

THE RONDEAU LAW FIRM
400 Continental Boulevard - Suite 600
El Segundo, California 90245
Tel: (310) 545-9292 Fax: (310) 545-9191

1 Charles R. Rondeau (SBN 164136)
2 **THE RONDEAU LAW FIRM**
3 RONDEAU LAW EL SEGUNDO (UAN: 11026944)
4 400 Continental Boulevard, Suite 600
5 El Segundo, California 90245
6 Tel: (310) 545-9292
7 Fax: (310) 545-9191
8 Email: charles@rondeaufirm.com

9 Attorney for Respondent
10 PHILIP ALAN SOBOL, M.D.

11 **BEFORE THE ADMINISTRATIVE DIRECTOR**
12 **DIVISION OF WORKERS' COMPENSATION**
13 **STATE OF CALIFORNIA**

14 *In the Matter of the Provider Suspension of:*
15
16 PHILIP ALAN SOBOL, M.D.
17 111 E. Carson Street
18 Ste. 8, PMB 300
19 Carson, California 90745
20
21 *Respondent.*

22 **AD CASE NO: (Unassigned)**
23 **REQUEST FOR HEARING PURSUANT**
24 **TO TITLE 8, CAL. CODE OF REGS.,**
25 **§ 9788.2**

26 **TO THE ACTING ADMINISTRATIVE DIRECTOR, DIVISION OF WORKERS'**
27 **COMPENSATION, STATE OF CALIFORNIA, AND TO ALL INVOLVED PARTIES:**

28 Respondent PHILIP ALAN SOBOL, M.D. ("Respondent"), by and through his undersigned
counsel of record, hereby acknowledges receipt of the Notice of Provider Suspension - Workers'
Compensation dated February 22, 2017 ("Notice of Suspension").

Pursuant to Title 8, California Code of Regulations, § 9788.2, Respondent hereby requests that
a hearing be scheduled within the time period specified in Title 8, California Code of Regulations,
§ 9788.3, to allow Respondent to present his arguments against the applicability of Labor Code section
139.21(a)(1)(A) to him and against the proposed suspension.

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CURRENT MAILING ADDRESS - DEMAND FOR SERVICE ON COUNSEL

For purposes of these proceedings and pursuant to Title 8, California Code of Regulations, § 9788.2, subdivision (c), Respondent’s mailing address is as follows:

PHILIP ALAN SOBOL, M.D.
111 E. Carson Street
Ste. 8, PMB 300
Carson, California 90745

HOWEVER, DEMAND IS HEREBY MADE THAT COPIES OF ANY AND ALL FURTHER NOTICES, PLEADINGS AND OTHER DOCUMENTS PERTAINING TO THESE PROCEEDINGS BE SERVED UPON RESPONDENT’S COUNSEL OF RECORD WHOSE ADDRESS APPEARS ABOVE.

FACTUAL AND LEGAL BASIS

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 his suspension from participation in the workers’ compensation system on the following factual and legal basis:

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.
2. Labor Code section 139.21, which formed a part of Assembly Bill 1244 (Gray) (“AB 1244”), became effective as of January 1, 2017.
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 of the Legislature that Section 139.21 should or would be applied retroactively. In the absence 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).] Accordingly, since Respondent’s guilty plea predated the effective date of Labor Code section 139.21, this statute cannot and should be applied to him.

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4. 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 post 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).]

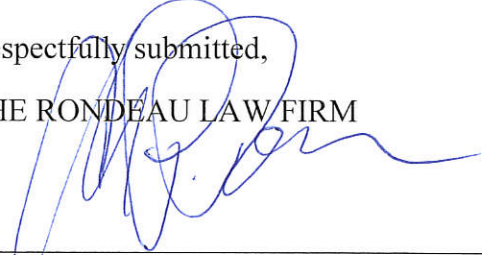
5. Respondent reserves the right to present further arguments against the applicability of Labor Code section 139.21(a)(1)(A) to him and against the proposed suspension at the requested hearing.

Dated: March 3, 2017

Respectfully submitted,

THE RONDEAU LAW FIRM

By:



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

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PROOF OF SERVICE

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and am not a party to the above-captioned action. My business address is 400 Continental Boulevard, Suite 600, El Segundo, California 90245.

On March 3, 2017, I served the following document(s) entitled:

**REQUEST FOR HEARING PURSUANT TO TITLE 8, CAL. CODE OF REGS.,
§ 9788.2**

on the following interested parties thereof enclosed in sealed envelopes with proper postage affixed thereto addressed as follows:


SEE ATTACHED SERVICE LIST

- 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 the United States Postal Service on the same day with postage thereon fully pre-paid at El 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 than one day after the date of deposit for mailing as set forth in the affidavit.
- BY EXPRESS/OVERNIGHT DELIVERY:** I personally delivered the aforementioned document to an authorized drop-off location of an express service carrier in an envelope or package designated by said express service carrier with delivery fees paid or provided for and addressed as set forth above for overnight/express delivery.
- BY FACSIMILE TRANSMISSION:** The above-referenced document(s) was/were delivered to each addressee identified herein via facsimile transmission from (310) 356-3556 before 5 p.m. on the date stated herein, and the transmission was reported as complete and without error.
- BY PERSONAL SERVICE:** I caused the above-referenced document(s) to be personally delivered by hand to each addressee identified herein or to a person authorized to accept delivery on their behalf.
- STATE:** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

EXECUTED on March 3, 2017, at El Segundo, California.

Charles R. Rondeau

Typed or printed name



Signature

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SERVICE LIST

In the Matter of the Provider Suspension of Philip Alan Sobol, M.D.
Case No. Unassigned
(As of March 3, 2017)

Hearing Request
George P. Parisotto, Esq.
Acting Administrative Director
Division of Workers Compensation
State of California
1515 Clay Street, 17th Floor
Oakland, California 94612

*[Original and one (1) copy as required by
Title 8, California Code of Regulations, §
9788.2, subdivision (d)]*

Hearing Request
Legal Unit
Division of Workers Compensation
State of California
1515 Clay Street, 18th Floor
Oakland, California 94612

Attorney for Acting Administrative Director -
Division of Workers Compensation