Nelson Hardiman Vindicates Wrongly Accused Physician



Nelson Hardiman attorneys Harry Nelson and Aaron Lachant persuaded the Medical Board of California to uphold an administrative law judge's decision vindicating a Southern California physician following a five-day Medical Board administrative hearing in Riverside, California. The Board had had charged the doctor with negligence, incompetence, dishonesty, and unprofessional conduct, and was then unable to prove any of the charges, leading the administrative law judge, James Ahler, to reject them in his findings.

The physician — an internist respected in the professional community for his work teaching residents, co-founding a hospitalist group, and developing a successful weight loss and wellness practice — had been taken by surprise when the Board filed charges in 2013. The investigation had been triggered by a false and malicious complaint from a patient's estranged family member, who apparently sought to create a "wedge" between her relative and his physician. Although the investigation did not support the false allegations, the Board investigator found technical deficiencies, such as an inadvertent late filing of a fictitious name permit and additional office DEA registration, as well as several sparse office notes of visits from a period before the physician transitioned from hand-written records to an electronic health record system. Nelson Hardiman presented the Board with evidence before charges were filed that the physician's quality of care had been superlative and that the technical issues had been re-mediated, the Board filed an accusation nonetheless alleging serious misconduct.

As a consequence, the physician experienced terrible consequences: healthcare insurers removed him from their panels, to the detriment of patients who were denied access to his care, and hospital medical staffs refused to grant him full reappointment. Even when presented with expert reports clearing the physician before hearing (and demonstrating what good care the doctor had provided), the Medical Board refused to withdraw the charges, forcing the physician to proceed to a hearing to clear his name.

Following five days of hearing, Judge Ahler rejected the Board's efforts, finding the doctor to be an excellent physician. The judge recommended a public reprimand to be more than sufficient for a historical record-keeping deficiency that had been amply corrected before the case was filed. The Medical Board non-adopted the decision, to consider whether to impose a more severe penalty. After a presentation by Harry Nelson and the physician himself, the Board reconsidered and actually issued a more favorable decision for the doctor.

"We are committed to working with the Medical Board proactively to help reduce the expenditure of enforcement resources in areas where they are unproductive," said firm co-founder Harry Nelson. "While we are grateful that the Board got the final decision right, we need to find ways to help the Board identify cases that have gone astray at an earlier point in the process."