

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH
HEALTH REGULATION AND LICENSING ADMINISTRATION
BOARD OF MEDICINE

OFFICE OF THE
 ATTORNEY GENERAL FOR THE
 DISTRICT OF COLUMBIA

2009 OCT 15 A 10:50

IN THE MATTER OF:)
)
JOEL S. GANZ, M.D.)
)
Medical License No. MD3016)
)
Respondent)

PUBLIC SAFETY DIV 3
 CIVIL ENFORCEMENT

CONSENT ORDER

JURISDICTION

This matter comes before the District of Columbia Board of Medicine pursuant to D.C. Official Code § 3-1202.03(a) (2) (2001) otherwise known as the Health Occupations Revision Act ("HORA"). The HORA provides for the regulation of the practice of medicine by the D.C. Board of Medicine.

The parties have agreed to the following resolution of the instant disciplinary action.

PROCEDURAL BACKGROUND

On March 10, 2009, pursuant to the District of Columbia Administrative Procedure Act, D.C. Official Code § 2-509(a) (2001); the District of Columbia Health Occupations Revision Act of 1985; D.C. Official Code § 3-1205.19 (a) (2001) and Title 17 DCMR Section 4102, the Board of Medicine (hereinafter "the Board") issued a notice ("NOI") to Dr. Joel S. Ganz ("Respondent") that it proposed to take disciplinary action against him with respect to his license to practice medicine in the District of Columbia ("the District"), License No. MD 3016.¹

¹ The NOI was subsequently amended on March 12, 2009 and resent to the Respondent.

Specifically, the NOI charged the Respondent as follows:

Charge I: You have been convicted for a crime involving moral turpitude for an offense that bears upon your fitness to be licensed, in violation of D.C. Official Code § 3-1205.14(a)(4) (2001), for which the Board can take action under D.C. Official Code § 3-1205.14(c) (2001).

Specification A: You pled guilty in the U.S. District Court for the District of Columbia on August 12, 2008 for obstructing the criminal investigation of a health care offense. You were sentenced on January 7, 2009 to two years of probation and fined \$10,000.00. You had been under investigation for possible fraudulent conduct in billing for psychiatric consultation services for patients who were not on psychotropic medications. You created false records during the course of the investigation to render your conduct exculpatory and attempted to use the false records to have the investigation closed.

In response to the NOI, Respondent requested a hearing. The hearing was scheduled for September 10, 2009, continued to October 10, 2009 and then to November 12, 2009, pursuant to motions filed by Dr. Ganz.

The parties have agreed to settle this matter and agree that the allegations of facts set forth below, if proven, would be sufficient to support the Charge and Specification. Specifically, with regard to the violation charged, Dr. Ganz acknowledges that had this matter gone to a hearing there is sufficient evidence, if proven, for the Government to have made its prima facie case with respect to the Charge and its Specification.

FACTS

Dr. Ganz is a 73-year-old medical doctor licensed in the District of Columbia who has been practicing as a child, adolescent and adult psychiatrist in the District of Columbia metropolitan area from 1968 to the present. During his years of practice, Dr. Ganz has provided psychiatric care and treatment, medication assessment and

management, and consultation services to a host of organizations in the District of Columbia metropolitan area. One such organization at which Dr. Ganz has provided his services is RCM of Washington, Inc. ("RCM"), an organization which provides services for mentally disabled individuals in a residential group home setting.

Medicaid pays for services actually provided to these residents, including services for psychiatric care and evaluation. During the relevant time period (December 2002 to April 2004), RCM maintained six group homes, and employed a number of different caregivers and professionals to assist their residents, including two nurses who oversaw three homes each.

At RCM, each resident was provided the care which the resident required; some residents were on medication for physical conditions; some, but not all, of the residents of RCM took psychotropic medications. If a resident received psychotropic medications, then RCM held monthly meetings with a psychiatrist to determine whether the residents should be continued on the same psychotropic medicine and with the same dosage.

Beginning in early 2005, Dr. Ganz came under investigation by the U.S. Government for possible fraudulent conduct in billing for psychiatric consultation services regarding RCM residents. Dr. Ganz was aware of the pendency of the investigation by late 2006.

Sometime within the course of the government's investigation of the matter, Dr. Ganz created medical records "documenting" services provided on behalf of Medicaid residents. These records purported to show that Dr. Ganz provided services to the RCM residents who were not on psychotropic medicines. However, these records had been created by Dr. Ganz after the fact so as to render them exculpatory. In the spring of

2007, Dr. Ganz caused these false records to be provided to the FBI and the U.S. Attorney's Office for the District of Columbia in an attempt to cause the investigation to be closed without charges being brought against him.

