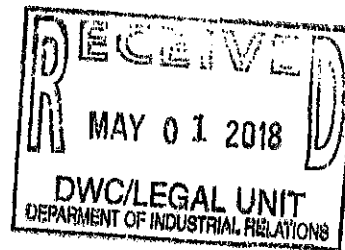


April 27, 2018

Hearing Request
Administrative Director George Parisotto
Division of Workers' Compensation
1515 Clay Street, Suite 1800
Oakland, CA 94612



Re: Suspension of Bruce Eliot Fishman pursuant to Labor Code 139.21

Dear Mr. Parisotto,

The Law Office of Brissman & Nemat, along with the Law Office of Howard A. Kapp, represents Dr. Fishman with respect to the suspension notice issued by your office on or about April 19, 2018. Please copy Mr. Kapp with all correspondence at 3731 Wilshire Blvd, Suite 514, Los Angeles, California 90010.

Dr. Fishman requests a hearing for at least the following reasons, but reserves the right to present additional reasons as well as evidence at the hearing.

First, Labor Code 139.21 is presumed to apply only prospectively absent a clear legislative intent. Dr. Fishman pled guilty in 1982, 35 years before the statute went into effect. There is no indication on the face of the statute that the legislature intended retroactive application.

Second, because the suspension is directly linked to Dr. Fishman's guilty plea, it is an additional substantial punishment now being imposed when such punishment did not exist at the time he pled. Accordingly, application of Labor Code 139.21 to Dr. Fishman violates ex post facto laws.

Third, Labor Code 139.21 (a)(1)(A) is unconstitutional in that it is vague, ambiguous and overbroad.

Fourth, Labor Code 139.21(a)(1)(A) violates Dr. Fishman's due process rights and his right to equal protection because there is no evidence or findings that a crime committed over three decades ago reasonably relates to his current and/or future practice.

Finally, it is Dr. Fishman's position that his plea of guilt cannot form the basis of any suspension pursuant to Labor Code 139.21 because the crime he pled guilty to does not fall within any of the enumerated criteria listed in 139.21(a)(1)(A). It did not involve fraud or abuse of the federal Medicare or Medicaid programs, the Medi-Cal program, or the workers' compensation system, or fraud or abuse of any patient; it did not relate to the conduct of Dr.

Fishman's medical practice as it relates to patient care; it was not a financial crime that relates to the federal Medicare or Medicaid programs, the Medi-Cal program, or the workers' compensation system; and it did not otherwise substantially relate to the qualifications, functions or duties of a provider of services.

Well before Dr. Fishman began servicing patients in California workers' compensation, Dr. Fishman pled guilty to a felony count unrelated to the criteria enumerated in Labor Code 139.21. It was a drug related offense and Dr. Fishman pled guilty in an effort to own up to his mistake and move forward. That was in 1982, over 35 years ago. Dr. Fishman was allowed to practice medicine again in 1990 with a supervisory probation. There were no other restrictions on his license and the supervisory restriction was lifted in 1994. Since that time, Dr. Fishman has practiced without incident.

Dr. Fishman primarily, if not exclusively, renders services at the request of payors. Most, if not all, of the services he renders are preauthorized. In fact, he has practically no liens in the system. That's because he does not have a need to file any. He renders authorized services and is paid timely. That is how he has run his practice since he entered the California workers' compensation space over two decades ago. And he has done so with no complaints or issues until the Notice sent by your office.

The conviction does not and did not have to do with Medicare, Medicaid, Medi-Cal or workers compensation. It did not have to do with fraud or abuse of any patient, patient care, any financial crimes related to the same, or otherwise substantially relate to Dr. Fishman's qualifications, functions, or duties. Accordingly, it is our position that Dr. Fishman should not be subject to these proceedings at all, but deserves a hearing on the issues at a minimum.

As required by the regulations and your Notice, Dr. Fishman's mailing address is:

Bruce Eliot Fishman
18227 Chatham Lane
Northridge, California 91326

We request, however, that you direct all correspondence and communications to myself and Mr. Kapp, as indicated above.

Sincerely,

BRISSMAN & NEMAT



Mona M. Nemat, Esq.

Attorneys for Bruce Fishman, M.D.

Proof of Service

I am employed in the County of Riverside, State of California. I am over the age of 18 years and not a party to the underlying action. My business address is 200 South Main Street, Suite 307, Corona, California 92882.

On April 27, 2018, I served Hearing Request –Bruce Fishman on:

Hearing Request Administrative Director George Parisotto Division of Workers' Compensation 1515 Clay Street, Suite 1800 Oakland, CA 94612	<i>Original plus one copy</i>
Hearing Request Department of Industrial Relations Office of the Director Anti-Fraud Unit 1515 Clay Street, Suite 1800 Oakland, CA 94612	<i>copy</i>
Howard A. Kapp Law Office of Howard A. Kapp 3731 Wilshire Blvd, Suite 514 Los Angeles, CA 90010	<i>Via email only: hkapp@kapplaw.com</i>

BY FIRST CLASS MAIL: I am readily familiar with the firm's practice of collection and processing mail. It is deposited daily with the U.S. Postal Service in the ordinary course of business. On the date indicated above, I deposited in the mail an envelope for each addressee above and containing the document indicated above.

BY FACSIMILE: The sending fax number is 951-788-2100. I faxed the above referenced document to the number(s) indicated above. The transmission was reported as complete and without error and the transmission report was properly issued by the transmitting fax machine.

BY EMAIL: Pursuant to California Rules of Court, Rule 2.251(c)(2), I served the above referenced document to the email address(es) listed above. I did not receive a transmission failure notice prior to executing this proof of service.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

