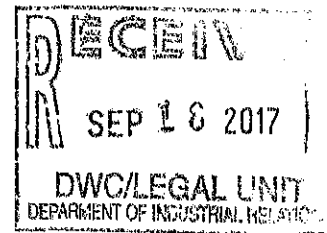


Dr. Khristine Eroshevich
501 S. Beverly Drive, 3rd Floor
Beverly Hills, CA 90212



September 14, 2017

Hearing Request
Acting Administrative Director
Division of Workers' Compensation
1515 Clay Street, Suite 1800
Oakland, California 94612

Hearing Request
Legal Unit, Division of Workers' Compensation
1515 Clay Street, Suite 1800
Oakland, California 94612

Re: Hearing Request for Dr. Khristine Eroshevich

Dear Acting Administrative Director of the Division of Workers' Compensation:

I hereby respectfully request a hearing in response to your letter of September 8, 2017, because Labor Code section 139.21(a)(1) is not applicable to my situation.

First, the plain language of section 139.21(a)(1) makes clear that it does not apply to my situation. For instance, the statute provides that the administrative director shall "promptly suspend" a doctor (A) who has been convicted of certain felonies or misdemeanors, (B) who has been suspended, due to fraud or abuse, from the federal Medicare or Medicaid programs, or (C) whose license has been surrendered or revoked. Here, any action taken by the administrative director at this point could not reasonably be interpreted as "prompt." My single misdemeanor conviction occurred many years ago and, in fact, was expunged in September 2016. (*See* attached September 22, 2016, Order for Dismissal.) Similarly, more than five years ago, I was suspended from the state Medi-Cal program because the California Medical Board had suspended my license to practice medicine for 90 days and placed me on probation. The California Medical Board ended my probation and fully restored my license in March 2016 after finding that I had scrupulously complied with all probationary terms. During this entire time, except for the 90 days in which my license was suspended, I have continued working in the workers' compensation system without incident. Considering the circumstances, any action taken now by the administrative director would certainly not be "prompt," and therefore, on its face, the statute does not apply to my situation.

Moreover, none of the subsections of section 139.21(a)(1) cover my situation. For example, subsection (A) does not apply because my single misdemeanor conviction did not: (i) involve fraud or abuse of the Medi-Cal program, Medicare program, or workers' compensation system,

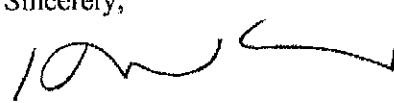
or fraud or abuse of any patient; (ii) relate to my medical practice as it pertains to patient care; (iii) involve a financial crime that relates to the Medi-Cal program, Medicare program, or workers' compensation system; or (iv) otherwise substantially relate to my qualifications, functions, or duties. Instead, my conviction was, as the trial judge noted, related to prescribing medications to a well-known public figure using aliases *in order to her protect privacy*. Nor do subsections (B) or (C) apply because I was not suspended, due to fraud or abuse, from the federal Medicare or Medicaid programs, and my license has not been surrendered or revoked. Thus, the circumstances here do not fall within any of the subsections of section 139.21(a)(1), and the statute does not apply.

Second, it would be an improper retroactive application of section 139.21(a)(1) to apply it to my situation. The statute was enacted on January 1, 2017, and no similar statute was in effect before then. "[S]tatutes ordinarily are interpreted as operating prospectively in the absence of a clear indication of a contrary legislative intent." *Quarry v. Doe I*, 53 Cal.4th 945, 955 (2012). And "[a]mbiguous statutory language will not suffice to dispel the presumption against retroactivity; rather 'a statute that is ambiguous with respect to retroactive application is construed ... to be unambiguously prospective.'" *Id.* (citations omitted). Here, there is simply no clear indication that the legislature intended the statute to apply retroactively to encompass convictions, or suspensions from federal Medicare or Medicaid programs, entered prior to January 1, 2017, let alone to a years-old conviction (based on conduct that occurred more than a decade ago) that has already been expunged. Indeed, "considerations of basic fairness militate against" applying a law retroactively, where, like here, it would "attach[] new legal consequences to, or increase[] a party's liability for, an event, transaction, or conduct that was completed before the law's effective date." *Id.* at 956 (citations omitted). Thus, under the present circumstances, it would plainly be improper to retroactively apply the statute.

For the reasons stated above, section 139.21(a)(1) is not applicable to my situation, and I respectfully request a hearing.

