Nelson Hardiman Victorious in Court of Appeal on Behalf of Hospital Medical Staff

Nelson Hardiman attorneys Sara Hersh, John Mills and Farooq Mir obtained an important victory for a hospital medical staff in the Court of Appeal. The Court upheld the client medical staff's decision, following peer review hearing, to terminate a physician's medical staff membership and privileges based upon the peer reviewers' determination that the physician's treatment in 6 cases was substandard, constituted poor clinical judgment and deficits in clinical knowledge. The physician claimed lack of notice that all privileges would be terminated and maintained the care provided was appropriate.

The physician challenged the medical staff's actions and the decision of the peer review body. Nelson Hardiman successfully defeated the physician's action in Superior Court, and then convinced the Court of Appeal to affirm the Superior Court's decision. The Court of Appeal determined that the physician failed to exhaust her administrative remedies at the peer review level because she failed to challenge the adequacy of the medical staff's termination and revocation notice until she sought to overturn the medical staff's decision in court. The Court of Appeal also noted that, in any event, the revocation and termination notice was legally sufficient. Furthermore, in response to the physician's argument that the medical staff's decision was defective because it was based in part on an unnoticed charge as to one of the 6 cases, Nelson Hardiman was able to convince the Court of Appeal that, even if there was error in the unnoticed charge, there nonetheless was more than sufficient grounds in the record to uphold the medical staff's decision.

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