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CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1244

Introduced by Assembly Member Gray

February 27, 2015

An act to amend Section 139.2 of, and to add Section 5307.15 to 139.21 to, the Labor Code, and to amend Section 14123 of the Welfare and Institutions Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1244, as amended, Gray. Workers' compensation: providers: ~~suspension and revocation.~~ *suspension.*

Under existing law, the Director of Health Care Services is authorized, for purposes of administering the Medi-Cal program, to suspend a provider of service from further participation under the program for specified reasons, including conviction of any felony or any misdemeanor involving fraud, abuse of the Medi-Cal program or any patient, or otherwise substantially related to the qualifications, functions, or duties of a provider of service. Existing law requires the director, upon receipt of written notification from the Secretary of the United States Department of Health and Human Services that a physician or other individual practitioner has been suspended from participation in the Medicare or Medicaid programs, to promptly suspend the practitioner from participation in the Medi-Cal program.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, that generally requires employers to secure the payment of workers' compensation for injuries incurred by their employees that arise out of, or in the course of, employment. Existing law requires an employer to provide all medical services reasonably required to cure or relieve the injured worker from the effects of the injury.

Existing law authorizes an insurer, employer, or entity that provides physician network services to establish or modify a medical provider network for the provision of medical treatment to injured employees and requires the administrative director to contract with individual physicians or an independent medical review organization to perform medical provider network independent medical reviews. Existing law also requires the administrative director to appoint qualified medical evaluators in each of the respective specialties as required for the evaluation of medical-legal issues. *Existing law requires the administrative director to terminate from the list of medical evaluators a physician who has been subject to disciplinary action by the relevant licensing board or who has been convicted of a misdemeanor or felony related to the conduct of his or her medical practice.*

~~This bill would require the Director of Health Care Services to notify the administrative director of a suspension imposed pursuant to the above provisions and would require the administrative director, upon that notification, to promptly suspend the physician or practitioner from participating in the workers' compensation system in any capacity, including, but not limited to, participation as a qualified medical examiner, a treating provider in a medical provider network, or an independent medical reviewer. The bill would require the administrative director to adopt regulations establishing criteria for revocation of a suspended physician's or practitioner's participation in the workers' compensation system, subject to specified notice and hearing requirements.~~

This bill would require the administrative director to promptly suspend any physician or practitioner from participating in the workers' compensation system in any capacity when the individual or entity meets specified criteria, including when that individual has been convicted of a felony or any one of specified misdemeanors involving fraud or abuse, when that individual's license, certificate, or approval to provide health care has been surrendered or revoked, or when that individual or entity has been suspended, due to fraud or abuse, from participation

in the Medicare or Medicaid programs. The bill would require the administrative director to adopt regulations for suspending a physician's or practitioner's participation in the workers' compensation system pursuant to these provisions, as specified, and would require the administrative director to furnish to the physician or practitioner written notice of the right to a hearing regarding the suspension and the procedure to follow to request that hearing. If a physician is a qualified medical examiner, and the department finds that the physician meets the criteria for suspension pursuant to these provisions, the bill would require the administrative director to terminate the physician from the list of medical evaluators. The bill would also require the administrative director to notify the appropriate state licensing entity of a physician's or practitioner's suspension or revocation and to update relevant provider databases of qualified medical evaluators and medical provider networks. The bill would prohibit a provider of services from submitting or pursuing claims for payment for services or supplies provided by a provider physician or practitioner whose participation in the workers' compensation system has been suspended or revoked, except under specified circumstances. suspended, unless that claim for payment has been reduced to final judgment or the services or supplies are unrelated to a violation of the laws governing workers' compensation.

The bill would also require the Director of Health Care Services to notify the administrative director of a suspension of a physician from participation in the Medi-Cal program imposed pursuant to the provisions described above authorizing the director to suspend a provider of services from participation.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 5307.15 is added to the Labor Code, to~~
- 2 ~~read:~~
- 3 ~~5307.15. (a) (1) Whenever the administrative director receives~~
- 4 ~~written notification from the Director of Health Care Services~~
- 5 ~~pursuant to Section 14123 of the Welfare and Institutions Code~~
- 6 ~~that a physician or other individual practitioner has been suspended~~
- 7 ~~from participation in the Medi-Cal program, the administrative~~
- 8 ~~director shall promptly suspend the physician or practitioner from~~
- 9 ~~participating in the workers' compensation system in any capacity,~~

1 including, but not limited to, participation as a qualified medical
2 examiner, a treating provider in a medical provider network, or a
3 medical provider network independent medical reviewer.

