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

In Re: PROVIDER SUSPENSION

Case No. AD PS-23-01

**GABRIELA PACHECO, aka GABRIELA
PACHECO CAZARES,**
Respondent.

**DETERMINATION AND ORDER
RE: SUSPENSION**

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

15 Based upon a review of the record in this case, including the April 21, 2023
16 Determination and Order Re: Suspension issued by Workers' Compensation Judge Pauline H.
17 Suh, the Administrative Director finds that Respondent Gabriela Pacheco, aka Gabriela
18 Pacheco Cazares, meets the criteria for suspension set forth in Labor Code section 139.21(a)
19 and shall be suspended from participating in the California workers' compensation system as a
20 physician, practitioner, or provider. Pursuant to California Code of Regulations, title 8, section
21 9788.3(d), the Administrative Director hereby adopts and incorporates the April 21, 2023
22 Determination and Order Re: Suspension, attached hereto, as the Administrative Director's
23 Determination and Order re: Suspension.

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1 **IT IS HEREBY ORDERED** that Gabriela Pacheco, aka Gabriela Pacheco Cazares, is
2 hereby suspended from participating in the workers’ compensation system as a physician,
3 practitioner, or provider.

4 Date: April 25, 2023

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/s/ George Parisotto
George Parisotto
Administrative Director
Division of Workers’ Compensation

**STATE OF CALIFORNIA
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DETERMINATION AND ORDER

**GABRIELA PACHECO, aka GABRIELA
PACHECO CAZARES,**

RE: SUSPENSION

Respondent

Notice of Provider Suspension pursuant to Labor Code §139.21 issued on 1/10/2023,¹ followed by a timely request for hearing by the Respondent, Gabriela Pacheco, aka Gabriela Pacheco Cazares, on 1/24/2023.² Hearing was set on 2/27/2023 with the undersigned designated as the Hearing Officer.³ On 2/27/2023, respondent requested matter be continued to hire an attorney wherein respondent waived LC §139.21(b)(2) and Reg §9788.3(a). A hearing was held on 4/17/2023 where respondent, in pro persona, appeared and Ms. Ana Andrade appeared on behalf of Department of Industrial Relations Office of the Director – Anti Fraud Unit (DIR-AFU) wherein hearing proceeded and matter was submitted on 4/17/2023.

FACTS

1. Labor Code §132.21(a)(1)(A) requires the Administrative Director to suspend a physician, practitioner, or provider from participating in workers' compensation system if said physician, practitioner, or provider has been convicted of a felony or misdemeanor described in LC §139.21(a)(1)(A).

2. On 8/13/2014, Respondent was charged with a felony complaint by County of Santa Clara,⁴ with subsequent amended complaint of two counts of tax evasion and one count of presenting a false or fraudulent claim in violation of Insurance Code §1871.4(a) on 8/17/2017.⁵

¹ AFU Exhibit 4 – Notice of provider suspension

² AFU Exhibit 6 – Respondent's request for hearing

³ AFU Exhibit 7 – Notice of hearing and designation of hearing officer

⁴ AFU Exhibit 2 – Felony Complaint

⁵ AFU Exhibit 1 – Second Amended Complaint

3. On 08/17/2017, respondent plead nolo contendere to the second amended complaint, and was ordered to pay restitution in the amount of \$134,452.00, sentenced to three years of probation, and complete 100 hours of volunteer work.⁶

DETERMINATION

LC §139.21(a)(1)(A) applies to Respondent Gabriela Pacheco Cazares. As a result, the Administrative Director is required to promptly suspend Respondent from participating in the Workers' Compensation system pursuant to Labor Code §139.21(b)(2).

BASIS FOR DETERMINATION

LC §139.21(a)(1)(A) mandates that the Administrative Director promptly suspend any physician from participating in workers' compensation system if the individual meets any of the following criteria:

- (A) The individual has been convicted of any felony or misdemeanor and that crime comes within any of the following descriptions:
 - i. It involves fraud or abuse of the federal Medicare or Medicaid programs, the Medi-Cal program, the workers' compensation system or fraud or abuse of any patient.
 - ii. It relates to the conduct of the individual's medical practice as it pertains to patient care.
 - iii. It is a financial crime that relates to the federal Medicare or Medicaid programs, the Medi-Cal program or the workers' compensation system.
 - iv. It is otherwise substantially related to the qualifications, functions or duties of a provider of services.

Further, LC§139.21(a)(4)(A) states in part that an individual or entity is considered to have been convicted of a crime if a judgement of conviction has been entered by a federal, state, or local court, regardless of whether there is an appeal pending or whether the judgment of conviction or other record relating to criminal conduct has been expunged.

Respondent did not submit any evidence at hearing but reiterated her contention that the charges against her were false and that suspension cannot be applied retroactively. AFU submitted trial brief along with its evidence and were received without any objected by the respondent.

While respondent alleged charges against her were false, respondent did not provide any statement nor evidence to support her position. Based on the review of evidence, it is undisputed that respondent pled nolo contendere to three counts of misdemeanor, tax evasion and violation of Insurance Code - presenting a false or fraudulent claim. Meaning, while

⁶ AFU Exhibit 3 – Minutes and Order from Santa Clara Superior Court

respondent did not contest said charges, such plea resulted in conviction of her crime. As such, respondent was convicted of misdemeanor under LC §139.21(a)(1)(A).

Respondent also appears to contend that her charges and conviction cannot not be applied retroactively. LC §139.21 went into effect on 1/1/2017. This contention was well outlined and addressed in *Barri v. WCAB* (2018) 83 Cal.Comp.Cases 1643. In *Barri v. WCAB*, Court of Appeal confirmed provisions of LC §139.21 can be applied retroactively as it did not represent significant change to workers' compensation laws and did not violate ex post facto principles because it is not a criminal statute. Regardless, applicant's conviction of 8/17/2017 was from the second amended complaint of 6/23/2017, subsequent to 1/1/2017.

Accordingly, the suspension under LC §139.21(a)(1)(A) applies.

ORDER

IT IS ORDERED that Respondent, Gabriela Pacheco, aka Gabriela Pacheco Cazares, is hereby suspended from participating in the workers' compensation system as a provider.

Dated: 04/21/2023

/s/ Pauline H. Suh
Hearing Officer