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2 **STATE OF CALIFORNIA**
3 **DEPARTMENT OF INDUSTRIAL RELATIONS**
4 **DIVISION OF WORKERS' COMPENSATION**
5 **BEFORE THE ADMINISTRATIVE DIRECTOR**

6
7 **In Re: PROVIDER SUSPENSION**

8 **Case No. AD PS-17-16**

9
10 **DETERMINATION AND ORDER**
11 **RE: SUSPENSION**

12 **FARHAD HAFEZI,**

13 *Respondent.*

14 The Administrative Director of the Division of Workers' Compensation is required to suspend
15 any physician, practitioner, or provider from participating in the workers' compensation system as a
16 physician, practitioner, or provider if the individual or entity meets any of the express criteria set forth in
17 Labor Code section 139.21(a)(1).

18 Based upon a review of the record in this case, including the October 31, 2017 recommended
19 Determination and Order re: Suspension of the designated Hearing Officer, the Administrative Director
20 finds that Respondent Farhad Hafezi (Respondent) meets the criteria for suspension set forth in Labor
21 Code section 139.21(a) and shall be suspended from participating in the workers' compensation system
22 as a physician, practitioner, or provider.

23 Pursuant to California Code of Regulations, title 8, section 9788.3(d), the Administrative
24 Director hereby adopts and incorporates the statement of facts, determination, and basis for
25 determination of the October 31, 2017 recommended Determination and Order re: Suspension of the
26 designated Hearing Officer, attached hereto, as it pertains to the suspension of the Respondent under
27 Labor Code section 139.21(a)(1)(C).

28 The Administrative Director hereby modifies the determination of the designated Hearing
Officer as it pertains to the basis for suspension under Labor Code section 139.21(a)(1)(A), and finds
that the Respondent meets the criteria for suspension under that section. Under Labor Code section

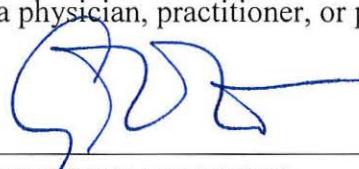
1 139.21(a)(1)(A)(iv), a physician, practitioner, or provider may be suspended if they have been convicted
2 of any felony or misdemeanor that is otherwise substantially related to the qualifications, functions, or
3 duties of a provider of services. In this regard, the conduct resulting in the conviction need not have
4 occurred in the actual practice of medicine in order to be substantially related to the qualifications,
5 functions, or duties of the provider. See *Windham v. Board of Medical Quality Assurance* (1980) 104
6 Cal.App.3d 461 (income tax fraud); *Krain v. Medical Board* (1999) 71 Cal.App.4th 1416 (soliciting
7 perjury).

8 Here, the record shows that the Respondent was convicted of seven felony counts, including
9 engaging in prohibited sexual acts with minors and going to an arranged meeting place for the purpose
10 of engaging in lewd or lascivious behavior with a minor, and was required to register as a sex offender.
11 It is beyond doubt this criminal activity relates to the Respondent's qualifications as a physician. The
12 physician-patient relationship is grounded in the honesty and integrity of the physician, and the trust and
13 confidence placed in the physician's judgment and ability by the patient. Besides damaging his integrity,
14 Respondent's criminal conduct evidences his utter lack of judgment; it is difficult to fathom how an
15 unconditional relationship of trust can ever be established in a physician-patient setting. This conclusion
16 is supported by the mandatory revocation of his medical license by the Medical Board, as a measure to
17 protect the public, due to his registration as a sex offender.

18 The Administrative Director finds that although the Respondent's criminal conduct occurred
19 outside the practice of medicine, it does in fact reflect upon his qualifications, functions, or duties as a
20 physician.

21 **IT IS HEREBY ORDERED** that Respondent Farhad Hafezi is hereby suspended from
22 participating in the workers' compensation system as a physician, practitioner, or provider.

23 Date: November 9, 2017



24 GEORGE PARISOTTO
25 Administrative Director
26 Division of Workers' Compensation

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

Case No. AD PS-17-16

In Re: PROVIDER SUSPENSION

FARHAD HAFEZI,

Respondent.

**DETERMINATION AND
ORDER RE: SUSPENSION**

A hearing was held in the above-referenced matter on October 23, 2017 pursuant to Labor Code section 139.21(b)(2). Although respondent requested the hearing, respondent did not appear at the hearing held on that date and confirmed that they would not appear for the hearing. The matter was submitted for decision on that date. Petitioner raised Labor Code section 139.21(a)(1)(A) and 139.21(a)(1)(C). This is the undersigned Hearing Officer's recommended Determination and Order re: Suspension pursuant to Title 8, California Code of Regulations 9788.3(c).

FACTS

1. Labor Code section 139.21(a)(1)(A) requires the Administrative Director to promptly suspend any physician from participating in the workers' compensation system if that physician has been convicted of a felony that falls within the description listed in 139.21(a)(1)(A)(i)-(iv).
2. Labor Code section 139.21(a)(1)(C) requires that the Administrative Director promptly suspend any physician from participating in the workers' compensation system if that physician's license to provide health care has been suspended or revoked.