4 (2) The administrative director also shall exercise due diligence
5 to identify physicians and practitioners who have been suspended
6 as described in subdivision (a) by accessing the quarterly updates
7 to the list of suspended and ineligible providers maintained by the
8 State Department of Health Care Services for the Medi-Cal
9 p r o g r a m a t
10 <https://files.medi-cal.ca.gov/pubsdoco/SandILanding.asp>.

11 (b) (1) The administrative director shall adopt regulations
12 establishing criteria for revocation of a suspended physician's or
13 practitioner's participation in the workers' compensation system,
14 subject to the notice and hearing requirements in paragraph (2).

15 (2) The administrative director shall serve the physician or
16 practitioner with written notice of the specific basis for revocation
17 of his or her participation in the workers' compensation system
18 and shall set a hearing within 30 days of the date of service on the
19 physician or practitioner. The hearing proceedings shall be
20 conducted pursuant to Chapter 4 (commencing with Section 11370)
21 of Part 1 of Division 3 of Title 2 of the Government Code.

22 (c) The administrative director shall promptly notify the
23 physician's or practitioner's state licensing, certifying, or
24 registering authority of a suspension or revocation imposed
25 pursuant to this section and shall update the department's qualified
26 medical evaluator and medical provider network databases, as
27 appropriate.

28 (d) A provider of services, whether an individual, clinic, group,
29 corporation, or other association, may not submit a claim for
30 payment to a payor for any services or supplies provided by a
31 physician or practitioner whose participation in the workers'
32 compensation has been suspended or revoked pursuant to this
33 section. This subdivision does not apply with respect to services
34 or supplies provided prior to the date of the suspension or
35 revocation.

36 *SECTION 1. Section 139.2 of the Labor Code is amended to*
37 *read:*

38 139.2. (a) The administrative director shall appoint qualified
39 medical evaluators in each of the respective specialties as required

1 for the evaluation of medical-legal issues. The appointments shall
2 be for two-year terms.

3 (b) The administrative director shall appoint or reappoint as a
4 qualified medical evaluator a physician, as defined in Section
5 3209.3, who is licensed to practice in this state and who
6 demonstrates that he or she meets the requirements in paragraphs
7 (1), (2), (6), and (7), and, if the physician is a medical doctor,
8 doctor of osteopathy, doctor of chiropractic, or a psychologist, that
9 he or she also meets the applicable requirements in paragraph (3),
10 (4), or (5).

11 (1) Prior to his or her appointment as a qualified medical
12 evaluator, passes an examination written and administered by the
13 administrative director for the purpose of demonstrating
14 competence in evaluating medical-legal issues in the workers'
15 compensation system. Physicians shall not be required to pass an
16 additional examination as a condition of reappointment. A
17 physician seeking appointment as a qualified medical evaluator
18 on or after January 1, 2001, shall also complete prior to
19 appointment, a course on disability evaluation report writing
20 approved by the administrative director. The administrative director
21 shall specify the curriculum to be covered by disability evaluation
22 report writing courses, which shall include, but is not limited to,
23 12 or more hours of instruction.

24 (2) Devotes at least one-third of total practice time to providing
25 direct medical treatment, or has served as an agreed medical
26 evaluator on eight or more occasions in the 12 months prior to
27 applying to be appointed as a qualified medical evaluator.

28 (3) Is a medical doctor or doctor of osteopathy and meets one
29 of the following requirements:

30 (A) Is board certified in a specialty by a board recognized by
31 the administrative director and either the Medical Board of
32 California or the Osteopathic Medical Board of California.

33 (B) Has successfully completed a residency training program
34 accredited by the Accreditation Council for Graduate Medical
35 Education or the osteopathic equivalent.

36 (C) Was an active qualified medical evaluator on June 30, 2000.

37 (D) Has qualifications that the administrative director and either
38 the Medical Board of California or the Osteopathic Medical Board
39 of California, as appropriate, both deem to be equivalent to board
40 certification in a specialty.

