1	Charles R. Rondeau (SBN 164136) THE RONDEAU LAW FIRM		
2	 2 RONDEAU LAW EL SEGUNDO (UAN: 11026944) 400 Continental Boulevard, Suite 600 3 El Segundo, California 90245 Tel: (310) 545-9292 		
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4	Fax: (310) 545-9191 Email: charles@rondeaufirm.com		
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6	Attorney for Respondent PHILIP ALAN SOBOL, M.D.		
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8	BEFORE THE ADMINISTRATIVE DIRECTOR		
9	DIVISION OF WORKERS' COMPENSATION		
10	STATE OF CALIFORNIA		
11	AD CASE NO: (Unassigned)		
12	In the Matter of the Provider Suspension of:		
13	PHILIP ALAN SOBOL, M.D.		
14	111 E. Carson Street		
15	Carson, California 90745		
16	Respondent.		
17			
18			
19	TO THE ACTING ADMINISTRATIVE DIRECTOR, DIVISION OF WORKERS'		
20	COMPENSATION, STATE OF CALIFORNIA, AND TO ALL INVOLVED PARTIES:		
21	Respondent PHILIP ALAN SOBOL, M.D. ("Respondent"), by and through his undersigned		
22	counsel of record, hereby acknowledges receipt of the Notice of Provider Suspension - Workers'		
23	Compensation dated February 22, 2017 ("Notice of Suspension").		
24	Pursuant to Title 8, California Code of Regulations, § 9788.2, Respondent hereby requests that		
25	a hearing be scheduled within the time period specified in Title 8, California Code of Regulations,		
26	§ 9788.3, to allow Respondent to present his arguments against the applicability of Labor Code section		
27	139.21(a)(1)(A) to him and against the proposed suspension.		
28	111		

CURRENT MAILING ADDRESS - DEMAND FOR SERVICE ON COUNSEL 1 2 For purposes of these proceedings and pursuant to Title 8, California Code of Regulations, 3 § 9788.2, subdivision (c), Respondent's mailing address is as follows: PHILIP ALAN SOBOL, M.D. 4 111 E. Carson Street 5 Ste. 8, PMB 300 Carson, California 90745 6 7 HOWEVER, DEMAND IS HEREBY MADE THAT COPIES OF ANY AND ALL FURTHER NOTICES, PLEADINGS AND OTHER DOCUMENTS PERTAINING TO THESE 8 **PROCEEDINGS BE SERVED UPON RESPONDENT'S COUNSEL OF RECORD WHOSE** 9 10ADDRESS APPEARS ABOVE. 11 12 FACTUAL AND LEGAL BASIS 13 Pursuant to Title 8, California Code of Regulations, § 9788.2, subdivision (a), Respondent asserts that Labor Code section 139.21(a)(1)(A) does not apply to Respondent and does not require or permit 14 15 || his suspension from participation in the workers' compensation system on the following factual and legal 16 basis: 17 1. On or about November 20, 2015, Respondent entered a plea of guilty to certain offenses in the matter of United States of America v. Philip A. Sobol, Case No. SACR15-00148. 18 2. 19 Labor Code section 139.21, which formed a part of Assembly Bill 1244 (Gray) ("AB $\mathbf{20}$ 1244"), became effective as of January 1, 2017. 21 3. There is no evidence in either Labor Code section 139.21 or in AB 1244, or in the legislative history materials which preceded AB 1244's enactment, of a clear intent on the part 22 23 of the Legislature that Section 139.21 should or would be applied retroactively. In the absence 24 of a clear legislative intent to the contrary, statutes are given prospective application only. [Evangelatos v. Superior Court, 44 Cal.3d 1188, 1193-1194 (1988).] 25 Accordingly, since 26 Respondent's guilty plea predated the effective date of Labor Code section 139.21, this statute 27 cannot and should be applied to him. 28 111

