

FINAL

ETHICS ADVISORY PANEL
OPINION # 95-57, - REQUEST # 634
ISSUED - DECEMBER 14, 1995

FACTS:

The inquiring attorney states that in many situations, the secondary health insurance companies pay medical bills regarding tortious cases and subsequently fail to file a lien.

ISSUES PRESENTED:

The inquiring attorney asks whether he/she should pay the secondary health insurance carrier any monies from a settlement absent a lien.

OPINION:

No.

REASONING:

The Panel believes that Rule 1.15(b) "Safekeeping Property" is applicable to this inquiry and states in part:

(b) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third persons, shall promptly render a full accounting regarding such property.

In the usual situation, medical insurance companies pay the bills without verbal or written assurances by the attorney involved in the lawsuit. Assuming the inquiring attorney did not provide any assurances that the bills would be paid, he/she is not obligated to pay the insurance company. Pursuant to Rule 1.15(b) the inquiring attorney should counsel the client that the client may be obligated, per his/her contract with the medical providers, to reimburse the insurance company.