1 (4) Is a doctor of chiropractic and has been certified in California
2 workers' compensation evaluation by a provider recognized by
3 the administrative director. The certification program shall include
4 instruction on disability evaluation report writing that meets the
5 standards set forth in paragraph (1).

6 (5) Is a psychologist and meets one of the following
7 requirements:

8 (A) Is board certified in clinical psychology by a board
9 recognized by the administrative director.

10 (B) Holds a doctoral degree in psychology, or a doctoral degree
11 deemed equivalent for licensure by the Board of Psychology
12 pursuant to Section 2914 of the Business and Professions Code,
13 from a university or professional school recognized by the
14 administrative director and has not less than five years'
15 postdoctoral experience in the diagnosis and treatment of emotional
16 and mental disorders.

17 (C) Has not less than five years' postdoctoral experience in the
18 diagnosis and treatment of emotional and mental disorders, and
19 has served as an agreed medical evaluator on eight or more
20 occasions prior to January 1, 1990.

21 (6) Does not have a conflict of interest as determined under the
22 regulations adopted by the administrative director pursuant to
23 subdivision (o).

24 (7) Meets any additional medical or professional standards
25 adopted pursuant to paragraph (6) of subdivision (j).

26 (c) The administrative director shall adopt standards for
27 appointment of physicians who are retired or who hold teaching
28 positions who are exceptionally well qualified to serve as a
29 qualified medical evaluator even though they do not otherwise
30 qualify under paragraph (2) of subdivision (b). A physician whose
31 full-time practice is limited to the forensic evaluation of disability
32 shall not be appointed as a qualified medical evaluator under this
33 subdivision.

34 (d) The qualified medical evaluator, upon request, shall be
35 reappointed if he or she meets the qualifications of subdivision (b)
36 and meets all of the following criteria:

37 (1) Is in compliance with all applicable regulations and
38 evaluation guidelines adopted by the administrative director.

39 (2) Has not had more than five of his or her evaluations that
40 were considered by a workers' compensation administrative law

1 judge at a contested hearing rejected by the workers' compensation
2 administrative law judge or the appeals board pursuant to this
3 section during the most recent two-year period during which the
4 physician served as a qualified medical evaluator. If the workers'
5 compensation administrative law judge or the appeals board rejects
6 the qualified medical evaluator's report on the basis that it fails to
7 meet the minimum standards for those reports established by the
8 administrative director or the appeals board, the workers'
9 compensation administrative law judge or the appeals board, as
10 the case may be, shall make a specific finding to that effect, and
11 shall give notice to the medical evaluator and to the administrative
12 director. Any rejection shall not be counted as one of the five
13 qualifying rejections until the specific finding has become final
14 and time for appeal has expired.

15 (3) Has completed within the previous 24 months at least 12
16 hours of continuing education in impairment evaluation or workers'
17 compensation-related medical dispute evaluation approved by the
18 administrative director.

19 (4) Has not been terminated, suspended, placed on probation,
20 or otherwise disciplined by the administrative director during his
21 or her most recent term as a qualified medical evaluator.

22 If the evaluator does not meet any one of these criteria, the
23 administrative director may in his or her discretion reappoint or
24 deny reappointment according to regulations adopted by the
25 administrative director. A physician who does not currently meet
26 the requirements for initial appointment or who has been terminated
27 under subdivision (e) because his or her license has been revoked
28 or terminated by the licensing authority shall not be reappointed.

29 (e) The administrative director may, in his or her discretion,
30 suspend or terminate a qualified medical evaluator during his or
31 her term of appointment without a hearing as provided under
32 subdivision (k) or (l) whenever either of the following conditions
33 occurs:

34 (1) The evaluator's license to practice in California has been
35 suspended by the relevant licensing authority so as to preclude
36 practice, or has been revoked or terminated by the licensing
37 authority.

38 (2) The evaluator has failed to timely pay the fee required by
39 the administrative director pursuant to subdivision (n).

1 (f) The administrative director shall furnish a physician, upon
2 request, with a written statement of its reasons for termination of,
3 or for denying appointment or reappointment as, a qualified
4 medical evaluator. Upon receipt of a specific response to the
5 statement of reasons, the administrative director shall review his
6 or her decision not to appoint or reappoint the physician or to
7 terminate the physician and shall notify the physician of its final
8 decision within 60 days after receipt of the physician's response.

