
PRESS RELEASE

ABRAMS FENSTERMAN SCORES MAJOR WIN IN COMPLEX OPMC CASE

New York City / Lake Success, NY, June 9, 2015: Abrams, Fensterman, Fensterman, Eisman, Formato, Ferrara & Wolf, LLP recently obtained a substantial victory for a physician-client in a complex New York State Department of Health, Office of Professional Medical Conduct (“OPMC”) case. The case was tried by Michael S. Kelton, Partner-Director of the firm’s OPMC Practice, and Associate Jordan Fensterman.

In *Matter of M.H., M.D.*, Dr. H, an emergency room physician, had been charged by OPMC with 21 specifications of professional misconduct, alleging negligence on more than one occasion (5 specifications), gross negligence (5 specifications), incompetence on more than one occasion (5 specifications), gross incompetence (5 specifications) and improper record keeping (1 specification). These charges arose out of Dr. H’s care and treatment of 5 patients in the emergency room of a regional hospital from December 2011 through June 2012.

When the cases were initially sent to our emergency medicine expert for his review, the expert determined that at least 3 of the cases were “indefensible”. Undeterred, Mr. Kelton and Mr. Fensterman devised a trial strategy that focused on challenging the testimony of OPMC’s witnesses, including several nurses, a fellow treating physician and OPMC’s own emergency medicine expert.

Over several hearing days, through meticulous preparation and skillful cross-examination, Mr. Kelton and Mr. Fensterman were able to severely undermine the credibility and reliability of OPMC’s witnesses. The OPMC Hearing Committee found numerous instances whereby the testimony given by those witnesses on direct examination was refuted during their cross-examination. The result was that the Hearing Committee absolved Dr. H of every charge against him. OPMC did not appeal the April 17, 2015 decision of the Hearing Committee, which is now final.

In addressing this outcome, Mr. Kelton stated, “In my 35 years of defending physicians in OPMC cases, I can confidently state that such a comprehensive victory, considering the challenges we faced, is almost unprecedented in this forum.”

About Abrams, Fensterman, Fensterman, Eisman, Formato, Ferrara & Wolf, LLP. The legal team at Abrams Fensterman is committed to providing each client with quality counsel, innovative solutions and personalized service. Founded in 2000, the firm offers the legal expertise of its 60-plus attorneys, who have accumulated experience and problem-solving skills over decades of practice covering the full spectrum of legal arenas. Abrams Fensterman serves clients throughout New York from offices in Lake Success, Long Island, New York City, Rochester and its newest office in Brooklyn.

About Michael S. Kelton, Esq. Michael S. Kelton is a partner at Abrams Fensterman and is the director of the firm's New York City Litigation Practice, as well as the firm's Medical Malpractice Defense Practice and OPMC/OPD Defense Practice. Mr. Kelton presently defends medical malpractice cases for various malpractice insurance carriers, as well as hospitals, uninsured physicians and municipal entities. Mr. Kelton also handles physician disciplinary and professional misconduct matters before the New York State Department of Health Office of Professional Medical Conduct (OPMC) and the New York State Education Department Office of Professional Discipline (OPD), as well as physician-hospital disciplinary disputes.

About Jordan Fensterman, Esq. Jordan Fensterman is an associate in the Litigation, Health Law, Corporate, and Entertainment Law departments at Abrams Fensterman. Mr. Fensterman’s clientele include various health care providers, large companies, and substantial web based organizations. Mr. Fensterman represents physicians, dentists, physician assistants, nurses, and many other individual health care professionals. Mr. Fensterman also represents nursing homes and assisted living facilities. In addition to basic legal representation, Mr. Fensterman provides counsel and guidance to his entertainment clients.