advice; or that we cannot make referrals to an attorney.

Among the more common questions posed by clients – and our answers to them – are the following:

1. **Question:** I have discharged my attorney and want to take the file and take my case to new legal counsel. However, the first attorney says he will not surrender my file until his bill is paid in full. I dispute the bill, but, in any event, I am not able to pay it all now and I need my papers immediately.

Answer: Since the Legislature abolished the attorneys' lien on papers and documents of clients during 1976, the general rule is that an attorney no longer has a lien upon a client's file which can be asserted to compel payment of a fee. If a client has exhausted all reasonable efforts to obtain the file directly from the attorney, we suggest either that the client bring a motion in court to obtain the file or send an ethics complaint to the Board.

2. **Question:** What can I do about the lawyer who refused to answer or return my telephone calls about the legal matter he is handling for me?

Answer: This is the most common single complaint we receive from the public about lawyers. We suggest that the client attempt to make direct contact with the lawyer, either by a personal appointment, or, if that is not possible, by letter. We also suggest that the client set forth his or her

frustration and questions directly to the lawyer. If the lawyer continues to refuse to respond or communicate, we then suggest that a complaint be sent to the Board.

3. **Question:** I have just received a billing from my lawyer, and I think the fee is too high. What can I do?

Answer: Although provisions of the Code of Professional Responsibility prohibit the charging of an excessive fee, the Lawyers Professional Responsibility Board does not have jurisdiction to determine the precise amount of the fee due by a client to a lawyer. Nor does the Board have power to compel enforcement of a determination regarding fees, either by requiring a refund from the lawyer or by compelling payment by the client. Accordingly, we attempt to refer all fee disputes, in the first instance, to the fee arbitration panels set up in each bar association district by the Minnesota State Bar Association. We explain to the client that he or she also has the option of seeking judicial determination through court proceedings, but that fee arbitration provides a low-cost, expeditious means of determining the fee. If, following arbitration or other determination of the fee, the client wishes to pursue the complaint before our Board, he or she is free to do so at that time. In very rare cases in which an allegedly unconscionable or illegal fee may be involved, we may suggest that the client file an ethics complaint and seek arbitration, simultaneously.

I believe that the time spent by the Board's staff in answering inquiries from clients is an invaluable aspect of the process of professional self-discipline in Minnesota. Even though the majority of client calls do not result in complaints against lawyers, the availability of persons by telephone who can direct clients to the most appropriate means of solving their problems is extremely helpful to the bar as a whole. Many callers express gratitude simply at the fact that someone has listened to the problem they feel they have. From the standpoint of the profession, I believe that ready access to the Board's staff by telephone helps to reduce somewhat the number of complaints which are based upon misconceptions of the lawyer's function or upon misunderstandings.