

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

In Re: PROVIDER SUSPENSION

Case No. AD PS-17-17

DAVID MING PON,

DETERMINATION AND ORDER

RE: SUSPENSION

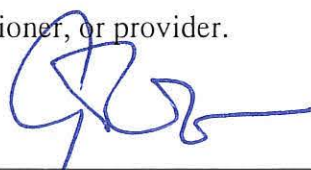
Respondent.

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 January 25, 2018 recommended Determination re: Suspension of the designated Hearing Officer, the Administrative Director finds that Respondent David Ming Pon 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 January 25, 2018 recommended Determination re: Suspension of the designated Hearing Officer, attached hereto, as the Administrative Director's Determination and Order re: Suspension.

IT IS HEREBY ORDERED that David Ming Pon is hereby suspended from participating in the workers' compensation system as a physician, practitioner, or provider.

Date: January 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

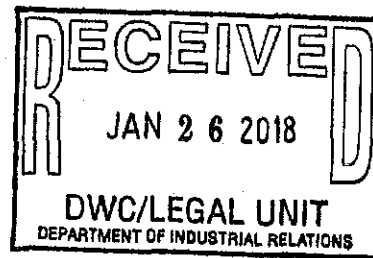
In Re: PROVIDER SUSPENSION

DAVID MING PON,

Respondent.

Case No. AD PS-17-17

**DETERMINATION
RE: SUSPENSION**



A Hearing was held in the above-captioned matter on January 8, 2018 pursuant to Labor Code §139.21(b)(2). At that time, Dr. Pon, In Pro Per, requested to serve and/or file his Exhibit A via email by Mr. Paul Harrold and/or Mr. Joe Ort. Dr. Pon also requested counsel for OD Legal to serve him with Exhibits 1 to 8 by emailing same to him, care of Mr. Paul Harrold. Counsel for OD Legal did not have any objection to these requests so they were granted, especially when Dr. Pon is currently incarcerated and is forbidden from using a computer. All Trial Exhibits were timely filed. The matter stood submitted as of Tuesday, January 23, 2018.

At the Hearing, Dr. Pon raised an additional issue:

1. Whether Dr. Pon's suspension should take place now or until he has exhausted all of his appeal rights regarding his convictions.

STATEMENT OF FACTS

On September 29, 2015, Dr. Pon was indicted on twenty (20) counts of health care fraud in violation of 18 U.S.C. §1347 at the United States District Court, Middle District of Florida, Jacksonville Division (Exhibit 2). On August 18, 2016, Dr. Pon's license to practice medicine in the State of Florida was revoked by the State of Florida, Board of Medicine (Exhibit 5). Effective on the

same date of August 18, 2016, Dr. Pon was prohibited from participating in the Medi-Cal program for an indefinite period of time (Exhibit 3). Effective February 17, 2017, Dr. Pon's Physician's and Surgeon's Certificate No. G53071 was revoked by the Medical Board of California (Exhibit 4). On October 4, 2017, Dr. Pon filed a Corrected Brief with the United States Court of Appeals for the Eleventh Circuit, appealing his convictions (Exhibit A).

DISCUSSION

Labor Code §139.21(a)(1)(A), (B) and/or (C), in part, require the Administrative Director to suspend any physician, practitioner, or provider from participating in the workers' compensation system if that physician, practitioner, or provider has been convicted of any felony or misdemeanor involving healthcare fraud or abuse, if that physician, practitioner, or provider has been suspended from the Medi-Cal program due to fraud or abuse, and/or if that physician, practitioner, or provider's license has been surrendered or revoked.

The evidence presented by O.D. Legal support the findings that Dr. Pon was convicted of twenty (20) counts of health care fraud in violation of 18 U.S.C. §1347, that Dr. Pon has been suspended from participating in the Medi-Cal program indefinitely, and that Dr. Pon's licenses to practice medicine in the States of Florida and California have been revoked, consistent with the bases of suspension under Labor Code §139.21(a)(1)(A), (B) and (C).

Dr. Pon argued that he should not be suspended at this time as he is currently appealing his convictions and he has not exhausted his appeal rights.

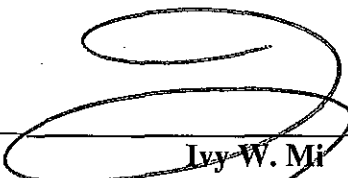
However, Labor Code §139.21(a)(4)(A) defines being "convicted of a crime" as "A judgment of conviction has been entered by a federal, state, or local court, regardless of whether there is an appeal pending or whether the judgment of conviction or other record relating to criminal conduct has been expunged." Thus, it does not matter that there is an appeal pending or that Dr. Pon may or may not be exonerated in the future. He was still convicted of a crime herein.

Even if the Administrative Director were to decide not to rely on Labor Code §139.21(a)(1)(A), the Administrative Director is still required to suspend Dr. Pon's participation in the workers' compensation system pursuant to Labor Code §139.21(a)(1)(B) and/or (C).

DETERMINATION

Based on the foregoing, it is **DETERMINED** that Dr. Pon shall be suspended immediately as required by Labor Code §139.21(a)(1)(A), (B) and/or (C).

Dated: JAN 25 2018


Ivy W. Mi
Workers' Compensation Administrative Law Judge