Nelson Hardiman Successfully Defends Director of Clinical Psychology Facing Suspension

Nelson Hardiman partner Lee Arian recently represented a Director of Clinical Psychology at a local Hospital in a Department of Health Care Services (DHCS) suspension proceeding. Medi-Cal sought to suspend the Director based on his failure to supervise a Physician's Assistant, contending that, as a result of that failure, the Director had caused fraudulent claims to be submitted to Medi-Cal.

In an effort to help a longtime PA whose prior supervisor had unexpectedly retired, leaving the PA without any supervisor and without any way to care for his longtime patients, the Director agreed to supervise the PA, knowing that he saw many of the PA's patients as part of clinical trials that he oversaw. While the Director provided supervision as part of those trials, he also allowed the longtime PA significant autonomy. The Director, who was immensely busy with his work as the only Board Certified adolescent psychologist at the Hospital, had no written supervision agreement with the PA, opened a bank account for the PA to use, allowed the PA to use a signature stamp containing the physician's signature on medical records submitted to Medi-Cal, and did not review the PA's medical records.

DHCS sought to suspend the Director for an indefinite period of time, which would have negatively impacted the services that the Hospital could offer because of the Director's significant role as the sole practicing adolescent psychologist**.** Shortly before the hearing on the suspension proceeding, the Director and DHCS agreed to a resolution of the allegations against the Director in which the Director voluntarily deactivated his Medi-Cal number for a 5-year period, but, during that period, DHCS agreed that the Director may continue to treat Medi-Cal patients at his Hospital, and the Hospital may bill for such treatment. DHCS also agreed not to refer its investigation to other government agencies, and the voluntary de-activation, as opposed to a suspension, is not automatically reported to other government entities.

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