9 (g) The administrative director shall establish agreements with
10 qualified medical evaluators to ensure the expeditious evaluation
11 of cases assigned to them for comprehensive medical evaluations.

12 (h) (1) When requested by an employee or employer pursuant
13 to Section 4062.1, the medical director appointed pursuant to
14 Section 122 shall assign three-member panels of qualified medical
15 evaluators within five working days after receiving a request for
16 a panel. Preference in assigning panels shall be given to cases in
17 which the employee is not represented. If a panel is not assigned
18 within 20 working days, the employee shall have the right to obtain
19 a medical evaluation from any qualified medical evaluator of his
20 or her choice within a reasonable geographic area. The medical
21 director shall use a random selection method for assigning panels
22 of qualified medical evaluators. The medical director shall select
23 evaluators who are specialists of the type requested by the
24 employee. The medical director shall advise the employee that he
25 or she should consult with his or her treating physician prior to
26 deciding which type of specialist to request.

27 (2) The administrative director shall promulgate a form that
28 shall notify the employee of the physicians selected for his or her
29 panel after a request has been made pursuant to Section 4062.1 or
30 4062.2. The form shall include, for each physician on the panel,
31 the physician's name, address, telephone number, specialty, number
32 of years in practice, and a brief description of his or her education
33 and training, and shall advise the employee that he or she is entitled
34 to receive transportation expenses and temporary disability for
35 each day necessary for the examination. The form shall also state
36 in a clear and conspicuous location and type: "You have the right
37 to consult with an information and assistance officer at no cost to
38 you prior to selecting the doctor to prepare your evaluation, or you
39 may consult with an attorney. If your claim eventually goes to
40 court, the workers' compensation administrative law judge will

1 consider the evaluation prepared by the doctor you select to decide
2 your claim.”

3 (3) When compiling the list of evaluators from which to select
4 randomly, the medical director shall include all qualified medical
5 evaluators who meet all of the following criteria:

6 (A) He or she does not have a conflict of interest in the case, as
7 defined by regulations adopted pursuant to subdivision (o).

8 (B) He or she is certified by the administrative director to
9 evaluate in an appropriate specialty and at locations within the
10 general geographic area of the employee’s residence. An evaluator
11 shall not conduct qualified medical evaluations at more than 10
12 locations.

13 (C) He or she has not been suspended or terminated as a
14 qualified medical evaluator for failure to pay the fee required by
15 the administrative director pursuant to subdivision (n) or for any
16 other reason.

17 (4) When the medical director determines that an employee has
18 requested an evaluation by a type of specialist that is appropriate
19 for the employee’s injury, but there are not enough qualified
20 medical evaluators of that type within the general geographic area
21 of the employee’s residence to establish a three-member panel,
22 the medical director shall include sufficient qualified medical
23 evaluators from other geographic areas and the employer shall pay
24 all necessary travel costs incurred in the event the employee selects
25 an evaluator from another geographic area.

26 (i) The medical director appointed pursuant to Section 122 shall
27 continuously review the quality of comprehensive medical
28 evaluations and reports prepared by agreed and qualified medical
29 evaluators and the timeliness with which evaluation reports are
30 prepared and submitted. The review shall include, but not be
31 limited to, a review of a random sample of reports submitted to
32 the division, and a review of all reports alleged to be inaccurate
33 or incomplete by a party to a case for which the evaluation was
34 prepared. The medical director shall submit to the administrative
35 director an annual report summarizing the results of the continuous
36 review of medical evaluations and reports prepared by agreed and
37 qualified medical evaluators and make recommendations for the
38 improvement of the system of medical evaluations and
39 determinations.

1 (j) After public hearing pursuant to Section 5307.3, the
2 administrative director shall adopt regulations concerning the
3 following issues:

4 (1) (A) Standards governing the timeframes within which
5 medical evaluations shall be prepared and submitted by agreed
6 and qualified medical evaluators. Except as provided in this
7 subdivision, the timeframe for initial medical evaluations to be
8 prepared and submitted shall be no more than 30 days after the
9 evaluator has seen the employee or otherwise commenced the
10 medical evaluation procedure. The administrative director shall
11 develop regulations governing the provision of extensions of the
12 30-day period in both of the following cases:

13 (i) When the evaluator has not received test results or consulting
14 physician's evaluations in time to meet the 30-day deadline.

