



Sara Hersh
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Admissions

State Bar of California

Affiliations

California Academy of Attorneys for Health
Care Professionals (Past Secretary)

California Society of Healthcare Attorneys
(Board of Editors)

Los Angeles County Bar Association,
Healthcare Section

Education

California Western School of Law, J.D.
Tufts University, B.S. Occupational Therapy,
cum laude

PROFILE

Independent Counsel for Medical Staffs

An authority on medical staff credentialing, disciplinary and non-disciplinary peer review processes, medical staff bylaws and mandatory reporting requirements, Sara Hersh serves as dedicated counsel to medical staffs of community hospitals, medical groups, healthcare systems, university systems, and county facilities. She proactively counsels medical staffs on changes in the law and needed revisions to policies and bylaws, procedural steps in disciplinary actions (both corrective actions and non-corrective actions) and advises healthcare clients on professional liability and risk management issues, ensuring compliance with state and regulatory requirements.

Focus on Protecting the Licenses of Individual Healthcare Professionals

Sara has successfully represented individual healthcare practitioners across a broad spectrum of the healthcare industry throughout her career. For more than three decades, she has stalwartly protected the licenses and careers of healthcare professionals. Doctors, nurses, dentists, mental health professionals, pharmacists, and physical therapists are among the practitioners that rely on her unrivaled counsel in investigations and administrative hearings before licensing boards. She has successfully represented healthcare professionals in interviews, hearings, trials, binding arbitrations, and on appeal.

Healthcare Professional with Litigation Strength

For several decades, Sara also has a proven track record defending healthcare professionals against medical malpractice claims in binding arbitrations, court trials and on appeal. Having worked as an occupational therapist prior to becoming a lawyer, Sara brings to her healthcare practice the restorative mindset and insight of a healthcare professional coupled with deep civil litigation experience.

Accolades

Sara Hersh was selected to Super Lawyers for 2019 and 2020. She was also recognized as one of the [Top Women Attorneys of 2019](#). Super Lawyers is an exclusive list of top-rated attorneys in specific practice areas who were chosen after thorough evaluation of numerous criteria. Sara Hersh is an approved California Society of Healthcare Attorneys hearing officer and is qualified to act as a hearing officer in peer review matters. Sara chaired the Nelson Hardiman Mentoring Committee.

EXPERIENCE

- **Board of Behavioral Science Does Not Pursue Discipline against Client's License** A marriage and family therapist, after 30 years of practice without incident, was convicted of a DUI following a car accident. Due to the client's behavior at the scene of the accident, the client was determined by the officer to be driving while under the influence of drugs. The therapist contacted our office when he received a letter from the Board of Behavioral Science requesting the client's explanation of the events. We assisted the client in compiling the information and provided the Board with the requested explanation. We also provided the Board with an evaluation report by a psychiatrist which confirmed the client had no issues with substance abuse and provided the Board with the most likely cause for the client's behavior, not related to any drug use.
- **Board of Chiropractic Examiners is Defeated at Hearing** The business model of national chiropractic franchisor with hundreds of clinics across the country was under attack in California. The California Board of Chiropractic Examiners ("Board") initiated disciplinary proceedings against a chiropractor who served as the director for more than

30 satellite offices under the corporate brand. According to the Board, the chiropractor was merely a “captive” working for the benefit of the company in violation of the corporate practice of medicine doctrine. Nelson Hardiman reviewed the franchise agreements and other central legal documents, recommending changes to the management structure, including key safeguards to ensure clinical oversight of marketing efforts, equipment purchasing, and other business decisions. When the Board insisted on moving forward with an administrative law hearing, we testified on behalf of franchisor on corporate practice of medicine issues. Our testimony was taken as authoritative by the administrative law judge, and was instrumental to the judge’s rejection of the Board’s excessive control theory. The decision removed a threat not only the franchisor’s business model but more broadly to healthcare franchising, clarifying standards in the relationship between health professionals and management entities.

- **Board of Registered Nursing Drops Investigation against RN** Our RN client was reported to her licensing Board for alleged boundary violations in her duties as a home-based nurse. There were claims of undue influence over the patient, personal financial gain, and unprofessional conduct by the nurse. With the aid of supportive declarations by the patient’s physician along with other documentation, we were able to get the matter closed following the Board’s interview of the client.
- **California State Board of Pharmacy Allows Pharmacist to Continue Practice** A pharmacist allegedly mislabeled a medication container, causing the nurse to administer the medication directly via IV instead of the patient’s pleural cavity, resulting in the patient’s death. Under threat of the client’s license revocation, Sara obtained a 3-year license probation for the pharmacist from the Board of Pharmacy.
- **Dental Board of California Agrees to Early Termination of Probation** In the case of a patient death during the extraction of a tooth in an oral surgeon’s office, Sara petitioned and obtained early termination of the oral surgeon’s probation from the Dental Board of California.
- **Hospital Medical Staff Prevails in Peer Review Hearing and on Appeal** A general surgeon on staff at a community-based hospital requested a hearing based upon a suspension of his medical staff privileges due to his treatment in four cases, all of which were reviewed and deemed to constitute practice below the standard of care and which posed imminent danger to patients and potential patients. The hearing consisted of testimony by physician witnesses and experts on both sides. At the conclusion of the multi-year hearing, the judicial review panel decided that the suspension was reasonable and warranted in light of the facts. Upon appellate review by the hospital’s governing board, the decision was affirmed.
- **Hospital Well-Being Committee** Assisted Hospital Well-Being Committee in revising policy and procedures to comport with changes in the law.
- **Medical Board of California Agrees with University Hospital’s Position** The Medical Board of California inquired regarding a physician who had been hired by the University. Specifically, the Board inquired as to why there was a failure by the University to file a statutory report regarding the physician (which if true would result in a fine of up to \$50,000 for such violation). We were able to demonstrate to the Board why no such report was required under the statutes. The Medical Board of California reviewed our analysis and agreed, which resulted in a letter from the Medical Board stating that there had been no violation of the statutes by the University.
- **Medical Board of California Clears Physician’s Treatment** The physician contacted our office for assistance with responding to a request from the Medical Board for 6 patient records over a period of several years. We reviewed the relevant records with the physician and assisted with organizing and compiling the treatment rendered and the rationale he employed. The Board requested a formal interview wherein the first 3 patients were discussed, followed by a second interview wherein the next three patients were discussed. The inquiries focused upon the physician’s prescribing practices, use of polypharmacy approach and the number of specialty referrals. Following the interviews, the physician received a letter from the Medical Board advising no improper care was rendered by him and the case was closed.
- **Court of Appeal** Nelson Hardiman 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.

- **University Healthcare System** Revised and redesigned medical staff bylaws, policies, procedures of several academic medical centers to comply with statutory requirements and best practices; reconstituted committees and accompanying policies for physician health and professional conduct committees of the medical staff.
- **Peer Review Hearing** Year-plus peer review hearing representing a major academic medical center's medical group. The medical group summarily suspended one of its physician's for concerns regarding clinical decision making and quality of care. In representing the medical group, Nelson Hardiman charged and successfully proved the charges in six clinical cases and, after 20 hearing sessions, the panel of physicians unanimously concurred that the summary suspension of this physician was reasonable and warranted.