

Opinion #21-32, Request #150
Issued May 23, 1991

An attorney seeks Panel advice concerning the procedure the attorney should follow under circumstances in which a client in a personal injury action, who has executed a medical lien agreement, demands that payments for the client's medical expenses made by an insurance company be paid directly to the client. The attorney states that the checks are made payable to both the client and the parties who rendered the medical services.

The Panel takes the position that this inquiry is governed by "The Interprofessional Code of Cooperation for The Rhode Island Bar Association And The Rhode Island Medical Society". Article 4 of the "Code" provides:

ARTICLE 4
PHYSICIAN'S BILL FOR MEDICAL SERVICE

4.1. It is recognized that a physician's fee for professional services rendered to a patient is the sole legal obligation of the patient and independent of any litigation.

4.2 Attorneys must recognize that they have an obligation to the physicians who supply them with records, reports and bills to co-operate with such physicians in obtaining payment of bills for services rendered to a patient in cases where claims for medical disability are the subject of litigation.

4.3 Attorneys should advise their clients that bills rendered for such medical services by a physician are the sole responsibility of the client and are independent of pending litigation, and that such bills are due and payable when rendered by the physician. Attorneys should also incorporate into their agreements with clients an assurance that treating physicians will be paid unpaid balances from the proceeds of the case.

4.4 Counsel should obtain authority from the client to pay medical bills directly to the physician in the event of a settlement or judgment in accordance herewith.

The Panel is of the opinion that the attorney may not compensate the providers of medical services with funds received on behalf of the client without the consent of the client. The responsibility to fulfill these obligations rests with the client. Should the client persist in refusing to meet these obligations, the creditors may pursue legal avenues to secure payment of the debts. If the matter is not readily resolved, the attorney, as the stakeholder, should pay the funds into the court registry in an interpleader proceeding.

Page Two
91-32

Ethics Advisory Panel advice is protective in nature. There is no requirement that an attorney abide by a Panel opinion, but if he or she does, he or she is fully protected from any charge of impropriety.