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STATE OF CALIFORNIA  
DEPARTMENT OF INDUSTRIAL RELATIONS  
DIVISION OF WORKERS' COMPENSATION

PUBLIC HEARING

Monday, December 11, 2017  
Elihu Harris State Office Building Auditorium  
1515 Clay Street  
Oakland, California

**George Parisotto, JD**  
Administrative Director

**Alan Hersh, JD**  
Moderator  
Industrial Relations Counsel

**Maureen Gray**  
Regulations Coordinator

DIR Official Reporter: Wendy Pun

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1 (Time noted: 10:01 a.m.)

2 MR. HERSH: Okay. We're going to start.

3 Good morning. Thank you for coming today. My name is  
4 Alan Hersh, and I'm Special Counsel with the Division of  
5 Workers' Compensation.

6 This is a public hearing for the proposed providers  
7 suspension procedure regulations. Essentially, the Division is  
8 proposing to adopt regulations regarding the suspension process  
9 for physicians, practitioners, and providers who have either  
10 been convicted of one of the crimes set forth in Labor Code  
11 Section 139.21(a)(1) or suspended due to fraud or abuse for  
12 Medicaid or Medicare programs or whose license, certificate, or  
13 approval to provide health care has been revoked or  
14 surrendered.

15 There are copies of the notice on the front desk.  
16 Please make sure you sign in with the sign-in sheet and  
17 indicate if you want to testify today.

18 I would like to introduce the other DWC staff that's  
19 here today. To my left and your right is George Parisotto, who  
20 is the Administrative Director of the Division of Workers'  
21 Compensation. And to your left is Maureen Gray, the Division's  
22 Regulations Coordinator. Also, we have present two hearing  
23 reporters today: Wendy Pun and Julie Mickaelian.

24 When you come up to testify, please give your card to  
25 Ms. Gray. All testimony given today will be taken down by the

1 hearing reporter. If you have any written testimony you want  
2 to hand in, please give that also to Ms. Gray. If you wish to  
3 be notified of the final adoption or subsequent changes to the  
4 proposed regulations, please provide your complete name and  
5 mailing address on the hearing registration attendance sheet  
6 located at the sign-in table. The final notice or notice of  
7 change to the proposed regulations will be sent to everyone who  
8 requests such information.

9 I will be calling the names of those who have checked  
10 that they want to testify today. I'll also check to see if  
11 anyone new has decided to comment, and this hearing will  
12 continue as long as there are people present who wish to  
13 comment on the regulations but will close at 5:00 o'clock  
14 today. If the hearing continues into the lunch hour, we'll  
15 take at least an hour's break for lunch. Written comments can  
16 also be given to Maureen if you have them with you or will be  
17 accepted by fax, e-mail, or delivery up to 5:00 p.m. at the  
18 Division's offices on the 18th floor of this building.

19 The purpose of this hearing is to receive comments on  
20 the proposed regulations, and we welcome any comments you have  
21 about them. We will not question, respond to, or discuss  
22 anyone's comments, although we may ask for clarification or ask  
23 you to elaborate further on any points you are presenting. All  
24 your comments, both given here today and those submitted in  
25 writing, will be considered in determining what provisions we



1 far, since there are no license numbers provided or NPIs or any  
2 type of specific numeric identifier. It has been a challenge  
3 for us on the bill-review side to make sure that we are  
4 accurately identifying the providers that have been suspended,  
5 and we would love the Division to contemplate going forward,  
6 when notifications are provided, if some sort of specific  
7 numeric identifier could be included. Specifically, the  
8 medical license number would be very helpful. Use of address  
9 is not hugely helpful for us because often they move around,  
10 they have multiple addresses, et cetera. It sometimes creates  
11 some confusion for us on the implementation side.

12           And I would also say we've had similar feedback from  
13 our NPNs. We administer NPNs for many of our clients. Of  
14 course we are policing our networks to make sure we have the  
15 appropriate provider in our networks. And again, we want to  
16 make sure we are identify the bad actors that the Division is  
17 removing from the workers' compensation system. We're already  
18 doing the best we can with the information that's provided, but  
19 the greater the level of specificity, the easier it will be for  
20 us to make sure we're doing this accurately.

