

IN THE MATTER OF	*	BEFORE THE
MIGUEL FRONTERA, M.D.	*	MARYLAND BOARD
Respondent	*	OF PHYSICIANS
License Number: D37559	*	Case Number: 2009-0760
*   *   *   *   *	*	*   *   *   *

**ORDER FOR SUMMARY SUSPENSION  
OF LICENSE TO PRACTICE MEDICINE**

The Maryland Board of Physicians (the "Board") hereby **SUMMARILY SUSPENDS** the license of Miguel Frontera, M.D. (the "Respondent") (D.O.B. 04/07/62), License Number D37559, to practice medicine in the State of Maryland. The Board takes such action pursuant to its authority under Md. State Gov't Code Ann. § 10-226(c)(2009 Repl. Vol.), concluding that the public health, safety or welfare imperatively requires emergency action.

**INVESTIGATIVE FINDINGS**

Based on information received by, and made known to the Board, and the investigatory information obtained by, received by and made known to and available to the Board, including the instances described below, the Board has reason to believe that the following facts are true:<sup>1</sup>

**BACKGROUND FINDINGS**

1. At all times relevant hereto, the Respondent was and is licensed to practice medicine in the State of Maryland. The Respondent was originally

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<sup>1</sup> The statements regarding the Respondent's conduct are intended to provide the Respondent with notice of the basis of the suspension. They are not intended as, and do not necessarily represent a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with this matter.

licensed to practice medicine in Maryland on October 20, 1988, under License Number D37559.

2. The Respondent is board-certified in adult psychiatry and child and adolescent psychiatry.

3. At all times relevant hereto, the Respondent maintained a professional office at the following location: Clinical Associates, 515 Fairmount Road, Suite 402, Towson, Maryland 21286 (the "Towson office").

4. On or about April 9, 2009, the Crimes Against Children Unit of the Baltimore County Police Department referred two police reports to the Board for investigation. These police reports involved allegations that the Respondent perpetrated acts of child abuse during physical examinations he performed on two minor boys in his Towson office.

5. The first police report, filed in 2006 by a crisis interventionist from a Baltimore County high school, involved allegations of possible sexual abuse that occurred against a minor boy (hereinafter "Patient A")<sup>2</sup> in or around 2000-2001. The crisis interventionist filed the police report after conducting a counseling session with Patient A, who stated that the Respondent repeatedly molested him during treatment visits when he was 11 or 12 years old.

6. The second police report, filed in March 2009 by a parent of a minor boy (hereinafter "Patient B"), involved possible sexual abuse that occurred in or around 2003, when Patient B was about 10 years old. In this case, the complainant reported that her son, Patient B, informed her that the Respondent

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<sup>2</sup> To protect confidentiality, patient names will not be used in this document. The Respondent may obtain the identity of any individual referenced in this document by contacting the assigned administrative prosecutor.

performed a physical examination of him that involved an examination of his penis. Patient B stated to police investigators that he had been "molested" by the Respondent.

7. In both instances, the alleged victims reported similar encounters with the Respondent: that when they were seen for evaluation for behavioral issues, he had them disrobe in his presence and wear a hospital-type gown, which opened in the back. The Respondent performed physical examinations on them on a couch in the office. In the first report, the victim stated that the Respondent examined his genital area. In the second report, the victim stated that the Respondent touched his penis during an examination. The Baltimore County Police Department declined to pursue criminal charges against the Respondent but referred the cases to the Board for further review and investigation.

8. The Board then initiated an investigation of the Respondent's practice. The Board's investigation included the cases described in the two police reports; a case involving similar facts the Board previously closed against the Respondent in 2006 ("Patient C"); and two other randomly selected cases involving patients upon whom the Respondent performed physical examinations during treatment visits ("Patient D" and "Patient E," respectively). All of these patients, who were then boys approximately 10 to 12 years old, were primarily evaluated for suspected attention deficit hyperactivity disorder. In one form or another, these patients expressed ongoing apprehension, anger or embarrassment about the propriety of the Respondent's performance of these

examinations. These patients did not know each other and had not communicated with each other about their experiences.

