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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-18-09

DETERMINATION AND ORDER

RE: SUSPENSION

EDUARDO ABAD,

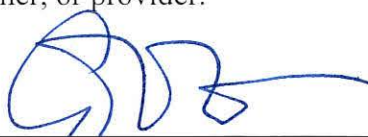
Respondent.

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 October 23, 2018 recommended Determination and Order re: Suspension of the designated Hearing Officer, the Administrative Director finds that Respondent Eduardo Abad 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 October 23, 2018 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 Eduardo Abad, is hereby suspended from participating in the workers' compensation system as a physician, practitioner, or provider.

Date: October 29, 2018



GEORGE PARISOTTO
Administrative Director
Division of Workers' Compensation

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

In Re: PROVIDER SUSPENSION

EDUARDO ABAD,

Respondent

Case No. AD PS-18-09

**DETERMINATION AND ORDER
RE: SUSPENSION**

A hearing was scheduled for October 10, 2018, in the above-captioned matter pursuant to Labor Code section 139.21(b)(2). At the hearing, Respondent requested an interpreter in Tagalog. The attorney for the Office of the Director, Anti-Fraud Unit, agreed to provide an interpreter for respondent, and the parties agreed to continue the matter. Minutes of Hearing were prepared in which the matter was continued to October 19, 2018, Respondent waiving his right to notice of 10 days and the setting of the hearing within 30 days of receipt of his request. A hearing was held on October 19, 2018, and the matter was submitted for decision that day.

Respondent's sole argument was stated in his request for hearing, which is that Labor Code section 139.21(a)(1) does not apply to him as he is not a physician, practitioner or provider.

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

FACTS

1. Labor Code section 139.21(a)(1) 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 has been convicted of any felony or misdemeanor described in Labor Code section 139.21(a)(1)(A).

2. On December 4, 2013, after Indictment (*Exhibit 1*) and trial by jury before the United States District Court, Northern District of California, San Francisco Venue, Respondent Eduardo Abad was found guilty of conspiracy to commit health care fraud in violation of Title 18, United States Code, sections 1349 and 2; conspiracy to solicit or receive kickbacks involving a federal health care program in violation of Title 18, United States Code sections 371 and 2; and two counts of health care fraud and aiding and abetting health care fraud in violation of Title 18, United States Code, sections 1347 and 2. (*Exhibit 2.*) These violations are crimes as described in Labor Code section 139.21(a)(1)(A).
3. A Notice of Provider Suspension was served on Respondent by the Legal Unit of the Department of Industrial Relations, Division of Workers' Compensation, on September 7, 2018, stating that he will be suspended from participation in the California workers' compensation system effective 30 calendar days after the date of mailing of the notice. (*Exhibit 3.*)
4. Respondent requested a hearing on the Notice of Provider Suspension with proof of service, dated September 13, 2018. (*Exhibit 4.*)
5. A Notice of Hearing was served on Respondent scheduling the matter for hearing on October 10, 2018. (*Exhibit 5.*)
6. At the hearing on October 10, 2018, Respondent requested a Tagalog interpreter. Minutes of Hearing were prepared and served on Respondent that day continuing

the hearing to October 19, 2018, in order for the Office of the Director to obtain a Tagalog interpreter for Respondent. (*Exhibit 6.*)

DETERMINATION

Labor Code section 139.21(a)(1)(A) applies to respondent, Eduardo Abad. As a result, the Administrative Director is required to immediately suspend Respondent pursuant to Labor Code section 139.21(b)(2).

BASIS FOR DETERMINATION

There is no dispute regarding the relevant facts. Respondent Eduardo Abad was convicted before the United States District Court, Northern District of California, San Francisco Venue of crimes described in Labor Code section 139.21(a)(1)(A). The only argument made by respondent is that he is not a physician, practitioner or provider, and as such, section 139.21(a)(1) does not apply to him. The Superseding Indictment of the United States District Court, Northern District of California, for which he was convicted, states that in order to enrich himself and his codefendants, who were a Medicare physician and two owners of medical supply companies, Respondent worked as a recruiter to find Medicare beneficiaries eligible to receive power wheelchairs but who did not need, and in many cases, even want the wheelchairs. While it is true that Respondent is not a physician or practitioner, I conclude he is a provider pursuant to the charges for which he was convicted in the United States District Court, i.e. recruiting Medicare beneficiaries for the purpose of providing them power wheelchairs.

Therefore, based on the above, this hearing officer makes her determination that respondent falls within the category of persons described in Labor Code section