21           Another piece of feedback I had is recently, the  
22 Division has added retroactive type of suspensions looking back  
23 at the medical licenses that were removed in the past, 2013,  
24 2012, so on. That has made the identification issue that much  
25 more challenging for us since these are folks from four or five

1 years ago. It also raises some questions about what happens to  
2 all the bills that have happened between the 2012, 2013,  
3 whatever that time frame is, and the Division's suspension  
4 notification date, which is now in 2017 or whenever it is  
5 that's posted on the website. That's kind of raised some  
6 confusion there about what happens retrospectively with those  
7 bills.

8 MR. HERSH: Okay. Thank you very much. All right.

9 Okay. Those are all the comments that have been  
10 requested. Why don't we go off the record for five minutes,  
11 take a little break, and see if anybody else shows up or  
12 decides they want to add a comment. Then we'll go back on in  
13 five minutes, and we'll see where we are. Okay. Thank you.

14 So we're off the record. Thank you.

15 (Off the record.)

16 MR. HERSH: Okay. So this is Alan Hersh again, and we're  
17 going back on the record.

18 Is there anyone else who wishes to testify at this  
19 hearing?

20 -oOo-

21 DIANE PRZEPIORSKI

22 -oOo-

23 MS. PRZEPIORSKI: Good morning. The five minutes worked  
24 well, and we made good use of our time. I'm Diane Przepiorski  
25 with the California Orthopedic Association.

1           In looking at these regs, I'm probably not going to  
2 get into the process so much of what the Division goes through  
3 when they're going through a suspension process, but there's  
4 two points that I'd like to make.

5           Often times, someone that may be doing questionable UR  
6 work may come to the attention of some of the stakeholders, and  
7 I'm wondering whether or not there would be room for a  
8 mechanism in these regs for stakeholders to report a QME or a  
9 provider to the Division for investigation. So I think that  
10 would be a worthwhile addition. Often times too, it's really  
11 hard for the stakeholders to learn whether or not a person is  
12 working within the QME process or even through the utilization  
13 review process, which I know is a bit off topic for today. But  
14 I think that it serves all of us to try to report people that  
15 we think might have -- might be doing something that we  
16 disagree with. And it would be maybe interesting to add that  
17 provision here in these regs.

18           And then the second comment that I would like to make  
19 is in regard to the appeal process. I know that there's been  
20 some investigation of panel QMEs the last couple of years, and  
21 it does seem like it's taken a very long time for them to get  
22 through the DWC process and to ultimately get to their day in  
23 court. So I would like to see Subsection f of -- 9788.3(f)  
24 where you talk about the appeal process, I'd like to see that  
25 expanded to put in place a very clear process for when the

1 Division -- when someone requests an appeal from their  
2 suspension, that there be a very clear process for them to be  
3 referred on for their day in court. And I would hope that it  
4 would be very timely and follow along the lines of what you've  
5 laid out here, 10 calendar days for doing different things in  
6 the process.

7 So thank you very much.

8 MR. HERSH: Okay. Thank you.

9 Okay. Is there anyone else who wishes to testify at  
10 the hearing?

11 (No response.)

12 MR. HERSH: All right. If no one else is here to testify,  
13 the hearing will be closed. The opportunity to file written  
14 comments will stay open until 5:00 p.m. this afternoon, and  
15 those comments, again, should be delivered to the 18th floor,  
16 Office of the DWC in this building.

17 So thank you for your attendance and the input that  
18 you've given us, and I want to thank our staff for the work  
19 you've done this morning. And the hearing is now closed.

20 (The proceedings adjourned at 10:16 a.m.)

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R E P O R T E R C E R T I F I C A T E

I, the undersigned Official Hearing Reporter for the State of California, Department of Industrial Relations, Division of Workers' Compensation, hereby certify that the foregoing matter is a full, true and correct transcript of the proceedings taken by us in shorthand, and with the aid of audio backup recording, on the date and in the matter described on the first page thereof.

Dated: December 11, 2017  
Oakland, California

/s/ Wendy Pun  
Wendy Pun  
Official Hearing Reporter