9. The Board referred this matter for review to a psychiatrist who is board-certified in adult psychiatry, child and adolescent psychiatry, and forensic psychiatry. This expert determined that in a majority of these cases, the Respondent engaged in unprofessional conduct in the practice of medicine, immoral conduct in the practice of medicine, sexual improprieties and sexual misconduct with patients. The reviewer also found that in several instances, the Respondent failed to meet appropriate standards for the delivery of quality medical care.

10. The Board also referred this matter to the Maryland Psychiatric Society (the "MPS") for a practice review. The MPS review evaluated the above five cases and an additional five cases in which the Respondent provided psychiatric services to male children or adolescents. In all of the cases, the reviewers determined that the Respondent failed to meet appropriate standards for the delivery of quality medical care and failed to keep adequate medical records.

11. Based on the findings set forth herein, the Board considers the Respondent's continued licensure in the State of Maryland to constitute a danger to the public, and that the public, health, safety and welfare require that his license be summarily suspended.

12. The Board's investigative findings are set forth *infra*.

### **BOARD INVESTIGATIVE FINDINGS**

13. Board investigation found that in the cases it evaluated, the Respondent's actions bore striking similarities from patient to patient. The sequence of events began as follows: After interviewing his patients' accompanying parent(s) about their children's behavioral issues, the Respondent performed physical examinations on the minor male patients. In four of the five instances the Board reviewed, the Respondent instructed the parent(s) to leave the office prior to the physical examination, or performed the examination without the knowledge or consent of the patients' parent(s). The Respondent was then alone in the office with these minor male patients. The Respondent did not employ the use of a chaperon during physical examinations. At the start of the examination, the Respondent provided his minor patients with a hospital gown, which he himself laundered at home and of which he kept a stock. The Respondent instructed his patients to disrobe completely and remove their underpants. The Respondent did not leave the office to ensure his patients' privacy, but stayed in the office while they disrobed. The Respondent did not have an examining table in his office. Instead, he examined his minor patients on a couch upon which he positioned them. The Respondent used this same couch during therapy sessions.

14. Some of these patients stated that at a point during the examination, the Respondent directed them to position themselves on "all fours," *i.e.*, to position themselves on their hands and knees on his office couch. During this time, these

patients stated that their genitals were exposed. The patients described that during this part of the examination the Respondent stood in back of them or sat on the couch and examined their inner thighs, and then their outer thighs. The Respondent spread the cheeks of his patients' buttocks and touched the area around their genitals. The patients then described that the Respondent directed them to lie in a supine position on the couch, after which he examined the area around their genitals.

15. The Respondent was interviewed by the Baltimore County Police Department in 2006 about his treatment of Patient A, and by Board representatives on July 29, 2009. In his interview with the Baltimore County Police Department, the Respondent, when questioned about the need to perform genital examinations on his minor male patients who presented with behavioral issues, stated, "I now realize that it is not, you know, necessary." The Respondent also stated that he was "very out of the mainstream of psychiatry."

16. In his interview with the Board, the Respondent stated that his examinations were either not "necessary" or were "uncalled for." The Respondent stated that it never occurred to him to contact his minor male patients' pediatricians to obtain their history and physical examination findings. The Respondent admitted that when doing such examinations on his minor male patients, he did not use gloves. The Respondent also admitted that he could have performed physical examinations on his minor male patients while they were clothed but did not do so out of "habit." The Respondent stated that when he performed physical examinations on his minor male patients, he did not require

them to disrobe completely during the initial phase of the examination, and only required them to remove their underpants if and when he wanted to evaluate their cremasteric reflexes. But Board investigation confirmed that in all instances, the Respondent required his minor male patients to disrobe completely prior to undergoing their physical examinations.

17. In his Board interview, the Respondent explained that he did not provide a chaperon during physical examinations or request that his patients' parent(s) remain in the room when performing them because of embarrassment he experienced as a child when undergoing physical examinations in the presence of his mother. The Respondent stated that he did not want to subject his male patients to similar embarrassment.