15 (ii) To extend the 30-day period by not more than 15 days when
16 the failure to meet the 30-day deadline was for good cause.

17 (B) For purposes of subparagraph (A), "good cause" means any
18 of the following:

19 (i) Medical emergencies of the evaluator or evaluator's family.

20 (ii) Death in the evaluator's family.

21 (iii) Natural disasters or other community catastrophes that
22 interrupt the operation of the evaluator's business.

23 (C) The administrative director shall develop timeframes
24 governing availability of qualified medical evaluators for
25 unrepresented employees under Section 4062.1. These timeframes
26 shall give the employee the right to the addition of a new evaluator
27 to his or her panel, selected at random, for each evaluator not
28 available to see the employee within a specified period of time,
29 but shall also permit the employee to waive this right for a specified
30 period of time thereafter.

31 (2) Procedures to be followed by all physicians in evaluating
32 the existence and extent of permanent impairment and limitations
33 resulting from an injury in a manner consistent with Sections 4660
34 and 4660.1.

35 (3) Procedures governing the determination of any disputed
36 medical treatment issues in a manner consistent with Section
37 5307.27.

38 (4) Procedures to be used in determining the compensability of
39 psychiatric injury. The procedures shall be in accordance with
40 Section 3208.3 and shall require that the diagnosis of a mental

1 disorder be expressed using the terminology and criteria of the
2 American Psychiatric Association's Diagnostic and Statistical
3 Manual of Mental Disorders, Third Edition-Revised, or the
4 terminology and diagnostic criteria of other psychiatric diagnostic
5 manuals generally approved and accepted nationally by
6 practitioners in the field of psychiatric medicine.

7 (5) Guidelines for the range of time normally required to perform
8 the following:

9 (A) A medical-legal evaluation that has not been defined and
10 valued pursuant to Section 5307.6. The guidelines shall establish
11 minimum times for patient contact in the conduct of the
12 evaluations, and shall be consistent with regulations adopted
13 pursuant to Section 5307.6.

14 (B) Any treatment procedures that have not been defined and
15 valued pursuant to Section 5307.1.

16 (C) Any other evaluation procedure requested by the Insurance
17 Commissioner, or deemed appropriate by the administrative
18 director.

19 (6) Any additional medical or professional standards that a
20 medical evaluator shall meet as a condition of appointment,
21 reappointment, or maintenance in the status of a medical evaluator.

22 (k) Except as provided in this subdivision, the administrative
23 director may, in his or her discretion, suspend or terminate the
24 privilege of a physician to serve as a qualified medical evaluator
25 if the administrative director, after hearing pursuant to subdivision
26 (l), determines, based on substantial evidence, that a qualified
27 medical evaluator:

28 (1) Has violated any material statutory or administrative duty.

29 (2) Has failed to follow the medical procedures or qualifications
30 established pursuant to paragraph (2), (3), (4), or (5) of subdivision
31 (j).

32 (3) Has failed to comply with the timeframe standards
33 established pursuant to subdivision (j).

34 (4) Has failed to meet the requirements of subdivision (b) or
35 (c).

36 (5) Has prepared medical-legal evaluations that fail to meet the
37 minimum standards for those reports established by the
38 administrative director or the appeals board.

1 (6) Has made material misrepresentations or false statements
2 in an application for appointment or reappointment as a qualified
3 medical evaluator.

4 A hearing shall not be required prior to the suspension or
5 termination of a physician's privilege to serve as a qualified
6 medical evaluator when the physician has done either of the
7 following:

8 (A) Failed to timely pay the fee required pursuant to subdivision
9 (n).

10 (B) Had his or her license to practice in California suspended
11 by the relevant licensing authority so as to preclude practice, or
12 had the license revoked or terminated by the licensing authority.

