

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION
BEFORE THE ADMINISTRATIVE DIRECTOR

In Re: PROVIDER SUSPENSION

Case No. AD PS-17-19

**DETERMINATION AND ORDER
RE: SUSPENSION**

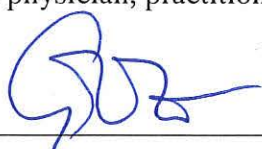
EDWARD BUI HAI, M.D.,
Respondent.

The Administrative Director of the Division of Workers' Compensation is required to suspend any physician, practitioner, or provider from participating in the workers' compensation system as a physician, practitioner, or provider if the individual or entity meets any of the express criteria set forth in Labor Code section 139.21(a)(1).

Based upon a review of the record in this case, including the November 9, 2017 recommended Determination and Order re: Suspension of the designated Hearing Officer, the Administrative Director finds that Respondent Edward Bui Hai, M.D., meets the criteria for suspension set forth in Labor Code section 139.21(a) and shall be suspended from participating in the workers' compensation system as a physician, practitioner, or provider. Pursuant to California Code of Regulations, title 8, section 9788.3(d), the Administrative Director hereby adopts and incorporates the November 9, 2017 recommended Determination and Order re: Suspension of the designated Hearing Officer, attached hereto, as the Administrative Director's Determination and Order re: Suspension.

IT IS HEREBY ORDERED that Edward Bui Hai, M.D., is hereby suspended from participating in the workers' compensation system as a physician, practitioner, or provider.

Date: November 17, 2017



GEORGE PARISOTTO
Administrative Director
Division of Workers' Compensation

**STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
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BEFORE THE ADMINISTRATIVE DIRECTOR**

In Re: PROVIDER SUSPENSION

EDWARD BUI-HAI, M.D.,

Respondent.

Case No. AD PS-17-19

**DETERMINATION AND
ORDER RE: SUSPENSION**

A hearing was held in the above-captioned matter on November 8, 2017 pursuant to Labor Code § 139.21(b) (2). Respondent, Edward Bui-Hai M.D., was present and objected to being suspended from the worker's compensation system for the following reasons:

1. The Medical Board's revocation of his medical license was wrongly decided. All medical care he had provided was appropriate.
2. The U.S. Department of Justice, Drug Enforcement Administration, has issued a Controlled Substance Registration Certificate to Respondent that allows him to prescribe narcotic medication, and thus his license to practice medicine has been reinstated to current status.
3. Prescriptions written by Respondent after the revocation of his medical license have been authorized and filled by different pharmacies and this indicates his medical license is current and valid.
4. Respondent's Petition for Reconsideration of the Decision and Order of the Medical Board of California that revoked his medical license was successful.

This is the undersigned Designated Hearing Officer's recommended Determination and Order re: Suspension pursuant to Title 8, California Code of Regulations § 9788.3(c).

FACTS

1. Labor Code § 139.21(a)(1)(C) requires the Administrative Director to suspend any physician, practitioner, or provider from participating in the workers' compensation

system as a physician, practitioner, or provider if the individual's license, certificate, or approval to provide health care has been surrendered or revoked.

2. On September 26, 2016 an Interim Order of Suspension of Physicians and Surgeons' Certificate Number A36092 was issued to Respondent suspending his medical license pending a full administrative determination of Respondent's fitness to practice medicine, (Ex 2)

3. On July 13, 2017 a Proposed Decision was issued by the Medical Board of California that revoked Physicians and Surgeons' Certificate Number A36092 issued to Respondent. (Ex 3)

4. On August 1, 2017 the Proposed Decision revoking Respondents medical license was adapted as the Decision and Order of the Medical Board of California to become effective on August 1, 2017. (Ex 3)

5. Respondent appealed the decision revoking his medical license by filing a Petition for Reconsideration that was then denied on August 29, 2017. (Ex 3)

6. A Notice for Provider Suspension - Worker's Compensation was issued on October 6, 2017 by the Administrative Director and served on Respondent. (Ex 4)

7. Respondent made a timely request for a hearing on October 15, 2017. (Ex 4)

DETERMINATION

Labor Code § 139.21(a) (1) (C) applies to Respondent. As a result, the Administrative Director is required to immediately suspend Respondent pursuant to Labor Code § 139.21(b) (2).

BASIS FOR DETERMINATION

The Medical Board revoked the Physicians and Surgeons' Certificate issued to Respondent, and reconsideration of that decision was denied. The decision of the Medical Board is now final. Revocation of the Physicians and Surgeon's certificate means Respondent is no longer licensed to practice medicine in California pursuant to Business and Professions Code § 2052.

Labor Code § 139.21(a) (C) requires the Administrative Director to suspend any physician, practitioner, or provider from participating in the workers' compensation system if that physician, practitioner, or provider has had their license, certificate, or approval to provide

health care surrendered or revoked. In this case, the medical board revoked Respondent's Physicians and Surgeons' certificate. This revocation meets one of the listed criteria for requiring the Administrative Director to suspend Respondent from the workers compensation system.