18. The Respondent stated that he maintained a stock of hospital gowns in his office, which he himself laundered. The Respondent admitted that from patient to patient, he did not disinfect the couch upon which he performed physical examinations.

19. The Respondent made contradictory statements during these interviews. During his interview with the Board, the Respondent stated that he stopped doing unchaperoned physical examinations in 2000. But at another point in his interview, the Respondent stated that he stopped doing them in 2003. In either event, Board investigation determined that in four of the five patients whose cases were reviewed, parents reported that they were either unaware that the Respondent had performed a physical examination on their children or were not given the option to be present during the physical examination.

20. In his Board interview, the Respondent stated that he continues to do physical and neurological examinations on his minor male patients. The Respondent stated that he performed one on a minor male patient on the day of the interview (*i.e.*, July 29, 2009).

#### **Summary of patient accounts**

21. The Board conducted interviews with the patients and/or their parents. A summary of those interview findings is set forth *infra*.

#### **Patient A**

22. According to the Respondent's treatment records, Patient A, who was then 11 years old, was brought in by his parents to see the Respondent for behavioral issues in or around April 2000.

23. During this initial consultation, the Respondent advised Patient A's mother that he needed to perform a physical examination of Patient A. The Respondent did not request that Patient A's parents consent to their son's examination or offer to have them remain in the room while he performed it. After Patient A's parents left the office, the Respondent gave a hospital-type gown to Patient A that opened in the back and instructed him to take off all of his clothing and put on the gown. The Respondent did not leave the room during the time Patient A undressed. At one point, the Respondent instructed Patient A to get on "all fours" on a couch that was in the office. During this examination, the Respondent handled Patient A's scrotum and penis. The Respondent concluded the examination at the end of the treatment session.

24. On the next visit, the Respondent stated that he needed to continue the examination he commenced on the prior visit. The Respondent then conducted a second physical examination of Patient A under similar circumstances. Patient A asked the Respondent for his mother to be present during this examination, but the Respondent declined to allow her to be present.

25. Patient A reported that on subsequent visits, the Respondent directed Patient A to take off his clothes during sessions with him. Patient A reported that the Respondent directed him to sit on the office couch and did not supply him with a hospital gown, stating he did not need one. Patient A reported that the Respondent physically examined him on the couch during some of these sessions. Among other things, the Respondent extensively examined Patient A's buttocks and genital areas.

26. Patient A eventually told his parents about these examinations and his extreme discomfort at having to endure them. Patient A's parents discontinued Patient A's treatment with the Respondent sometime in 2001.

27. Board investigators reviewed medical records compiled in 2001 by a psychiatrist who was treating Patient A. In a November 5, 2001, entry, the psychiatrist noted that Patient A reported that when he saw the Respondent, he examined his genitals "each time."

28. Patient A continued to experience longstanding emotional upheaval after discontinuing treatment with the Respondent.

## **Patient B**

29. According to the Respondent's treatment records, he first saw Patient B in or around August 2003, when Patient B was 10 years old. Patient B's mother brought Patient B in for the Respondent to evaluate him for attention deficit hyperactivity disorder.

30. During this consultation, the Respondent asked Patient B's mother to stay in the waiting room. The Respondent took Patient B into his office, at which point the Respondent asked Patient B to remove all of his clothes and wear a hospital-type gown that opened in the back. The Respondent then directed Patient B to lie on his back on the office couch without the hospital gown, at which point the Respondent performed an examination that included moving around his penis and touching him on and about the genital area. Patient B reported that the Respondent directed him to move his arms about as part of the examination in order to observe the movement of his genital area. The Respondent then concluded the examination, after which he instructed Patient B to place his gown back on. The Respondent asked Patient B a series of questions and concluded the treatment visit.

31. Patient B's mother reported that the Respondent did not inform her that his examination for attention deficit disorder included requiring her son to remove his clothing. She also stated that the Respondent did not disclose to her that he required her son to undress for the examination when speaking with her afterwards about his assessment of her son.