13 (l) The administrative director shall cite the qualified medical
14 evaluator for a violation listed in subdivision (k) and shall set a
15 hearing on the alleged violation within 30 days of service of the
16 citation on the qualified medical evaluator. In addition to the
17 authority to terminate or suspend the qualified medical evaluator
18 upon finding a violation listed in subdivision (k), the administrative
19 director may, in his or her discretion, place a qualified medical
20 evaluator on probation subject to appropriate conditions, including
21 ordering continuing education or training. The administrative
22 director shall report to the appropriate licensing board the name
23 of any qualified medical evaluator who is disciplined pursuant to
24 this subdivision.

25 (m) The administrative director shall terminate from the list of
26 medical evaluators any physician ~~where~~ *whose* licensure has been
27 terminated by the relevant licensing board, or who has been
28 convicted of a misdemeanor or felony related to the conduct of his
29 or her medical practice, or of a crime of moral turpitude. The
30 administrative director shall suspend or terminate as a medical
31 evaluator any physician who has been suspended or placed on
32 probation by the relevant licensing board. *The administrative*
33 *director shall terminate as a medical evaluator any physician who*
34 *is a person described in paragraph (3) of subdivision (b) of Section*
35 *139.21. If a physician is suspended or terminated as a qualified*
36 *medical evaluator under this subdivision, a report prepared by the*
37 *physician that is not complete, signed, and furnished to one or*
38 *more of the parties prior to the date of conviction or action of the*
39 *licensing board, whichever is earlier, shall not be admissible in*
40 *any proceeding before the appeals board nor shall there be any*

1 liability for payment for the report and any expense incurred by
2 the physician in connection with the report.

3 (n) A qualified medical evaluator shall pay a fee, as determined
4 by the administrative director, for appointment or reappointment.
5 These fees shall be based on a sliding scale as established by the
6 administrative director. All revenues from fees paid under this
7 subdivision shall be deposited into the Workers' Compensation
8 Administration Revolving Fund and are available for expenditure
9 upon appropriation by the Legislature, and shall not be used by
10 any other department or agency or for any purpose other than
11 administration of the programs of the Division of Workers'
12 Compensation related to the provision of medical treatment to
13 injured employees.

14 (o) An evaluator shall not request or accept any compensation
15 or other thing of value from any source that does or could create
16 a conflict with his or her duties as an evaluator under this code.
17 The administrative director, after consultation with the Commission
18 on Health and Safety and Workers' Compensation, shall adopt
19 regulations to implement this subdivision.

20 *SEC. 2. Section 139.21 is added to the Labor Code, immediately*
21 *following Section 139.2, to read:*

22 *139.21. (a) (1) The administrative director shall promptly*
23 *suspend any physician or practitioner from participating in the*
24 *workers' compensation system in any capacity when the individual*
25 *or entity meets any of the following criteria:*

26 *(A) The individual has been convicted of a felony.*

27 *(B) The individual has been convicted of a misdemeanor*
28 *involving fraud or abuse of the Medi-Cal program, Medicare*
29 *program, or workers' compensation system.*

30 *(C) The individual has been convicted of a misdemeanor*
31 *involving fraud or abuse of any patient, or otherwise substantially*
32 *related to the qualifications, functions, or duties of a provider of*
33 *services.*

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

36 *(E) The individual's license, certificate, or approval to provide*
37 *health care has been surrendered or revoked.*

38 *(2) The administrative director shall exercise due diligence to*
39 *identify physicians and practitioners who have been suspended as*
40 *described in subdivision (a) by accessing the quarterly updates to*

1 *the list of suspended and ineligible providers maintained by the*
2 *State Department of Health Care Services for the Medi-Cal*
3 *p r o g r a m a t*
4 *<https://files.medi-cal.ca.gov/pubsdoco/SandILanding.asp>.*

5 *(b) (1) The administrative director shall adopt regulations for*
6 *suspending a physician's or practitioner's participation in the*
7 *workers' compensation system, subject to the notice and hearing*
8 *requirements in paragraph (2).*

