

DEPARTMENT OF INDUSTRIAL RELATIONS  
DIVISION OF WORKERS' COMPENSATION  
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June 14, 2017

## **NOTIFICATION OF INTENT TO READOPT EMERGENCY REGULATIONS**

Subject: Provider Suspension Procedure

Notice is hereby given that the Department of Industrial Relations, Division of Workers' Compensation (DWC), proposes to readopt the Provider Suspension Procedure emergency regulations that were adopted effective January 6, 2017 (OAL File No. 2016-1227-01E) for an additional 90-day period. The emergency regulations can be found at Article 5.5.1 of Chapter 4.5, Subchapter 1, of Title 8, California Code of Regulations, sections 9788.1, 9788.2, 9788.3, and 9788.4. The regulations implement Labor Code section 139.21(a) through (d), which allows the Administrative Director of DWC to suspend from participating in the state's workers' compensation system any physician, practitioner, or provider who has met the criteria specified in Labor Code section 139.21(a). This includes being convicted of any felony or misdemeanor that involves fraud or abuse of Medi-Cal program, the Medicare program, or workers' compensation system. This readoption action is being taken in accordance with Government Code sections 11346.1 and 11349.6 of the California Administrative Procedure Act. These regulations will be submitted to the Office of Administrative Law (OAL) on June 21, 2017.

As required for readoption of emergency regulations, DWC has made substantial progress and is proceeding with diligence to comply with Government Code section 11346.1, subdivision (e) and California Code of Regulations, title 1, section 52(b)(1). Since the emergency regulations have been in place, the DWC has suspended twenty-five (25) physicians, practitioners or providers from participating in California's workers' compensation system. Continued experience with the suspension process has given DWC insight into how the procedure can be updated and improved. Issues that require clarification or additional regulations include the appropriate service requirements for notices and orders of suspension; circumstances justifying a continuance of the suspension hearing, and the necessity of amending suspension orders to include any subsequent conviction of the physician, practitioner or provider that meets the criteria specified in Labor Code section 139.2(a). A readoption of the emergency regulations will provide the additional time necessary for DWC to modify the text of the original emergency regulations to address these issues. DWC is currently working towards completion of the documentation necessary to commence the regular rulemaking process, and will submit the notification package to OAL within the next 60 days.

Pursuant to California Code of Regulations, title 1, section 52(b)(2) there have been no changes in emergency circumstances since the original adoption of the emergency

regulations. Without these emergency regulations in place, convicted providers may still be treating patients in the workers' compensation system, causing harm to the public peace, health and safety, and general welfare of the state.

Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed readoption action to the Office of Administrative Law (OAL), the adopting agency provide a notice of the proposed readoption action to every person who has filed a request for notice of regulations action with the agency. After submission of the proposed readoption to OAL, OAL shall allow any interested persons five calendar days to submit comments on the proposed readoption as set forth in Government Code section 11349.6. Upon filing, OAL will have ten (10) calendar days within which to review and make a decision on the proposed readoption.

DWC hereby incorporates by reference the rulemaking record of OAL File No. 2016-1227-01E. Included with this notice is the specific regulatory language now in place following DWC's emergency action and an updated version of the Finding of Emergency that was initially submitted to OAL in December 2016.

You may review the regulatory language and Updated Finding of Emergency on the DWC's website at the following address: <http://www.dir.ca.gov/dwc/dwcRulemaking.html>

If you have any questions regarding this proposed emergency action, please contact Maureen Gray, DWC's regulation coordinator, at [mgray@dir.ca.gov](mailto:mgray@dir.ca.gov) or (510) 286-0676.