Respondent has argued suspension is not appropriate as the decision of the medical board was wrongly decided as all the care he provided was appropriate. This Hearing Officer does not have jurisdiction to determine whether Respondent should be licensed as a physician or surgeon. That decision is solely within the jurisdiction of the medical board. Respondent's Petition for Reconsideration of the Decision and Order of the medical board was denied, and that decision is now final. Rightly or wrongly, the decision of the medical board to revoke Respondent's Physicians and Surgeon's Certificate has already been made, and this Hearing Officer may not question that decision. Respondent is no longer licensed to practice medicine in California.

Respondent also argues the U.S. Department of Justice, Drug Enforcement Administration has issued a Controlled Substance Registration Certificate to Respondent that allows him to prescribe narcotic medication, and thus his license to practice medicine has been reinstated to current status. The existence of a Controlled Substance Registration Certificate does not change the finality of the decision revoking Respondent's medical license issued by the medical board. It is noted the Controlled Substance Registration Certificate is dated February 24, 2017, well before the revocation of Respondent's medical license. It may be that the revocation of Respondent's medical license has not been reported to the Drug Enforcement Administration as the revocation of a medical license itself may well have a negative effect on the continued validity of the Controlled Substance Registration Certificate, but the validity of the Certificate is not a question for this Hearing Officer to decide. The evidence indicates Respondent's license to practice medicine has been revoked by the agency authorized to license medical practitioners.

Respondent also argues that prescriptions he recently wrote were authorized and filled by different pharmacies, and this indicates his medical license has been reinstated. This conclusion is not supported by the facts, and does not indicate his medical license has been reinstated. If anything, this indicates the pharmacies' lack of current information from the medical board, and not a reinstatement of Respondent's medical license.

Respondent states the Petition for Reconsideration of the Decision and Order of the Medical Board of California was successful, thus a suspension from the workers compensation

system is not warranted. Contrary to Respondents assertion, the evidence shows that Reconsideration was denied. (Ex. 3) The decision revoking Respondent's medical license has not been overturned, and the decision is now final.

Respondent's arguments fail. The existence or non-existence of a valid Controlled Substance Registration Certificate, or recent successfully filled prescriptions, have no effect on the validity of the Decision and Order revoking Respondent's medical license by the medical board. Respondent's license to practice medicine has been revoked, and the revocation is now final as Reconsideration was denied. Respondent meets the criteria for suspension found in Labor Code § 139.21 (a) (1) (C).

The Legislature has determined that a physician whose medical license has been revoked cannot provide treatment within the workers compensation system. Respondent may no longer provide treatment within the workers' compensation system and the Administrative Director is required to immediately suspend respondent.

For the foregoing reasons, a determination was made that Labor Code § 139.21(a) (1) (C) applies to respondent, and immediate suspension is therefore required by § 139.21(b) (2).

ORDER

IT IS ORDERED that Edward Bui-Hai, M.D. is hereby suspended from participating in the workers' compensation system as a physician, practitioner, or provider.

DATE: November 9, 2017



PWCJ WILLIAM E. GUNN
Designated Hearing Officer

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CERTIFICATE OF SERVICE BY MAIL
(C.C.P. section 1013(a), 2015.5)

I am over the age of 18 years and not a party to the entitled action. My business address is 1515 Clay Street, 18th Floor, Oakland, California 94612.

I served the following document:

ORDER OF SUSPENSION

on the following person(s) at the following address(es):

By Certified Mail:

**Edward Bui Hai
2265 Denair Ave., Apt. 314
Highland, California 92346**

By First Class Mail:

**Mi Kim, Esq.
Department of Industrial Relations
Office of the Director – Legal Unit
355 S. Grand Avenue, Suite 1400
Los Angeles, CA 90071**

By Hand Delivery:

**Paige Levy, Chief Judge
WCAB
1515 Clay Street, 17th Floor
Oakland, CA 94612**

The document was served by the following means:

BY U.S. CERTIFIED MAIL. I enclosed the document in a sealed envelope or package addressed to the person(s) at the address(es) listed above and:

Placed the envelope or package for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice for collection and processing correspondence for mailing. Under that practice, on the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. Postal Service, in a sealed envelope or package with the postage fully prepaid.

HAND DELIVERY/PERSONAL SERVICE. I personally delivered the documents to the person(s) indicated at the address(es) above by leaving the documents at the specified office address with a receptionist or an individual in charge of the office in an envelope or package clearly labelled to identify the person(s) being served.

I declare under penalty of perjury under the laws of State of California that the above is true and correct. Executed on November 17, 2017, at Oakland, California.



CATHY FUJITA-LAM