3. On June 4, 2010, a felony complaint was filed in People v. Hafezi, Case No. KA090841. (Exhibit 2.) Respondent was charged with several counts of Penal Code violations including, *inter alia*, unlawful sexual intercourse with a person under the age of 18.

4. On April 1, 2011, respondent was convicted. Thereafter, on April 5, 2013, respondent moved to vacate his pleas of no contest and the request was denied. On May 23, 2013, respondent was sentenced. As part of his sentence, respondent was required to register as a convicted sex offender. (Exhibit 3.)

5. On June 25, 2013, an Accusation and Decision was filed by the Medical Board of California Department of Consumer Affairs, State of California. Effective January 17, 2014, respondent's medical license was revoked by Order due to the requirement that respondent register as a sex offender and not because of the conviction as an appeal was filed on May 23, 2013. Prior to the revocation of respondent's license, respondent's practice was restricted to completion of reports on patients seen as workers compensation referrals that were referred to him prior to the date of the Order of Revocation. (Exhibit 4.)

6. On September 22, 2017, A Notice of Provider Suspension was sent to Farhad Hafezi pursuant to Labor Code section 139.21(a)(1)(A) and 139.21(a)(1)(C). (Exhibit 1.)

7. On September 29, 2017, respondent by and through his attorney of record requested a hearing noting that they do not contest the applicability of Labor Code section 139.21(a)(1)(C) "in light of his criminal conviction and subsequent revocation of his Physician's and Surgeon's License by the Medical Board of California." Further, that the disposition of the liens was not indicated by the criminal court. In addition, the conviction "had nothing to do with any issue of fraud, abuse or patient care." (Exhibit 5.)

8. On October 13, 2017, respondent's counsel requested that the matter either go off-calendar or convert the hearing into a "special lien proceeding". That request was denied and the respondent was informed that the hearing would go forward as scheduled on October 23, 2017. Neither Respondent nor his attorney of record appeared. (Exhibits 7, 8.) (Reporters' Transcript 10/23/17 5:22-26.)

DETERMINATION

Labor Code section 139.21(a)(1)(C) applies to respondent, Farhad Hafezi. As a result, the Administrative Director is required to immediately suspend Respondent pursuant to Labor Code section 139.21(b)(2).

BASIS FOR DETERMINATION

Petitioner has raised Labor Code section 139.21(a)(1)(A) and 139.21(a)(1)(C). The former section requires the Administrative Director to promptly suspend any physician from participating in the workers' compensation system if that physician has been convicted of a felony that falls within the descriptions listed in 139.21(a)(1)(A)(i)-(iv). Germane to this case would be (ii) if the felony relates to the conduct of the physician's medical practice as it pertains to patient care or the "catch-all" provision in section (iv) if the felony is otherwise substantially related to the qualifications, functions, or duties of a provider of services.

Based upon the evidence presented, respondent is correct that 139.21(a)(1)(A) does not apply to the facts of this case as the conviction does not deal with patient care, abuse or fraud. Far different is the case of *Bernstein v. Board of Medical Examiners* (1962) 204 Cal.App.2d 378, 22 Cal.Rptr. 419 wherein a psychiatrist was convicted of statutory rape of a patient that he was treating for sexual promiscuity. In respondent's case, the conviction does not involve the care of one of Respondent's patients nor is there a nexus showing that the description of his

conviction was "otherwise substantially related to respondent's professional duties, functions or qualifications as a doctor." Therefore, there is no basis to suspend under Labor Code section 139.21(a)(1)(A).

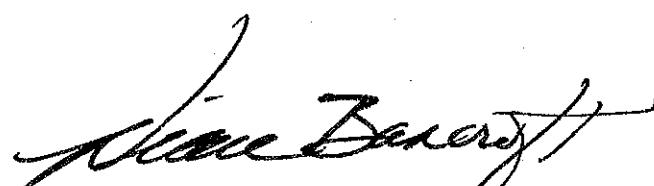
On the other hand, Labor Code section 139.21(a)(1)(C) clearly applies to the facts of this case. That section requires the Administrative Director to promptly suspend any physician from participating in the workers' compensation system if that physician's license to provide health care has been suspended or revoked. In this case, the evidence presented shows that Respondent's license was revoked and as such the suspension should be imposed in the workers' compensation arena as well. Respondent does not contest its' applicability to the facts of this case.

For the foregoing reasons, a determination was made that Labor Code section 139.21(a)(1)(C) applies to respondent, and immediate suspension is therefore required by section 139.21(b)(2).

ORDER

IT IS ORDERED that Farhad Hafezi is hereby suspended from participating in the workers' compensation system as a physician, practitioner or provider.

DATE: October 31, 2017



WCJ DIANE BANCROFT
Hearing Officer

DB:ps