

ETHICS ADVISORY PANEL
Opinion #93-6, Request #336
Issued March 15, 1993

The inquiring attorney asks whether the opposing party's attorney, during the pendency of litigation can issue a subpoena duces tecum to a physician requesting records without providing notice to all parties involved and without providing a hearing before a tribunal or at a records deposition.

In this situation, the inquiring attorney is asking the Panel to comment on another attorney's conduct which the Panel declines to do so. See Ethics Advisory Panel Rule 3. However, the inquiring attorney may rely on Rule 8.3 entitled "Reporting Professional Misconduct" and Rule 8.4 entitled "Misconduct". If the inquiring attorney believes that the opposing attorney's conduct rises to the level of misconduct enunciated in the Rules, then the attorney "shall inform the appropriate professional authority."

The Panel declines to render an opinion regarding the Rules on issuing subpoenas.