In addition, application of Labor Code section 139.21 to Respondent would violate
 Respondent's right to be protected against ex post facto laws as guaranteed by the United States and the
 California Constitutions [U.S. Const., art. I, § 9, cl. 1; Cal. Const., art. I, § 9.] Although Section 139.21
 is not a criminal statute *per se*, Respondent submits that under the test set forth in *Kennedy v. Mendoza- Martinez*, 373 U.S. 144 (1962), Section 139.21 is so punitive in nature that it is subject to the same ex
 posto facto law prohibitions which apply to criminal statutes. [*People v. 25651 Minoa Dr.*, 2
 Cal.App.4th 787, 795 (1992), *modified with no change in opinion* (Feb. 5, 1992).]

8 5. Respondent reserves the right to present further arguments against the applicability of
9 Labor Code section 139.21(a)(1)(A) to him and against the proposed suspension at the requested hearing.

Dated: March 3, 2017

Respectfully submitted, THE RONDEAU LAW/FIRM

By:

Charles R. Rondeau Attorney for Respondent PHILIP ALAN SOBOL, M.D.

REQUEST FOR HEARING PURSUANT TO TIT. 8, CAL. CODE OF REGS., § 9788.2 -3-

1	BDOOF OF GEDVICE	
1	<u>PROOF OF SERVICE</u>	
2	STATE OF CALIFORNIA	
3	COUNTY OF LOS ANGELES)	
4 5	I am employed in the County of Los Angeles, State of California. I am over the age of years and am not a party to the above-captioned action. My business address is 400 Continenta Boulevard, Suite 600, El Segundo, California 90245.	
6	On March 3, 2017, I served the following document(s) entitled:	
7 8	REQUEST FOR HEARING PURSUANT TO TITLE 8, CAL. CODE OF REGS., § 9788.2	
9	on the following interested parties thereof enclosed in sealed envelopes with proper postage at thereto addressed as follows:	fixed
10	SEE ATTACHED SERVICE LIST	
11		
12 13	[] BY REGULAR MAIL: I am readily familiar with this firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with United States Postal Service on the same day with postage thereon fully pre-paid at El	n the
14	Segundo, California. I am aware that on motion any party claimed to have been served service is presumed invalid if the postal cancellation date or postage meter date is more one day after the date of deposit for mailing as set forth in the affidavit.	
15 16 17	[.] BY EXPRESS/OVERNIGHT DELIVERY: I personally delivered the aforemention document to an authorized drop-off location of an express service carrier in an envelop package designated by said express service carrier with delivery fees paid or provided f addressed as set forth above for overnight/express delivery.	e or
18 19	[] BY FACSIMILE TRANSMISSION: The above-referenced document(s) was/were delivered to each addressee identified herein via facsimile transmission from (310) 356 before 5 p.m. on the date stated herein, and the transmission was reported as complete a without error.	
20 21	[] BY PERSONAL SERVICE: I caused the above-referenced document(s) to be person delivered by hand to each addressee identified herein or to a person authorized to accept delivery on their behalf.	ally ot
22 23	 STATE: I declare under penalty of perjury under the laws of the State of California that foregoing is true and correct. 	t the
24	EXECUTED on March 3, 2017, at El Segundo, California.	
25	Alter	
26	Charles R. Rondeau Signature	
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1 2 3 4	SERVICE LIST In the Matter of the Provider Suspension of Philip Alan Sobol, M.D. Case No. Unassigned (As of March 3, 2017)
5	Hearing Request [Original and one (1) copy as required by
6	George P. Parisotto, Esq.Title 8, California Code of Regulations, §Acting Administrative Director9788.2, subdivision (d)]Division of Workers Compensation9788.2, subdivision (d)]
7	State of California 1515 Clay Street, 17 th Floor
8	Oakland, California 94612
9	Hearing Request Legal Unit Attorney for Acting Administrative Director -
10 11	Division of Workers Compensation Division of Workers Compensation State of California
11	1515 Clay Street, 18 th Floor Oakland, California 94612
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