

Michael (Akiva) Newborn

Partner

T: [310.203.2813](tel:310.203.2813)

F: [310.203.2727](tel:310.203.2727)

mnewborn@nelsonhardiman.com



Astute scrutiny runs through everything Michael (Akiva) Newborn does. He brings this intellectual acuity to his healthcare litigation practice based on a strong background in research and analysis of legal issues. Akiva represents healthcare providers in state and federal courts, arbitrations, and administrative law judge hearings in a wide range of litigation matters. He also advises healthcare providers on regulatory compliance issues and employment contracts.

Civil Litigation

Akiva counsels a wide range of healthcare providers, including individual practitioners, medical groups, skilled nursing facilities, hospices, home healthcare companies, and hospitals. His litigation practice focuses on commercial litigation cases involving breach of contract, breach of fiduciary duties, ownership disputes, intellectual property claims, labor claims, and unfair competition. He also defends healthcare providers in managed care and reimbursement litigation, insurance audits, and overpayment demands from federal and private payors. In addition to jury trial experience, he has handled arbitrations and administrative hearings.

Medicare Appeals

Akiva represents healthcare providers appealing Medicare's claims denials, audits, and overpayment determinations. He has experience with all levels of the Medicare appeals process, including ALJ hearings.

Employment Contracts

Akiva advises and negotiates employment contracts for both new and experienced physicians, nurses, physician assistants, and other healthcare providers ensuring their employment terms are favorable and their rights are protected.

Recent Outcomes

Akiva successfully defended a hospice owner in a breach of contract and breach of fiduciary duty lawsuit, resulting in a walk-away settlement.

Akiva obtained multiple favorable settlements for a hospital in disputes with vendors and independent contractors.

Akiva obtained a favorable settlement for directors and shareholders of a home health care/hospice chain in an ownership dispute.

Akiva prevailed at arbitration against a patient's breach of contract lawsuit against an addiction treatment center client.

Akiva successfully appealed a physician's Medicare preclusion and OIG exclusion, reducing a physician's five-year Medicare preclusion to one year.



Akiva represented a psychology group's Medicare overpayment determination at an ALJ hearing, substantially reducing their overpayment determination.

Accolades

Best Lawyers named Akiva to its Ones to Watch list for 2024. He has been named a Southern California Rising Star by Super Lawyers every year since 2020.

Life Outside the Firm

When he's not advising clients on complex healthcare issues, Akiva teaches classes, gives lectures, and serves as chair of his synagogue's inclusion committee aimed at making his synagogue more inclusive for individuals with disabilities.

Practice Areas

- [Government Investigations](#)
- [Litigation](#)
- [Regulatory Compliance](#)
- [Transactions](#)

Credentials

Education

Cornell Law School, J.D.

Yeshiva University, M.A.

Brandeis University, B.A.

Admissions

State Bar of California

Affiliations

California Bar Association

Experience

Audits & Reimbursement Disputes

- Represented a pharmacy client in a reimbursement dispute with a pharmacy benefits manager. The pharmacy benefits manager audited our client and determined that the client was overpaid by more than \$1 million due to our client's alleged over-dispensing of hemophilia medications. The pharmacy benefits manager began offsetting money from our client in order to recoup the amount in dispute. Akiva sent appeal letters back and forth and had several calls with pharmacy benefits manager's counsel. Following extensive negotiations, a highly favorable settlement was reached.

- Represented a pharmaceutical benefits manager client in a contractual dispute with a pharmaceutical manufacturer. The manufacturer audited our client's drug utilization claims and determined that our client was overpaid by more than \$866,000 in drug rebates. Akiva successfully negotiated a settlement and release of all claims for \$70,000.
- Represented a behavioral health services client in a reimbursement dispute with a major insurance company, which claimed that it overpaid our client for services provided to the company's insured. Akiva negotiated a very favorable settlement for his client.
- Represented a physician client in a payment dispute with a health plan sponsor which underpaid our client for surgeries performed on the health plan's member. Akiva filed a lawsuit and negotiated a highly favorable settlement for the physician.
- Represented a comprehensive histocompatibility testing center affiliated with a major university in a Medicare fraud and False Claims Act matter. Akiva defended the client against government claims of overbilling. He wrote a successful motion to quash opposing counsel's efforts to subpoena a third party witness, citing privacy concerns.

Government Disputes

- Represented a behavioral health services client participated in a state program under which it received three separate housing loans to be used for transitional housing and emergency shelter for the homeless population. The loans were secured by liens on the client's three properties and were forgivable after seven years. At the end of the seven-year period, the government refused to forgive the loans claiming that our client turned away homeless people outside of its target population (substance abusers seeking recovery). The government demanded repayment of the loans and threatened to foreclose on the client's three properties. Following protracted negotiations, a highly favorable settlement was reached in which the Department abandoned its demands for repayment, forgave two loans, and agreed to subordinate the last remaining one in return for the client simply committing to operate pursuant to its mission serving its target population for another four years.

Business Litigation

- Represented a hospital system in a contract dispute over the sale of one of California's biggest Catholic hospital systems. Akiva researched a wide array of issues in preparation for the client's motion for summary judgment. He also conducted document review, managed contract attorneys, and drafted multiple motions.

Regulatory Compliance

- **Regulatory Compliance** Researched and wrote comprehensive guidelines on behalf of a client that wanted to close a pharmacy and relinquish its license.
- **Rehabilitation Center Opioid Overdose Regulations** A drug and alcohol rehabilitation center sought our assistance with navigating several states' laws and regulations governing the storing and administration of Naloxone, a drug used to resuscitate individuals experiencing an opioid overdose. We analyzed each state's laws and regulations and guided the rehabilitation center through the legal requirements for storing Naloxone at its facilities in each state and administering it to patients in need.
- **Healthcare Franchise Guidelines** A healthcare facility with franchises all over the country aimed to institute a nationwide pre-paid gift card program for its patients but was concerned with the byzantine regulations governing healthcare marketing and business practices. We analyzed the laws and regulations in over thirty states and synthesized them into a list of guidelines that enabled the client to implement the marketing program they had envisioned that was fully compliant with each state's legal requirements.
- **Digital Healthcare Referral Services** A chiropractic entity planned to engage with one of two third-party website referral services. We thoroughly analyzed each website's business model and counseled our client as to the potential fee-splitting, anti-kickback, and other regulatory issues involved to help them make the best and safest choice possible.
- **Telehealth Data Security Requirements** A telehealth entity requested our guidance regarding the legal requirements governing patient identity verification. We analyzed the state laws in which the client operated and guided them through the intricacies of internet identity verification and the various state law requirements to ensure that the client's telehealth practice was fully compliant with each state's law.