32. Patient B's mother stated that in March 2009, her son asked her if it was "normal" for the Respondent to have him take off all of his clothing and lay the sofa, and that the Respondent touched his penis.

### **Patient C**

33. Patient C, then 11 years old, was brought in by his mother for an evaluation with the Respondent in or around October 2002. Patient C's mother requested that the Respondent evaluate Patient C for attention deficit hyperactivity disorder, a condition for which Patient C had been previously treated.

34. During this consultation, the Respondent advised Patient C's mother that she should leave the room so that he could perform a physical examination on Patient C. After the examination, Patient C reportedly asked his mother why the Respondent had to examine him naked and why did he have to touch his "private area." In a subsequent patient visit, Patient C's mother asked the Respondent why he did this; the Respondent reportedly stated that he was checking Patient C's sensitivity to touch, related to his impulsivity.

35. During the physical examination, the Respondent directed Patient C to undress completely. Patient C reportedly asked if he could keep on his underpants, to which the Respondent replied no. The Respondent remained in the room while Patient C undressed. The Respondent did not provide a gown for Patient C to wear. The Respondent instructed Patient C to lie on his stomach on the office sofa, and began touching his arms, back and buttocks. The Respondent then instructed Patient C to lie on his back on the couch, after which he felt him about the chest and genital areas.

36. Patient C's mother initially reported this incident to the Board in 2003.

**Patient D**

37. Patient D, then approximately 11 years old, was brought in by his parents to see the Respondent in 2003 for behavioral issues. During this consultation, after having a discussion with Patient D's parents, the Respondent told them that he would need to perform a physical examination of Patient D and asked them to leave the room.

38. Patient D reported that after his parents left the room, the Respondent instructed him to undress totally, including his underwear. The Respondent did not leave the room while Patient D undressed. The Respondent handed Patient D a hospital gown that opened in the back. The Respondent proceeded to examine Patient D on the couch; no sheet or cover was placed on the couch. Patient D reported that the Respondent checked his muscle strength by pushing on his arms causing resistance, and checking his balance by having him stand on one foot and then the other. The Respondent then requested that Patient D position himself on his hands and knees on the couch, at which point Patient D's gown fell to the side, exposing his genitals. Patient D reported that the Respondent spread open his buttocks while he was in this position, and that the Respondent placed his hands on the inside and outside of Patient D's thighs, and directed him to push against his hands.

## **Patient E**

39. Patient E, then approximately 10 years old, was brought in by his mother to see the Respondent for an evaluation in late 2005. During this initial consultation, the Respondent informed Patient E's mother that he needed to perform a physical examination of Patient E. The Respondent permitted Patient E's mother to be present during the examination.

40. The Respondent directed Patient E to undress totally, including his underpants, and provided him a hospital gown that was open in the back. The Respondent then performed an examination of Patient E on his office couch. The Respondent did not use a sheet or cover for the couch during the examination. The Respondent advised Patient E's mother that his examination involved checking Patient E's motor skills. The Respondent checked Patient E's hand-eye coordination and had him stand on one foot, and then the other. The Respondent directed Patient E to get on his hands and knees and positioned him on the office couch. The Respondent sat at the end of the couch near Patient E's buttocks. The Respondent then placed his hands on the inside of Patient E's thighs and told him to push out, and then placed his hands on the outside of Patient E's thighs and told him to push again. The Respondent then instructed Patient E to lie on his back on the couch, at which point the Respondent examined Patient E's feet and toes.

## **Forensic review**

41. The Board referred its investigation to a psychiatrist who is board-certified in adult psychiatry, child and adolescent psychiatry, and forensic

psychiatry. The expert reviewed the Board's investigation with respect to the above five cases.

42. The expert concluded that the Respondent engaged in various forms of unprofessional conduct in the practice of medicine and immoral conduct in the practice of medicine when treating these patients. The expert also concluded that the Respondent also engaged in sexual improprieties and sexual misconduct when treating these patients. In addition, the reviewer found that in several instances, the Respondent failed to meet appropriate standards for the delivery of quality medical care when treating these patients and that his explanations for his actions did "not stand up to scrutiny."