9 *(2) The administrative director shall furnish to the physician*
10 *or practitioner written notice of the right to a hearing regarding*
11 *the suspension and the procedure to follow to request a hearing.*
12 *The notice shall state that the department is required to suspend*
13 *the physician or practitioner pursuant to subdivision (a) after 30*
14 *days from the date the notice is mailed unless the physician or*
15 *practitioner requests a hearing and, in that hearing, the physician*
16 *or practitioner provides proof that paragraph (1) of subdivision*
17 *(a) is not applicable. The physician or practitioner may request a*
18 *hearing within 10 days from the date the notice is sent by the*
19 *administrative director. The request for the hearing shall stay the*
20 *suspension. The hearing shall be held within 30 days of the receipt*
21 *of the request. Upon the completion of the hearing, if the*
22 *department finds that paragraph (1) of subdivision (a) is*
23 *applicable, the administrative director shall immediately suspend*
24 *the physician or practitioner.*

25 *(3) If a physician is a qualified medical examiner, and the*
26 *department finds, in accordance with the notice and hearing*
27 *requirements of this section, that paragraph (1) of subdivision (a)*
28 *is applicable to that physician, the physician shall be terminated*
29 *from the list of medical evaluators pursuant to subdivision (m) of*
30 *Section 139.2.*

31 *(c) The administrative director shall promptly notify the*
32 *physician's or practitioner's state licensing, certifying, or*
33 *registering authority of a suspension imposed pursuant to this*
34 *section and shall update the department's qualified medical*
35 *evaluator and medical provider network databases, as appropriate.*

36 *(d) A provider of services, whether an individual, clinic, group,*
37 *corporation, or other association, may not submit a claim for*
38 *payment to, or pursue a claim for payment from, a payor for any*
39 *services or supplies provided by a physician or practitioner whose*
40 *participation in the workers' compensation system has been*

1 *suspended pursuant to this section, unless that claim for payment*
2 *has been reduced to final judgment or the services or supplies are*
3 *unrelated to a violation of the laws governing workers'*
4 *compensation.*

5 ~~SEC. 2.~~

6 SEC. 3. Section 14123 of the Welfare and Institutions Code is
7 amended to read:

8 14123. Participation in the Medi-Cal program by a provider
9 of service is subject to suspension in order to protect the health of
10 the recipients and the funds appropriated to carry out this chapter.

11 (a) (1) The director may suspend a provider of service from
12 further participation under the Medi-Cal program for violation of
13 any provision of this chapter or Chapter 8 (commencing with
14 Section 14200) or any rule or regulation promulgated by the
15 director pursuant to those chapters. The suspension may be for an
16 indefinite or specified period of time and with or without
17 conditions, or may be imposed with the operation of the suspension
18 stayed or probation granted. The director shall suspend a provider
19 of service for conviction of any felony or any misdemeanor
20 involving fraud, abuse of the Medi-Cal program or any patient, or
21 otherwise substantially related to the qualifications, functions, or
22 duties of a provider of service.

23 (2) If the provider of service is a clinic, group, corporation, or
24 other association, conviction of any officer, director, or shareholder
25 with a 10 percent or greater interest in that organization, of a crime
26 described in paragraph (1) shall result in the suspension of that
27 organization and the individual convicted if the director believes
28 that suspension would be in the best interest of the Medi-Cal
29 program. If the provider of services is a political subdivision of
30 the state or other government agency, the conviction of the person
31 in charge of the facility of a crime described in paragraph (1) may
32 result in the suspension of that facility. The record of conviction
33 or a certified copy thereof, certified by the clerk of the court or by
34 the judge in whose court the conviction is had, shall be conclusive
35 evidence of the fact that the conviction occurred. A plea or verdict
36 of guilty, or a conviction following a plea of nolo contendere is
37 deemed to be a conviction within the meaning of this section.

38 (3) After conviction, but before the time for appeal has elapsed
39 or the judgment of conviction has been affirmed on appeal, the
40 director, if he or she believes that suspension would be in the best

1 interests of the Medi-Cal program, may order the suspension of a
2 provider of service. When the time for appeal has elapsed, or the
3 judgment of conviction has been affirmed on appeal or when an
4 order granting probation is made suspending the imposition of
5 sentence irrespective of any subsequent order under Section 1203.4
6 of the Penal Code allowing a person to withdraw his or her plea
7 of guilty and to enter a plea of not guilty, or setting aside the verdict
8 of guilty, or dismissing the accusation, information, or indictment,
9 the director shall order the suspension of a provider of service.
10 The suspension shall not take effect earlier than the date of the
11 director's order. Suspension following a conviction is not subject
12 to the proceedings required in subdivision (c). However, the
13 director may grant an informal hearing at the request of the provider
14 of service to determine in the director's sole discretion if the
15 circumstances surrounding the conviction justify rescinding or
16 otherwise modifying the suspension provided for in this
17 subdivision.