Dr. Ganz pled guilty to obstructing a criminal investigation of a health care offense. This matter did not involve the treatment of patients nor were the false records made part of any patient record. The government did not file any charge concerning, and the Court did not find, that Dr. Ganz had engaged in an act of health care fraud or other health care offense. The United States District Court Judge specifically found that Dr. Ganz voluntarily accepted responsibility for his actions. The judge also found that Dr. Ganz did not pose a risk of similar future conduct. Dr. Ganz has no prior criminal or medical license disciplinary history. Dr. Ganz has, to date, abided by all terms of his currently imposed probation.

Joel S. Ganz, M.D., with advice of Counsel, gives his consent to the Board's following Order:

ORDER

WHEREFORE, the Board of Medicine ORDERS as follows:

1. That Dr. Joel S. Ganz is hereby immediately placed on **PROBATION** for a period of two (2) years from the effective date of this Consent Order, *nunc pro tunc* to January 21, 2009, and further;
2. Dr. Ganz shall be **FINED**, in the amount of Five Thousand Dollars (\$5,000.00), said fine to be paid within the period of probation by check or money order made payable to "D.C. Treasurer" and sent to the D.C. Board of Medicine, 717 14th Street, N.W., 10th Floor, Washington, D.C. 20005 by registered mail; and further,
3. Dr. Ganz will take and complete six (6) hours of continuing medical education ("CME") on recordkeeping. The CME hours shall be in addition to those normally required of licensees. The CME hours must be approved by the Board first, and all six (6) hours must be completed

and the Board provided proof of such within four (4) months from the effective date of this Order; and further,

4. Dr. Ganz will take and complete twelve (12) hours of continuing medical education ("CME") on medical ethics. The CME hours shall be in addition to those normally required of licensees. The CME hours must be approved by the Board first, and all twelve (12) hours must be completed and the Board provided proof of such within four (4) months from the effective date of this Order; and further,
5. Dr. Ganz is reminded of his duty, in accordance with 17 DCMR § 4609, to report any changes to his physician's profile within 30 days of any change, and is **ORDERED** to ensure that his profile is complete and current in all respects within thirty (30) days from the effective date of this Order; and further,
6. During the period of probation, Dr. Ganz will notify the Board no later than thirty (30) days in advance of opening an office in the District; and further,
7. Upon the conclusion of the period of **PROBATION**, Dr. Ganz shall apply in writing to the Board to have his status of **PROBATION** lifted, which **PROBATION** shall be lifted upon verification of compliance with all its conditions at the Board meeting subsequent to the written application; and further,
8. Dr. Ganz shall bear the cost of compliance with this Consent Order; and further,
9. This Consent Order will constitute **FINAL ACTION** within the District of Columbia for the facts that gave rise to the Notice of Intent to Take Disciplinary Action so long as Dr. Joel S. Ganz complies with the conditions contained herein. The NOI is hereby dismissed. In the event that Dr. Ganz violates any portion of this Consent Order, or commits any other violations of law that govern the practice of medicine in this or any other jurisdiction during the period of probation, Dr. Ganz acknowledges that the Board may bring charges for a violation of this **ORDER** and the probation hereunder, and if appropriate, additional charges for any other violation.

11/2/09
DATE

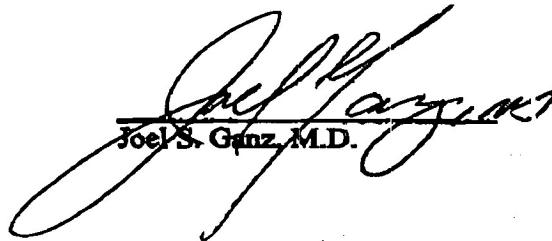

Frederick C. Finelli, M.D., J.D.
Chairperson
Board of Medicine

CONSENT

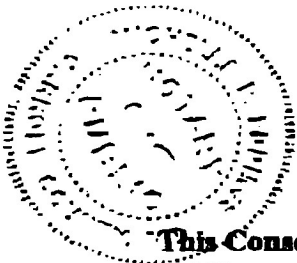
By this Consent, I agree to accept and abide by this Order. I acknowledge its validity and acknowledge that I have agreed to this consent in lieu of the hearing which I previously requested at which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my behalf, and to all other substantive and procedural protections provided by law. I voluntarily, after consulting with counsel, agree to waive any right I may have to appeal any portion of this Consent Order now or in the future for any reason.

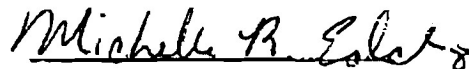
I also recognize that I am waiving my right to appeal any adverse ruling by the Board of Medicine that might have followed any such hearing. By this Consent, I waive all such rights. I have had an opportunity to review this document. I sign this consent without reservation and am fully aware of its meaning.

10-7-09
DATE


Joel S. Ganz, M.D.

Sworn and subscribed to before me this 7th day of October, 2009.




Michelle R. Soltes
Notary Public
My Commission expires 3/31/2013

This Consent Order is the Final Order of the Board in this disciplinary matter and a public record. It shall be disseminated as appropriate.