My current mailing address is: 501 S. Beverly Drive, 3rd Floor
Beverly Hills, CA 90212

Sincerely,



Dr. Khristine Eroshevich

0044

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO. NAME: Bradley Wm. Brunon FIRM NAME: Law Office of Bradley Wm. Brunon STREET ADDRESS: 11801 Wilshire Blvd. Suite 1400 CITY: Los Angeles STATE: CA ZIP CODE: 90025 TELEPHONE NO.: 310 442-8890 FAX NO.: 310 820-8889 EMAIL ADDRESS: brunonlw@verizon.net ATTORNEY FOR (name): Kristina Eroshevich		FOR COURT USE ONLY CONFORMED COPY ORIGINAL FILED Superior Court of California County of Los Angeles SEP 22 2016 Cheryl R. Carter, Executive Officer/Clerk Deputy <i>Melody Ramirez</i>
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: KRISTINE EROSEVICH DATE OF BIRTH: 1/18/1977		
ORDER FOR DISMISSAL (Pen. Code, §§ 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.49)		CASE NUMBER: BA353907

The court finds from the records on file in this case, and from the foregoing petition, that the petitioner (the defendant in the above-entitled criminal action) is eligible for the following requested relief:

1. The court GRANTS the petition for reduction of a felony to a misdemeanor (maximum punishment of 364 days per Pen. Code, § 18.5) under Penal Code section 17(b) and/or for reduction of a misdemeanor to an infraction under Penal Code section 17(d)(2) and reduces the following convictions:

- ALL FELONY CONVICTIONS in the above-entitled action;
- ALL MISDEMEANOR CONVICTIONS in the above-entitled action; OR
- Only the following convictions in the above-entitled action (specify charges and date of conviction):

2. The court DENIED the petition for reduction of a felony to a misdemeanor under Penal Code section 17(b) and/or for reduction of a misdemeanor to an infraction under Penal Code section 17(d)(2) for:

- ALL FELONY CONVICTIONS in the above-entitled action;
- ALL MISDEMEANOR CONVICTIONS in the above-entitled action; OR
- Only the following convictions in the above-entitled action (specify charges and date of conviction):

3. The court GRANTS the petition for dismissal regarding the following convictions under Penal Code § 1203.4, or § 1203.4a, or § 1203.41, or § 1203.49, and it is ordered that the pleas, verdicts, or findings of guilt be set aside and vacated and a plea of not guilty be entered and that the complaint be, and is hereby, dismissed for:

- ALL CONVICTIONS in the above-entitled action; or
- Only the following convictions in the above-entitled action (specify charges and date of conviction):

4. The court DENIED the petition for dismissal regarding the following convictions under Penal Code § 1203.4, or § 1203.4a, or § 1203.41, or § 1203.49 for:

- ALL CONVICTIONS in the above-entitled action; or
- Only the following convictions in the above-entitled action (specify charges and date of conviction):

B. In granting this order under the provisions of Penal Code section 1203.49:

- a. The court finds that the petitioner was a victim of human trafficking when he or she committed the crime.
- b. The court orders the relief described in section 1203.4, or
- The court orders the relief described in section 1203.4, with the following exceptions (specify):

PEOPLE OF THE STATE OF CALIFORNIA v DEFENDANT: KHRISTINE EROSHEVICH	CASE NUMBER: BA353907
--	--------------------------

- 6. If this order is granted under the provisions of Penal Code section 1203.4 or 1203.41:
 - a. The petitioner is required to disclose the above conviction in response to any direct question contained in any questionnaire or application for public office, or for licensure by any state or local agency, or for contracting with the California State Lottery Commission.
 - b. Dismissal of the conviction does not *automatically* relieve petitioner from the requirement to register as a sex offender. (See, e.g., Pen. Code, § 260.6.)
- 7. If the order is granted under the provisions of Penal Code section 1203.49, the Department of Justice is hereby notified that the petitioner was a victim of human trafficking when he or she committed the crime, and the relief ordered.
- 8. If the order is granted under the provisions of either Penal Code section 1203.4, 1203.4a, 1203.41, or 1203.49, the petitioner is released from all penalties and disabilities resulting from the offense except as provided in Penal Code sections 26800 and 26900 (formerly sections 12021 and 12021.1) and Vehicle Code section 13859. In any subsequent prosecution of the petitioner for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed. The dismissal does not permit a person to own, possess, or have in his or her control a firearm if prevented by Penal Code sections 26800 or 26900 (formerly sections 12021 and 12021.1). Dismissal of a conviction does not permit a person prohibited from holding public office as a result of that conviction to hold public office.
- 9. In addition, as required by Penal Code section 269(f), relief under Penal Code sections 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, or 1203.49 does not release petitioner from the separate administrative duty to provide specimens, samples, or print impressions under the DNA and Forensic Identification Database and Data Bank Act (Pen. Code, § 285 et seq.) if petitioner was found guilty by a trier of fact, not guilty by reason of insanity, or pled no contest to a qualifying offense as defined in Penal Code section 266(a).

FOR COURT USE ONLY
 CONFIRMED COPY
 ORIGINAL FILED
 Superior Court of California
 County of Los Angeles
 SEP 22 2016

Robert L. Flynn

Shari R. [Signature] Clerk
 By [Signature] Deputy
 Wafady Khalil

Date: SEP 22 2016

ROBERT L. FLYNN
 (JUDICIAL OFFICER)