43. The reviewer found, *inter alia*, that the Respondent engaged in the following improper practices: the Respondent did not have a valid medical reason or indication for performing examinations on his patients that required that they disrobe or be unclothed; the Respondent did not have a valid medical reason for performing examinations of his patients that involved their genitals or buttocks; the Respondent's practice of requiring his minor male patients to disrobe for examinations; the Respondent's practice of examining his disrobed, unclothed minor male patients on his office couch; the Respondent's practice of conducting physical examinations of minor male patients without offering a chaperon; the Respondent's practice of not advising his minor male patients' parents that he was going to perform a physical examination that required the patients to undress and undergo an examination of the genital area; the Respondent's practice of excluding his minor male patients' parents' during the course of examinations that

required that his patients to undress; the Respondent's practice of remaining present in the same room with his patients while they disrobed; the Respondent's practice of not providing privacy to his minor male patients while they undressed in preparation for physical examinations; the Respondent's practice of having his minor male patients get on "all fours" while naked on his office couch while he performed an examination on them; and the Respondent's practice of instructing his patients to remove their gowns at certain points in the examination.

#### **Peer review**

44. The Board also referred this matter to the MPS for a practice review. The MPS review included the above five cases and an additional five cases in which the Respondent provided psychiatric services to child and adolescent male patients. The Respondent provided these services at various times from 2000 to 2009. In all of the cases, the reviewers determined that the Respondent failed to meet appropriate standards for the delivery of quality medical care and failed to keep adequate medical records. The reviewers found that the Respondent violated quality medical and recordkeeping standards for reasons including but not limited to the following: the Respondent inappropriately conducted physical examinations of patients on his office couch; the Respondent failed to provide privacy to minor male patients while they undressed in preparation for physical examinations; the Respondent failed to offer or provide a chaperon during physical examinations; the Respondent failed to weigh the intrusiveness of a physical examination against its probative or diagnostic value; the Respondent had patients undress, which did not further support the diagnosis or treatment plan; the

Respondent required minor male patients to undress during parts of an examination that did not require that the patients be unclothed; the Respondent failed to provide appropriate preparation for his minor male patients or their parent(s) for the examination; the Respondent ordered an inadequate frequency of office visits for purposes of monitoring the medications he had prescribed; the Respondent consistently made medication changes for patients over the telephone without observing them; the Respondent failed to reassess patients in a timely manner after the initiation of a medication; the Respondent increased the dosage of psychotropic medications after determining patient non-compliance; the Respondent failed to communicate with a patient's pediatrician, who was also prescribing a psychotropic medication for the patient; Respondent requested that patients' family members titrate psychotropic medications, depending on their assessment of the patient; the Respondent provided excessive refills for psychotropic medications prior to observing their effects on the patient; the Respondent provided excessive refills of medications and changes of dosages of medications without observing the patient; the Respondent prescribed two tricyclic antidepressants to be used concurrently; and the Respondent failed to read EKGs prior to prescribing a tricyclic antidepressant.

#### **Misrepresentations on clinical privilege application**

45. On or about October 13, 2008, the Respondent submitted an application to Lifebridge Health for clinical privileges.

46. On page 10 of a form entitled, Maryland Hospital Credentialing Application (the "Application"), the Respondent answered "NO" to the following

question: Have you ever been the subject of an administrative, civil or criminal complaint or investigation regarding sexual misconduct or child abuse?"

47. The Respondent failed to disclose on the Application that on October 23, 2006, the Baltimore County Police Department, Crimes Against Children Unit advised him of allegations filed against him alleging child abuse (see above).

48. At the conclusion of the Application, on page 12, the Respondent affirmed in writing that the information contained in the Application was current, correct and complete to the best of his knowledge.

49. Based on the above investigative facts, the Board has probable cause to believe that the Respondent has committed acts in violation of the Act. Specifically, the Board has probable cause to believe that the Respondent violated the following provisions of H.O. § 14-404(a):

(3) Is guilty of:

- (i) immoral conduct in the practice of medicine; or
- (ii) unprofessional conduct in the practice of medicine;

(22) Fails to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State;

(36) Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine; [and/or]

(40) Fails to keep adequate medical records as determined by appropriate peer review[.]

