KONSTANTINOS J. BABANIKAS

Public Reprimand No. 2015-3

Order (public reprimand) entered by the Board on May 1, 2015.

SUMMARY[1]

In June of 2013, the respondent was retained to represent a client in connection with personal injuries sustained in an automobile accident. On June 14, 2013, the respondent notified the insurer of the car in which the client was riding of her claim for Personal Injury Protection (PIP) benefits. On June 25, 2013, the insurer notified the respondent that the primary PIP benefit of $2,000 was exhausted. The respondent understood the client had available Medical Payment (Med-Pay) coverage on the automobile insurance policy and also believed that the client received health insurance coverage from Blue Cross Blue Shield of Massachusetts (BCBSMA). The respondent had previously represented another client with both Med-Pay and BCBSMA coverage. In that case, BCBSMA provided the respondent with a standard-form letter stating that whenever a claimant has Med-Pay coverage, BCBSMA considers the Med-Pay coverage to be primary.

The respondent attempted to obtain a Med-Pay letter from BCBSMA for the client but learned that the client actually had health insurance through Blue Cross Blue Shield of Illinois (BCBSIL). Beginning in August of 2013, the respondent made a number of attempts to obtain a Med-Pay letter from BCBSIL but was not successful. Various representatives of BCBSIL told the respondent that they were not familiar with a Med-Pay letter. In October of 2013, the respondent contacted the legal department of BCBSIL and again was told that they were not familiar with his request. The legal department did, however, provide the respondent with a BCBSIL coverage handbook, which indicated that the terms of coverage were consistent with the BCBSMA policy that any available Med-Pay benefits are primary. Frustrated by his failed attempts to obtain the Med-Pay letter from BCBSIL, the respondent altered a Med-Pay letter he had received from BCBSMA for another client by redacting the other client's information and inserting the current client's name, her BCBSIL identification number and date of injury on the letter. The respondent forwarded the altered letter to the automobile insurer in an effort to have them cover the client's medical expenses through its Med-Pay coverage.

By intentionally altering the BCBSMA letter and distributing the altered letter to the automobile insurer, the respondent violated Mass. R. Prof. C. 8.4(c) and (h).

The respondent has been in practice since 1991. He has no disciplinary history.

On April 7, 2015, bar counsel commenced disciplinary proceedings before the Board of Bar Overseers by filing a petition for discipline. On the same date, bar counsel and the respondent filed Respondent's Answer to Petition for Discipline and Stipulation of the Parties, in which the parties recommended that the respondent receive a public reprimand. On April 13, 2015, the Board of Bar Overseers accepted the parties' recommendation and imposed a public reprimand.

---

[1] Compiled by the Board of Bar Overseers based on the record of proceedings before the board.