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**From:** Diaz-Greco, Gilma M. (COE)  
**Sent:** Tuesday, April 07, 2015 3:28 PM  
**To:** Sanchez, Rodzandra (COE)  
**Subject:** Roberto Gonzalez, Physician, Rafael Penalver Clinic, Jackson Health Services (Conflict of Interest) INQ 15-59  
**Attachments:** JHM Letter.pdf

INQ 15-59 Gonzalez

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**From:** Ethics (COE)  
**Sent:** Tuesday, April 07, 2015 3:15 PM  
**To:** 'roberto.gonzalez@jhsmiami.org'  
**Cc:** Diaz-Greco, Gilma M. (COE); Barrett, Lynn ([lynn.barrett@jhsmiami.org](mailto:lynn.barrett@jhsmiami.org))  
**Subject:** INQ - Roberto Gonzalez, Physician, Rafael Penalver Clinic, Jackson Health Services (Conflict of Interest)

Dr. Gonzalez:

You inquired concerning an opinion in connection with a decision at JHS that you would not be permitted to maintain a private practice while employed by JHS as Associate Medical Director at the Rafael Penalver Clinic. Your statement that this “is not a JHM issue, rather a county issue,” is not accurate. In my discussions with the Chief of Compliance at JHS, Lynn Barrett, I understood that JHS did have a problem with your maintaining the private practice you were engaged in. In such cases, a departmental decision not to permit outside employment by one of its employees because of a perceived conflict of interest, does not need the approval of the Commission on Ethics. JHS is part of County government and does adhere to its Conflict of Interest provision in the County Ethics Code, but is free also, as other County departments are, to impose its own standards. The Conflict of Interest provisions of the County Ordinance are considered minimum standards, and JHS generally adheres to a heightened standard that includes “appearance of impropriety.”

In my discussions with Ms. Barrett, I did allude to Section 2-11.1(j) of the County Code, which prohibits a County (or JHS) employee from accepting other employment “which would impair his or her independence of judgment in the performance of his or her public duties.” I did agree with Ms. Barrett that under your circumstances, that Code provision might be violated if you were to maintain the private practice you were engaged in while being employed as a JHS physician. However, regardless of my opinion, JHS was entitled to set its own stricter policy if it felt that a particular outside employment situation was inappropriate.

Sincerely,

Joseph M. Centorino  
Executive Director and General Counsel  
Miami-Dade Commission on Ethics and Public Trust

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**From:** Gonzalez, Roberto Raul [<mailto:roberto.gonzalez@jhsmiami.org>]  
**Sent:** Monday, February 09, 2015 7:57 AM  
**To:** Ethics (COE)  
**Subject:** Conflict of Interest at JMH

Good morning Mr. Centorino,

My name is Roberto Raul Gonzalez and I have been directed to you by the Compliance department at Jackson Memorial Hospital for an Opinion on my situation.

Attached is an explanation of my situation.

Please advise,

Best Regards,

Roberto R. Gonzalez, MD.

Family Medicine Physician

Dr. Rafael A Penalver Clinic

971 N.W. 2<sup>ND</sup> Street

Miami, FL 33128

305-585-2815

[Roberto.gonzalez@jhsMiami.org](mailto:Roberto.gonzalez@jhsMiami.org)

To Whom It May Concern:

My name is Roberto Raul Gonzalez, MD. I am an employee of Jackson Memorial Hospital's Rafael A. Penalver Clinic and I have been informed that there may be a conflict of interest according to the Miami Dade County Commission on Ethics. In this letter I will detail my situation and the request from the Ethics Committee.

In December of 2013, I was hired by the Penalver Clinic as a part-time physician. In my interview with the former Medical Director, Dr. Pablo Calzada, I disclosed I had a part-time private practice. I disclosed that my practice is a small practice located in Coral Gables, FL and opens Monday-Thursday 5:30 -8:00 PM and every other Saturday 9: 00 am -5 pm (as required by my patients) . He mentioned it would not be an issue with Jackson Memorial Hospital (hereinafter "JMH"), as he himself had a private practice. He also mentioned that JMH has no non-compete clause and that all would be fine with me owning my own private practice. Moreover, in my credentialing packet I disclosed I had a private practice providing all its information; this credentialing packet was approved prior to my hiring so JMH was well aware of the practice.

In March of 2014, Dr. Calzada offered me a full time physician position at the Penalver clinic. I started that assignment on April 1, 2014. When I asked him if there was any paper work that had to be completed or submitted he mentioned none was needed as I would automatically be put to full time with benefits. Three months passed and I noticed I did not have any benefits nor anything had changed in my pay stub. When I approached Dr. Calzada he mentioned he would look into it. Dr. Calzada then resigned in mid-August and his last day was September 12, 2014.

Dr. Cristina Mata came on board during this time as CMO and met with me. In our meeting I mentioned to her the issue with my status and she said she would look into it. After Dr. Calzada's departure, Dr. Mata offered me the position of Associate Medical Director or full time attending physician at the Penalver Clinic. I chose to accept the Associate Medical Director position. A welcome email was sent on August 21, 2014 by Dr. Mata to the staff announcing my acceptance. As of September 15, 2014, I have been performing the duties of Associate Medical Director while still awaiting complete confirmation of the position, full time status and benefits.

On October 27, Dr. Mata called me and mentioned JMH compliance contacted her and said I could not have an administrative position as Associate Medical Director due to the fact there was a conflict of interest in me owning my own private practice. She said she would further investigate. On October 29 at a Directors meeting, Dr. Mata and an HR representative came to me to speak about a "conflict of interest." Dr. Mata mentioned that the only resolution would be for me to close my practice to attain the associate medical director position and or the full time attending position. I advised her that I would like to have all this information in writing and to please advise as to other alternatives or solutions that would resolve any potential conflict or perceived violation.

On Friday November 7, 2014, Dr. Mata contacted me and asked if I had made a final decision on closing my practice. I reminded Dr. Mata that I had not received anything from the Office of Compliance. I further explained that to make such a decision I needed something in writing so as

to better understand all my options. Additionally, I explained that a written explanation would allow me to explain the situation to providers, patients and others who would be directly impacted from such a drastic action.

Finally, on January 29, 2015 I was able to have a phone meeting with the Compliance Officer, Lynn Barrett. Ms. Barrett disclosed that this is not a JMH issue, rather a county issue. It was brought to my attention that my case was taken to the County Ethics Commission who concluded that my situation is a conflict of interest and that I would have to close my practice to work for JMH.

I am aware of the JMH conflict of interest forms in which a disclosure of more than 5% of ownership is required to be filled out by an employee to be able to carry on their business; I filled out this form, however, do not see anything on the form regarding an explanation about my situation. I have also been informed that such statute/policy that governs conflict of interest has not changed, rather the interpretation. What I am requesting as a physician with a non-restricted medical license, is for the following: an explanation in writing indicating what specific policy, statute and/or provision I am violating by owning my practice, why it has been determined that I have a conflict of interest, and how I may redress the situation to avoid any potential conflict.

Please note all this is necessary if there is a need to close my practice. I need to show/inform my landlord, health insurance contactors, patients and debtors why it is that I am closing my business. I am also interested in discussing any other alternatives which would allow me to maintain my practice and work at JMH.

Sincerely,

Roberto Raul Gonzalez, M.D.  
Dr. Rafael A. Penalver Clinic  
971 N.W. 2<sup>ND</sup> Street  
Miami, Fl 33128  
305-585-2815  
[Roberto.gonzalez@jhsmiami.org](mailto:Roberto.gonzalez@jhsmiami.org)