

NEW HAMPSHIRE BAR ASSOCIATION

Obligation of Attorney to Report Possible Insurance Fraud

Ethics Committee Advisory Opinion
10/12/82

FACTS:

An attorney has inquired whether he has an obligation under the New Hampshire Code of Professional Responsibility to report certain information to criminal authorities. The particular facts have been described by the inquiring attorney as follows.

The attorney has been retained by an insurance company to represent a defendant in a "slip and fall case." The plaintiff in that case claims to have suffered injuries when he fell at the defendant's premises. An investigator for the defendant's insurance company has interviewed two individuals who have given statements which indicate that the plaintiff did not fall, but jumped in order to make an insurance claim.

RESPONSE:

In the Committee's opinion, nothing in the New Hampshire Code of Professional Responsibility requires the attorney to report the foregoing information to local law enforcement officials. The attorney may wish to review with the insurance company whether the insurance company itself should file a complaint. As a matter of information, the Committee further notes that it is aware of no statute which would require the insurance company to report the foregoing information to law enforcement officials. Compare RSA 153:13-a (Supp.1981), which requires an insurance company to notify the state fire marshal of fire losses of suspicious origin and provides immunity for civil liability, in the absence of fraud or malice in making such a report.