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

In Re: PROVIDER SUSPENSION

Case No. AD PS-18-08

DETERMINATION AND ORDER

RE: SUSPENSION

BRENDA REES,

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 November 21, 2018 recommended Determination and Order re: Suspension of the designated Hearing Officer, the Administrative Director finds that Respondent Brenda Rees 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 statement of facts, determination, and basis for determination of the November 21, 2018 recommended Determination and Order re: Suspension of the designated Hearing Officer, attached hereto, as it pertains to the suspension of the Respondent under Labor Code section 139.21(a)(1)(A).

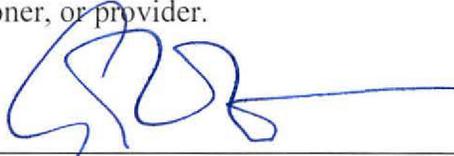
The Administrative Director hereby modifies the determination of the designated Hearing Officer as it pertains to the basis for suspension under Labor Code sections 139.21(a)(1)(B) and 139.21(a)(1)(C), and finds that there is sufficient evidence in the record that Respondent Brenda Rees

1 meets the criteria for suspension under those sections as well.

2 Under Labor Code section 139.21(a)(1)(B), a physician, practitioner, or provider may be
3 suspended if they have been suspended due to fraud or abuse, from the federal Medicare or Medicaid
4 programs or the Medi-Cal program. Here the record shows that the Respondent was suspended from the
5 Medi-Cal program for an indefinite period of time, effective September 10, 2017, due in part to her
6 criminal conviction involving fraud. Additionally, pursuant to Labor Code section 139.21(a)(1)(C), a
7 physician, practitioner, or provider may be suspended if their license, certificate, or approval to provide
8 health care has been surrendered or revoked. Here the record shows that the Respondent's licensed
9 clinical social worker license was revoked by the California Board of Behavioral Sciences, effective
10 September 20, 2017.

11 **IT IS HEREBY ORDERED** that Brenda Rees, is hereby suspended from participating in the
12 workers' compensation system as a physician, practitioner, or provider.

13 Date: November 30, 2018

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15 _____
16 GEORGE PARISOTTO
17 Administrative Director
18 Division of Workers' Compensation
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**STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION
BEFORE THE ADMINISTRATIVE DIRECTOR**

In Re: PROVIDER SUSPENSION

Case No. AD PS-18-08

DETERMINATION AND ORDER

RE: SUSPENSION

BRENDA REES,
Respondent.

A hearing was held in the above-captioned matter on November 14, 2018, pursuant to the provisions of Labor Code Section 139.21(b)(2).

CONTENTION

At the hearing and in her statement, the respondent contended her conviction should not give rise to a suspension pursuant to the provisions of Labor Code Section 139.21(a)(1)(A). While acknowledging her plea agreement and subsequent conviction as outlined below, she further contended that the underlying plea agreement was the result of unspecified "coercion" and ineffective legal representation." Noting that as a result of the conviction she had spent some time in prison and had had her license revoked on September 20, 2017, she felt that she had been penalized sufficiently for the actions of another person within her business organization. Further noting that she had been a licensed social worker since 1982 without a blemish on her record, she indicated that at 69 years old, she should be given a "second chance" and an opportunity to "live out the rest of her life." At one point, she described the process (presumably including the original conviction, revocation of her license, and revocation to act as a provider within the Medi-Cal system) as being "throwing out the baby with the bath water." She indicated that she would be seeking to overturn the criminal conviction, and that in the meantime her suspension be within the workers' compensation system be limited in duration.

FACTS

1. Labor Code section 139.21(a)(1)(A) requires the Administrative Director to suspend any physician, practitioner, or provider from participating in the workers' compensation system as a physician, practitioner, or provider if the individual has been convicted of any felony or misdemeanor described in Labor Code section 139.21(a)(1)(A).
2. Respondent was convicted by the Superior Court of California, County of Riverside, of violations of Penal Code Section 504, incorporating the Felony Plea Form filed April 8, 2015 [Case No. RIF 1400122]. (Exhibits "2" and "3"),
3. As the result of said conviction, respondent's LCSW license was revoked effective September 10, 2017 by the Board of Behavioral Sciences (Exhibit "5").
4. As the further result of said conviction and the revocation of the above referenced license, the respondent was prohibited from billing for or receiving payment from the Medi-Cal program for an indefinite period of time, effective September 10, 2017 (Exhibit "4").
5. As the result of said conviction, the Notice of Provider Suspension-Workers' Compensation issued on August 10, 2018 by the George Parisotto, Administrative Director/Division of Workers' Compensation.
6. Respondent Brenda Rees, filed a timely appeal and request for hearing received August 28, 2018 pursuant to Rule 9788.2(b).
7. The Notice of Hearing and Designation of Hearing Officer issued August 31, 2018, by Administrative Director Parisotto, setting this matter for hearing before the assigned hearing officer on September. (Exhibit "7").
8. At the request of the Respondent and with the concurrence of the Administrative Director, said hearing was continued to November 14, 2018.

DETERMINATION

The respondent's felony conviction for embezzlement or property pursuant to Penal Code Section 504, constitutes a "covered crime" pursuant to the provisions of Labor Code Section 139.21(a)(1).

BASIS FOR DETERMINATION

Labor Code Section 139.21 provides in pertinent part:

"(a) (1) The administrative director shall promptly suspend, pursuant to subdivision (b), 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 following criteria:

(A) The individual has been convicted of any felony or misdemeanor and that crime comes within any of the following descriptions:

(i) It involves fraud or abuse of the Medi-Cal program, Medicare program, or workers' compensation system, or fraud or abuse of any patient.

(ii) It relates to the conduct of the individual's medical practice as it pertains to patient care.

(iii) It is a financial crime that relates to the Medi-Cal program, Medicare program, or workers' compensation system.

(iv) It is otherwise substantially related to the qualifications, functions, or duties of a provider of services.

(B) The individual or entity has been suspended, due to fraud or abuse, from the federal Medicare or Medicaid programs.

(C) The individual's license, certificate, or approval to provide health care has been surrendered or revoked."

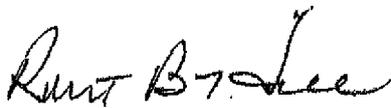
Based on the respondent's conviction for 10 counts of embezzlement of property pursuant to Penal Code Section 504, with enhancements of Penal Code Section 12022.6, subdivision (a)(2) and 186.11, subdivision (a)(2), incorporating the Felony Plea Form filed April 8, 2015, it is found the underlying conviction falls within the category of covered crimes as set forth in Labor Code Section 139.21(a)(1),.

While the respondent sets forth a compelling personal contentions regarding her underlying conviction, this does not itself circumvent the clear language of Labor Code 139.21(a)(1).

ORDER

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

DATE: 11/21/2018



WCJ ROBERT HILL
Hearing Officer