

JUL 11 2012

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 1409

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY MARIANO A. GALANG, M.D., LICENSE NO. 27611, 7216 HUNTERS RUN DRIVE, PROSPECT, KENTUCKY 40059

AGREED ORDER OF FINE

Come now the Kentucky Board of Medical Licensure (hereafter "the Board"), acting by and through its Inquiry Panel B, and Mariano A. Galang, M.D. ("the licensee"), and, based upon their mutual desire to fully and finally resolve this investigation without an evidentiary hearing, hereby ENTER INTO the following **AGREED ORDER OF FINE**:

STIPULATIONS OF FACT

The parties stipulate the following facts, which serve as the factual bases for this Agreed Order of Fine:

1. At all relevant times, Mariano A. Galang, M.D., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee's medical specialty is Psychiatry.
3. On July 16, 2009, the Panel and the licensee resolved a Complaint against the licensee's Kentucky medical license, without an evidentiary hearing, by entering into an Agreed Order. That Agreed Order included the following conditions:
 - a. The licensee shall not interact with or be in the presence of a female patient, unless he is accompanied at all times by an individual who has previously agreed to serve as a chaperon, under the terms specified in the standard letter provided by the Board for this purpose, a copy of which is attached to and fully incorporated into this Agreed Order. If the approved chaperon must leave the presence of the licensee and the female patient for any period of time, the licensee SHALL stop his interaction with the female patient until the approved chaperon may again be present;

- b. Any chaperon(s) utilized by the licensee must be approved, in advance, by the Board or its staff and must agree in writing to 1) remain present and within direct eyesight and within clear hearing distance of the licensee and the patient throughout the entire period the licensee is with a female patient; 2) accurately record the chaperon's presence, or absence, for the entire duration of such patient interaction in the patient's chart, or the patient record maintained by that clinical setting; 3) immediately notify the designated contact person at the Board's offices to report any violation of the chaperon requirement by the licensee. The licensee may submit and the Board or its agents may approve more than one chaperon to fulfill this requirement. The licensee, or someone acting on the licensee's behalf, shall be solely responsible for payment of the costs of such chaperon(s);
 - c. An approved chaperon may satisfy the requirement "to remain present and within direct eyesight and within clear hearing distance of the licensee," set out in Condition 2b, supra, even though the chaperon is not physically located in the same room as the licensee and the female patient so long as the following conditions are met:
 1. The approved chaperon may fully and clearly see both the licensee and the female patient through a glass door, glass wall, or glass window, and the chaperon may fully and clearly hear all verbal exchanges between the licensee and the female patient, throughout the entire period the licensee is with the female patient; or,
 2. The approved chaperon may fully and clearly see both the licensee and the female patient, and may fully and clearly hear all verbal exchanges between the licensee and the female patient, by way of a video camera/monitor system, throughout the entire period the licensee is with the female patient.
 - d. The licensee shall maintain a separate log documenting each female patient with whom he interacts and documenting the name, title and location of the chaperon utilized. Upon request, the licensee shall permit the Board's agents to review this log and shall take all necessary steps to arrange for the Board's agents to review the patient(s)' chart(s) and to interview the chaperon(s);
4. After entering into the Agreed Order, the licensee practiced with James Tabler, M.D.. Dr. Tabler asked the licensee to help with psychiatric consults for nursing home patients at various nursing homes in the Louisville, KY area, including The Richwood. During their review of a patient's billing complaint, The Richwood employees discovered that the licensee was subject to the Agreed Order. They

notified Dr. Tabler that the licensee was seeing female patients at The Richwood without a chaperon present. Dr. Tabler relayed that complaint to the Board.

5. Employees of The Richwood confirmed that the licensee had seen female patients at that facility without a chaperon present. They also reported that, on February 24, 2012, after the Board's investigation began, the licensee came to The Richwood to review his chaperon log, but it was empty. One of the nurses reported that, when the licensee discovered that the log was empty, he began going through the patient record for Patient A and had his wife initial consult notes for that patient that he had written previously. At that point, the licensee was asked to leave the facility immediately.

