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Attorneys Sara Hersh and Sarvnaz Miriam Mackin successfully represented the medical staff of an academic medical center in a peer review matter. The results were consistent beginning with the medical staff hearing, the internal appeal, writ proceedings in superior court, and the Court of Appeal, Second Appellate District.

A physician and faculty member with membership and privileges on the medical staff was charged with violations of the medical staff bylaws, HIPAA, CMIA and hospital policies. The physician improperly accessed patients' records in the absence of authorization or patient consent, recruited the assistance of trainees to access the electronic records for the physician's own purposes, and provided access to an outside physician and personal acquaintance who was not authorized to treat, consult or view the records. The physician claimed that he personally sanctioned these actions. He claimed his actions were justified to satisfy his concern for the cause of the patient's condition and for patient safety. He argued his actions fell under the health care operations exception in HIPAA. At all levels of review, it was determined his actions did not fall under the exception and that he could have accessed deidentified records through proper existing channels and sought authorization for a review of the case by subject matter specialists and committees within his academic medical center. The proposed corrective actions by the medical staff were determined reasonable and warranted by the substantial evidence.

About Nelson Hardiman

Nelson Hardiman LLP is the premier healthcare and life sciences firm in Los Angeles, serving healthcare providers, investors, and organizations that need a hard-to-find level of quality advice on the most sensitive industry issues. The firm's litigation practice specializes in defending fraud and abuse and whistleblower actions, government investigations, reimbursement disputes, and other complex business disputes. Nelson Hardiman regularly serves as outside counsel for healthcare system clients and medical staff representation. Nelson Hardiman's transactional group handles healthcare organization acquisitions, sales, investment, and financings, and Nelson Hardiman's regulatory team advises on compliance with licensing, operational, and reimbursement issues across the full continuum of healthcare industry sectors, with expertise on Medicare and Medicaid requirements, privacy and data security, FDA, and many more matters. The firm has earned a singular position reputation nationally for its leadership in addressing issues in behavioral health. More information about the firm is available at **www.nelsonhardiman.com** or at 310.203.2800. For more information, please contact us.