50. In addition, the Board has probable cause to believe that the Respondent violated its sexual misconduct regulations. Code of Maryland

Regulations ("COMAR") 10.32.17 *et seq.* The Board's sexual misconduct regulations prohibit sexual misconduct against patients or key third parties by individuals licensed or certified under Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland. COMAR 10.32.17.01. The Board has probable cause to believe that the Respondent engaged in sexual improprieties with patients, as defined in COMAR 10.32.17.02B(2); sexual misconduct with patients, as defined in COMAR 10.32.17.02B(3), and sexual violations with patients, as defined in COMAR 10.32.17.02B(4). Individuals licensed or certified under Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland, may not engage in sexual misconduct. COMAR 10.32.17.03A.

51. The Board considers the Respondent's continued licensure in the State of Maryland to constitute a danger to the public, and that the public, health, safety and welfare require that his license be summarily suspended.

#### **CONCLUSIONS OF LAW**

Based on the foregoing investigative facts, the Board concludes that the public health, safety or welfare imperatively require emergency action in this case, pursuant to Md. State Gov't Code Ann. § 10-226(c)(2)(2009 Repl. Vol.).

#### **ORDER**

It is this 6<sup>th</sup> day of November 2009, by a majority of the quorum of the Board:

**ORDERED** that pursuant to the authority vested by Md. State Gov't Code Ann. §10-226(c)(2), the Respondent's license to practice medicine in the State of Maryland be and hereby is **SUMMARILY SUSPENDED**; and be it further

**ORDERED** that a post-deprivation hearing in accordance with Code of Maryland Regulations tit. 10, § 32.02.05.B(7) C, D and E on the Summary Suspension has been scheduled for **Wednesday, November 18, 2009 at 1:00 p.m.**, at the Maryland Board of Physicians, 4201 Patterson Avenue, Room 108, Baltimore, Maryland 21215-0095; and be it further

**ORDERED** that at the conclusion of the **SUMMARY SUSPENSION** hearing held before the Board, the Respondent, if dissatisfied with the result of the hearing, may request within ten (10) days an evidentiary hearing, such hearing to be held within thirty (30) days of the request, before an Administrative Law Judge at the Office of Administrative Hearings, Administrative Law Building, 11101 Gilroy Road, Hunt Valley, Maryland 21031-1301; and be it further

**ORDERED** that on presentation of this Order, the Respondent **SHALL SURRENDER** to the Board's investigator the following items:

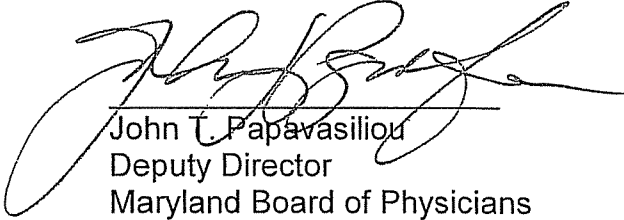
- (1) his original Maryland License D37559;
- (2) his current renewal certificate;
- (3) DEA Certificate of Registration, # BF1778678 (exp. 09/30/09);
- (4) Maryland Controlled Dangerous Substance Registration, # M30374 (exp. 04/30/10);
- (5) All controlled dangerous substances in his possession and/or practice;
- (6) All Medical Assistance prescription forms;
- (7) All prescription forms and pads in his possession and/or practice; and

(8) Any and all prescription pads on which his name and DEA number are imprinted; and be it further

**ORDERED** that a copy of this Order of Summary Suspension shall be filed with the Board in accordance with Md. Health Occ. Code Ann. § 14-407 (2009 Repl. Vol.); and be it further

**ORDERED** that this is a Final Order of the Board and, as such, is a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. § 10-611 *et seq.* (2009 Repl. Vol.)

11/6/09  
Date

  
John T. Papavasiliou  
Deputy Director  
Maryland Board of Physicians