Telemedicine News: Medical Board of California Withdraws Accusation

Even in a time when the healthcare industry is excited about the expansion and growing popularity of telehealth and telemedicine services, there are significant risks for doctors in the patchwork of telemedicine laws and regulations that often vary dramatically from state to state. Attorneys Harry Nelson and Salvatore Zimmitti of Nelson Hardiman recently persuaded the Medical Board of California to withdraw a formal Accusation against a physician working for one of the largest telehealth providers in the country. Like many telemedical providers, the doctor was licensed in numerous states. The Accusation sought to revoke the physician's California license for his prescriptions to out-of-state residents via a national telehealth platform.

The Board filed the Accusation based on its receipt of a public letter expressing concern that was lodged against the doctor by the North Carolina Medical Board. Although the North Carolina Board took no other action against the physician, its public disclosure triggered inquiries from other states in which the physician held a license. Notably, all of the states that responded ultimately took no disciplinary action against the doctor, but California followed its pattern of taking out-of-state matters extremely seriously and filed the Accusation against him based on North Carolina's actions.

Nelson Hardiman was contacted on the eve of hearing in California, when it became apparent that California was taking a particularly hard line stance, with the California Department of Justice unwilling to settle the case unless the doctor agreed to a three-year term of probation, including a remedial education course and supervision by a practice monitor. Given that the doctor and his family lived out of state and he could not physically be physically present in California as required by the terms of probation, it was literally an offer that would have required the doctor to surrender his California license, which, ironically, would have triggered additional investigations by every other state where the doctor held a license to practice medicine.

With less than a month before the formal hearing, Nelson Hardiman requested a continuance seeking additional time to negotiate and resolve the case, but the Department of Justice refused, insisting on proceeding to a hearing. With a week before the hearing, Nelson Hardiman filed a motion to dismiss the Accusation — a motion infrequently filed and even more infrequently granted — and attempted to persuade the Medical Board to drop the matter. The Medical Board of California ultimately decided to withdraw the Accusation, just three days before the scheduled hearing.

To read the American Medical Association's position on telemedicine, click here.