

ETHICS ADVISORY PANEL DIGEST
Opinion #92-17, Request #228
Issued May 20, 1992

An attorney seeks Panel advice regarding his obligation to disclose to the Workers' Compensation Court and/or adverse parties the existence of a state agency's unperfected lien, for payment of medical services. The lien recites that the medical care grew out of the subject industrial accident. The client disclaims this. The attorney's concern focuses on whether in connection with the settlement of the case he/she must disclose the existence of the lien to the state agency, the insurance company or the court.

The Panel takes the position that this situation is governed by Rule 1.6 of the Rhode Island Rules of Professional Conduct. Rule 1.6 states that an attorney shall not disclose information relating to the representation of a client unless the client consents after consultation, subject to exceptions not relevant here. Rule 1.6 precludes an attorney from disclosing this information to the state agency and the employer's insurance company. Although Rule 4.1(b) recognizes that a lawyer may be required to disclose false statements made by a client to a third party, this Rule is subject to the protection of Rule 1.6.

The Panel also believes, however, that the attorney has an obligation to disclose this information to the court if the failure to do so would assist a fraudulent act by the client (See Rule 3.3(b)). The Panel does not possess sufficient information to make this determination. See also General Information Opinion #2 which addresses Rule 3.3 Candor Toward The Tribunal.