18 (4) If the provider of service appeals the conviction and the
19 conviction is reversed, the provider may apply for reinstatement
20 to the Medi-Cal program after the conviction is reversed.
21 Notwithstanding Section ~~14126.6~~, *14124.6*, the application for
22 reinstatement shall not be subject to the one-year waiting period
23 for the filing of a reinstatement petition pursuant to Section 11522
24 of the Government Code.

25 (b) Whenever the director receives written notification from the
26 Secretary of the United States Department of Health and Human
27 Services that a physician or other individual practitioner has been
28 suspended from participation in the Medicare or medicaid
29 programs, the director shall promptly suspend the practitioner from
30 participation in the Medi-Cal program and notify the
31 Administrative Director of the Division of Workers' Compensation
32 of the suspension, in accordance with paragraph (2) of subdivision
33 (e). This automatic suspension is not subject to the proceedings
34 required in subdivision (c). No payment from state or federal funds
35 may be made for any item or service rendered by the practitioner
36 during the period of suspension.

37 (c) The proceedings for suspension shall be conducted pursuant
38 to Section 100171 of the Health and Safety Code. The director
39 may temporarily suspend any provider of service prior to any
40 hearing when in his or her opinion that action is necessary to

1 protect the public welfare or the interests of the Medi-Cal program.
2 The director shall notify the provider of service of the temporary
3 suspension and the effective date thereof and at the same time
4 serve the provider with an accusation. The accusation and all
5 proceedings thereafter shall be in accordance with Section 100171
6 of the Health and Safety Code. Upon receipt of a notice of defense
7 by the provider, the director shall set the matter for hearing within
8 30 days after receipt of the notice. The temporary suspension shall
9 remain in effect until such time as the hearing is completed and
10 the director has made a final determination on the merits. The
11 temporary suspension shall, however, be deemed vacated if the
12 director fails to make a final determination on the merits within
13 60 days after the original hearing has been completed. This
14 subdivision does not apply where the suspension of a provider is
15 based upon the conviction of any crime involving fraud, abuse of
16 the Medi-Cal program, or suspension from the federal Medicare
17 program. In those instances, suspension shall be automatic.

18 (d) (1) The suspension by the director of any provider of service
19 shall preclude the provider from submitting claims for payment,
20 either personally or through claims submitted by any clinic, group,
21 corporation, or other association to the Medi-Cal program for any
22 services or supplies the provider has provided under the program,
23 except for services or supplies provided prior to the suspension.
24 No clinic, group, corporation, or other association which is a
25 provider of service shall submit claims for payment to the Medi-Cal
26 program for any services or supplies provided by a person within
27 the organization who has been suspended or revoked by the
28 director, except for services or supplies provided prior to the
29 suspension.

30 (2) If the provisions of this chapter, Chapter 8 (commencing
31 with Section 14200), or the regulations promulgated by the director
32 are violated by a provider of service that is a clinic, group,
33 corporation, or other association, the director may suspend the
34 organization and any individual person within the organization
35 who is responsible for the violation.

36 (e) (1) Notice of the suspension shall be sent by the director to
37 the provider's state licensing, certifying, or registering authority,
38 along with the evidence upon which the suspension was based.

39 (2) At the same time notice is provided pursuant to paragraph
40 (1), the director shall provide written notification of the suspension

1 to the Administrative Director of the Division of Workers'
2 Compensation, for purposes of Section ~~5307.15~~ 139.21 of the
3 Labor Code.

4 (f) In addition to the bases for suspension contained in
5 subdivisions (a) and (b), the director may suspend a provider of
6 service from further participation under the Medi-Cal dental
7 program for the provision of services that are below or less than
8 the standard of acceptable quality, as established by the California
9 Dental Association Guidelines for the Assessment of Clinical
10 Quality and Professional Performance, Copyright 1995, Third
11 Edition, as periodically amended. The suspension shall be subject
12 to the requirements contained in subdivisions (a) to (e), inclusive.