

ETHICS ADVISORY PANEL  
OPINION #94-19 REQUEST #474  
Issued March 23, 1994

The inquiring attorney was retained by an insurance company to initiate suit to suspend workers' compensation benefits to a recipient who was allegedly operating a home business. Through investigation, the attorney confirmed the allegation. Coincidentally, this same recipient retained the inquiring attorney's law firm as the lawyer for the home business. The inquiring attorney believes that he/she should withdraw from representing both the insurance company and the benefits recipient but inquires whether he/she has an obligation to report the findings to the Workers' Compensation Fraud Unit.

As a preliminary matter, the Panel agrees with the attorney's decision to withdraw from both cases pursuant to Rule 1.17 entitled "Declining or Terminating Representation." That rule states that a lawyer shall withdraw from the representation of a client if the representation will violate a rule of professional conduct. It appears that the inquiring attorney has a conflict of interest in representing these clients under Rule 1.7 entitled "Conflict of Interest: General Rule."

With regard to whether or not the attorney is under an obligation to report this information, Rule 1.6 entitled "Confidentiality of Information" is applicable. That rule states that a lawyer cannot reveal information relating to the representation of a client subject to certain specified exemptions not here applicable. Since the exceptions are not applicable in this matter the inquiring attorney does not have an obligation to report the findings to the Worker's Compensation Fraud Unit. The attorney's obligation would be different if the attorney were representing the recipient in the Worker's Compensation proceeding. See, Rule 3.3 entitled "Candor Toward The Tribunal."