

Committee Opinion
January 10, 1992

LEGAL ETHICS OPINION 1413

ATTORNEY BREACHING CONTRACT
TO PAY MEDICAL BILLS OUT OF
SETTLEMENT PROCEEDS.

A personal injury client [Client] entered into an agreement with Medical Group authorizing Lawyer to pay directly to Medical Group sums due and owing for medical services rendered, and to withhold such sums from any settlement, judgment, or verdict as may be necessary to adequately protect Medical Group. Client also agreed to give a lien on his case to Medical Group against any and all proceeds of any settlement, judgment, or verdict which may be paid to Lawyer or Client as a result of the injuries for which he had been treated. Furthermore, Client agreed to be directly and fully responsible to Medical Group for all medical bills submitted for services rendered, and also agreed that payment was not contingent on any settlement, judgment, or verdict by which he might eventually recover such fee. Lawyer signed his name below language in the Agreement which stated that he agreed to observe all terms of the Agreement between Client and Medical Group and that he specifically agreed to withhold such sums from any settlement, judgment, or verdict as might be necessary to protect Medical Group.

Lawyer subsequently received a settlement on Client's personal injury claim. Although Lawyer had received a bill from Medical Group, he did not pay any of the settlement proceeds to Medical Group. Instead, Lawyer paid Medical Group's portion directly to Client who said he was having financial difficulties and that he preferred to pay Medical Group directly. Ultimately, Client did not pay any portion of the proceeds to Medical Group as payment of their bill.

The Committee was asked to opine whether, under the facts of the inquiry, it was improper for Lawyer to pay over the settlement proceeds to Client, rather than to Medical Group, when Lawyer had agreed to pay Medical Group directly for services rendered and to withhold such sums from any settlement as might be necessary to protect Medical Group.

The Committee opined that the question raised requires a legal determination beyond its purview. The Committee also believed that determination of the ownership of the funds is a contractual matter, the resolution of which must be made preliminary to any disbursement. Therefore, the Committee further opined that DR:9-102(B)(4), regarding a lawyer's prompt payment of funds in his possession to clients or others, is not applicable to the facts presented since it addresses only the preservation of a client's funds.

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