



Aviva Morady
Partner

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Admissions

State Bar of California

State Bar of Michigan

U.S. District Court for the Central District of
California

Education

University of Michigan Law School, J.D., *cum
laude*

University of Michigan, Bachelor of Arts,
summa cum laude

PROFILE

Aviva Morady is a member of the firm's Regulatory Compliance practice group. Aviva utilizes her deep knowledge of the issues impacting the healthcare industry to deliver complex regulatory counseling to a wide range of healthcare providers. Aviva works extensively with behavioral health providers, home health agencies, clinical laboratories, pharmacies, durable medical equipment providers, physician practices, and other healthcare professionals and organizations in navigating the complex requirements imposed by various governmental regulators. Aviva has a strong focus on representing behavioral health and addiction treatment providers in reimbursement matters and overpayment appeals and in counseling a wide variety of healthcare providers on changes of ownership, licensure, and enrollment in the Medicare and Medicaid programs.

Aviva began her legal career in litigation, where she skillfully represented healthcare providers in state and federal court on a wide range of civil litigation matters. She built years of experience successfully defending hospitals, health systems, and health insurance companies in fraud and abuse investigations and civil litigation, and she draws on that experience to bring a well-rounded perspective to her work advising on regulatory compliance and strategy.

Well-Versed in Fraud and Regulatory Compliance Defense

Prior to joining Nelson Hardiman, Aviva was among the highly experienced lawyers in the White Collar & Securities Defense practice group in the Los Angeles office of McDermott Will & Emery LLP. The team was recently recognized as "the best lawyers in the white-collar field" by Chambers USA.

Accolades

Aviva was recognized by Super Lawyers Magazine for two consecutive years as a Southern California Rising Star (2018-2019) and was also named to Super Lawyers' Annual Top List of Women Lawyers (2018-2019).

Life Outside the Firm

Aviva enjoys traveling, going to concerts, and playing trivia.

EXPERIENCE

Regulatory Compliance

- **Facility Licensure** Obtained state licensure for addiction treatment facilities, home health agencies, pharmacies, durable medical equipment providers, primary care clinics, and clinical laboratories in California and across the country.
- **Centers for Medicare & Medicaid Services Appeal** Negotiated an extremely favorable settlement on behalf of a skilled nursing facility in a matter before The Centers for Medicare & Medicaid Services (CMS). Based on numerous deficiency findings by the California Department of Public Health (CDPH), CMS imposed a civil monetary penalty and a denial of payment for new admissions on our client. Brought in at the appeals stage, we negotiated a 50% reduction of the civil penalty, amended the survey report to reduce the scope and severity of the violations, and included a complete rescission of the denial of payment on new admissions, which would have resulted in severe financial loss for the facility.
- **Compliance Programs** Successfully guided medical device manufacturing company through California Department of Public Health investigation and developed standard operating procedures to ensure future compliance with all relevant regulations.
- **Medicare/Medicaid/Medi-Cal Reinstatement** Successfully petitioned the Office of Inspector General for reinstatement of an excluded physician into federal and state healthcare programs.

- **Medicare Enrollment** Successfully appealed the suspension of a physician's Medicare enrollment and billing privileges.
- **Pharmacy Acquisition** Nelson Hardiman performed the regulatory due diligence, licensing and enrollment work for a pharmacy acquisition involving six brick and mortar pharmacies licensed in 50 states. The pharmacies were acquired for approximately \$60 million and required the preparation and submission of more than 100 state licensing, Medicaid, Medicare, DEA and NCPDP applications. The large acquisition required the development and management of a complex timing status and strategy based on differing rules and regulations in each state to achieve a smooth close that did not negatively impact the pharmacies' operations or reimbursement flows.
- **Pharmacy Acquisition** Nelson Hardiman provided regulatory licensing and enrollment advice on a \$163 million acquisition of a Home Health Agency (HHA) and two specialty infusion pharmacies that operate in 47 states. The NH team performed the nationwide research and logistic guidance necessary to comply with the regulatory filing and operations requirements applicable in all 47 states and successfully helped to ensure the transaction did not cause any disruptions in service to the current patients or negatively impact reimbursements applicable for those services.
- **Hospital Bankruptcy & Sale** Lead regulatory counsel to a large health system in its Chapter 11 bankruptcy case, the largest hospital bankruptcy in U.S. history. The matter has involved corporate and regulatory support for the system's day-to-day operations as well as extensive regulatory work on the sale of the system's six hospitals, including counsel regarding California attorney general conditions and approval process.
- **Telehealth Regulations** Advised a telehealth company regarding regulatory and operational issues for providing telemedicine services across state lines.

Reimbursement

- A major health insurer refused to pay numerous addiction treatment centers alleging fraudulent activity. Nelson Hardiman stepped in and negotiated confidential settlement agreements whereby our clients received payment for their claims and the insurer released their claims against our clients. We achieved this favorable result efficiently and cost-effectively without having to file expensive and time-consuming lawsuits, in large part, because of our deep industry knowledge and prior experience negotiating with the health insurer's counsel.
- Represented addiction treatment centers in appealing third-party payors' denials of benefits and/or overpayment demands.
- Represented addiction treatment center in successfully appealing a denial of benefits to the United States Office of Personnel Management.
- Resolved reimbursement dispute between residential addiction treatment facilities and Fortune 100 health insurance company.
- Negotiated favorable resolutions for healthcare providers investigated by insurance companies' Special Investigations Units (SIU).

Litigation

- **Complex Business Litigation** Represented a national health system in a contract dispute with another health system and its management company involving an unsuccessful purchase of five financially distressed nonprofit hospitals. Our client was unable to move forward with the purchase of the hospitals because the Attorney General of California imposed conditions on the transaction that made it financially unfeasible to turn around the failing hospitals. The seller sued our client for allegedly breaching the contract by pulling out of the transaction and sought \$40 million in liquidated damages plus attorneys' fees and prejudgment interest. Our client countersued because the seller refused to release millions of dollars that had been deposited in escrow. The case turned on the economic impact of the AG's conditions, which involved complex issues of hospital operations and finances. The case settled favorably for our client on the day before trial.
- **False Claims Act** Won a False Claims Act case decisively resolved on summary

judgment for a large Southern California hospital. Two whistleblowers from a rival laboratory alleged that the hospital's kidney transplant program had submitted millions of dollars of Medicare claims for duplicative and medically unnecessary histocompatibility testing for transplant candidates. After extensive discovery and numerous expert depositions, we moved for summary judgment on the ground that evidence of a good faith dispute about evolving testing standards cannot form the basis of an FCA case. The district court entered judgment in the hospital's favor, holding that no jury could reasonably find that the hospital's testing claims were false.