E-86-16 Lawyer serving as a board member of an insurer and insurance fund while lawyer or lawyer’s firm represents persons against insurer and fund: Conflict of interest

Facts

A lawyer serves on the boards of directors of an insurer and insurance fund. At the same time, the lawyer and/or members of the lawyer’s law firm frequently represent persons against the insurer and insurance fund. Further, the lawyer/director, as a director on both boards, possesses or has access to detailed information relating to the insurer and funds’ handling of claims such as those his or her law firm brings.

Question

May a lawyer’s law firm or any partner, shareholder or associate thereof represent interests adverse to an insurance company and insurance fund for which the lawyer serves as a member of the boards of directors?

Opinion


Although this committee has given qualified approval to the practice of a lawyer serving simultaneously as corporate director and counsel, we have never approved a situation involving a corporate lawyer/director or his or her law firm representing third party interests adverse to the corporation. See E-84-12 [57 Wis. Bar Bull. 31 (Sept. 1984)]. See also E-84-9 [57 Wis. Bar Bull. 87 (July 1984)]. The lawyer’s fiduciary obligations as a director would otherwise be in direct conflict with those he or she has to law firm clients with interests adverse