6. The licensee provided the following information,

The patients he saw at nursing homes were usually too demented or sedated to answer questions or communicate with him. He would read over the nursing notes, spend a lot of time at the desk reviewing chart and would then make a "judgment call" as to whether to see the patient, based upon the nurses' reports. He frequently wrote orders for medication changes without seeing or interacting with the patient. If it was necessary to examine a female patient, he would leave the facility and return with his wife, who acted as chaperon, later in the evening. He denied that his wife added entries to Patient A's chart as reported by Richwood staff. He insisted that his wife was present on each date he consulted on Patient A.

7. Billing records indicated that the licensee conducted a psychiatric consult with 14 female patients at The Richwood. When asked to provide his chaperon log for The Richwood, the licensee reported that it was missing.
8. A review of the patient records for those 14 female patients disclosed that there was no chaperon notation for any of the female patients except for Patient A. The Board investigator also noted that Patient B was seen on two of the same days as Patient A, but there was no indication that a chaperon was present during the

consult for Patient B; there were no chaperon initials. The records for Patients C and D made clear that the licensee had personally observed and interacted with those patients; however, there was no evidence a chaperone was present during those interactions.

STIPULATED CONCLUSIONS OF LAW

The parties stipulate the following Conclusions of Law, which serve as the legal bases for this Agreed Order of Fine:

1. The licensee's medical license is subject to regulation and discipline by the Board.
2. Based upon the Stipulations of Fact, the licensee has engaged in conduct which violates the provisions of KRS 311.595(10) and (17). Accordingly, there are legal grounds for the parties to enter into this Agreed Order of Fine.
3. Pursuant to KRS 311.591(6) and 201 KAR 9:082, the parties may fully and finally resolve this pending investigation without an evidentiary hearing by entering into an informal resolution such as this Agreed Order of Fine.

AGREED ORDER OF FINE

Based upon the foregoing Stipulations of Fact and Stipulated Conclusions of Law, and, based upon their mutual desire to fully and finally resolve this pending investigation without an evidentiary hearing, the parties hereby ENTER INTO the following

AGREED ORDER OF FINE:

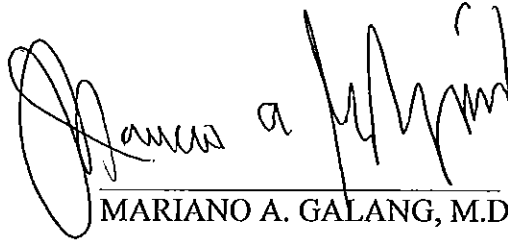
1. The licensee SHALL pay a FINE in the amount of one-thousand dollars (\$1,000.00), according to the following schedule: \$200.00 each month, with

payment due on the first day of each month, commencing July 1, 2012 and continuing until such time as the fine is paid in full;

2. The licensee expressly agrees that if he should violate the term of this Agreed Order of Fine, the licensee's practice will constitute an immediate danger to the public health, safety, or welfare, as provided in KRS 311.592 and 13B.125. The parties further agree that if the Board should receive information that he has violated the term of this Agreed Order of Fine, the Panel Chair is authorized by law to enter an Emergency Order of Suspension or Restriction immediately upon a finding of probable cause that a violation has occurred, after an *ex parte* presentation of the relevant facts by the Board's General Counsel or Assistant General Counsel. If the Panel Chair should issue such an Emergency Order, the parties agree and stipulate that a violation of the term of this Agreed Order of Fine would render the licensee's practice an immediate danger to the health, welfare and safety of patients and the general public, pursuant to KRS 311.592 and 13B.125; accordingly, the only relevant question for any emergency hearing conducted pursuant to KRS 13B.125 would be whether the licensee violated the term or condition of this Agreed Order of Fine.
3. The licensee understands and agrees that any violation of the term of this Agreed Order of Fine would provide a legal basis for additional disciplinary action, including revocation.


SO AGREED on this 8th day of July, 2012.

FOR THE LICENSEE:



MARIANO A. GALANG, M.D.

COUNSEL FOR THE LICENSEE
(IF APPLICABLE)

FOR THE BOARD:



RANDEL C. GIBSON, D.O.
CHAIR, INQUIRY PANEL B



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