BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

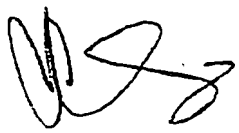
In the Matter of the Accusation Against: Joseph Premalal Fernando, M.D. Physician's & Surgeon's Certificate No. C 167381 Petitioner.	Case No. 800-2021-076465

ORDER DENYING PETITION FOR RECONSIDERATION

The Petition filed by Albert J. Garcia, attorney for Joseph Premalal Fernando, M.D., for the reconsideration of the decision in the above-entitled matter having been read and considered by the Medical Board of California, is hereby denied.

This Decision remains effective at 5:00 p.m. on September 30, 2021.

IT IS SO ORDERED: September 23, 2021



Laurie Rose Lubiano, J.D., Chair
Panel A

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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against, **JOSEPH PREMALAL FERNANDO, M.D.** **2566 Stone Ridge Drive** **Poplar Bluff, MO 63901** **Physician's and Surgeon's Certificate No. C167381** Respondent.	Case No. 800-2021-076465 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

1. On July 1, 2021, an employee of the Medical Board of California (Board) sent by certified mail a copy of Accusation No. 800-2021-076465, Statement to Respondent, Notice of Defense in blank, copies of the relevant sections of the California Administrative Procedure Act as required by sections 11503 and 11505 of the Government Code, and a request for discovery, to Joseph Premalal Fernando, M.D. (Respondent) at his address of record with the Board, which was and is, 2566 Stone Ridge Drive, Poplar Bluff, MO 63901. (Exhibit Package, Exhibit 1[1]: Accusation Package.)

2. There was no response to the Accusation. On August 3, 2021, an employee of the Attorney General's Office sent a Courtesy Notice of Default, by certified mail, addressed to

[1] The evidence in support of this Default Decision and Order is submitted herewith as the "Exhibit Package."

Respondent at the address of record above. The Courtesy Notice of Default advised Respondent of the service Accusation, and provided him with an opportunity to file a Notice of Defense and request relief from default. The United States Post Office tracking service shows that the Courtesy Notice of Default was delivered on August 7, 2021.(Exhibit Package, Exhibit 2: Courtesy Notice of Default, proof of service, USPS tracking information.)

3. Respondent has not responded to service of the Accusation or the Notice of Default. He has not filed a Notice of Defense. As a result, Respondent has waived his right to a hearing on the merits to contest the allegations contained in the Accusation.

FINDINGS OF FACT

4. William Prasifka is the Board's Executive Director. The charges and allegations in the Accusation were at all times brought and maintained solely in the official capacity of the Board's Executive Director.

5. On December 30, 2019, Physician's and Surgeon's Certificate No. C167381 was issued by the Board to Joseph Premalal Fernando, M.D. The certificate is renewed and current with an expiration date of December 31, 2021, and is SUSPENDED by virtue of an Order issued by the Board on May 28, 2021 pursuant to Business and Professions Code section 2310(a). (Exhibit Package, Exhibit 3: License certification.)

6. On July 1, 2021, Respondent was duly served with an Accusation, alleging causes for discipline against Respondent. A Courtesy Notice of Default was thereafter served on Respondent. Respondent failed to file a Notice of Defense.

7. The allegations of the Accusation are true as follows:

On February 22, 2021, the Arkansas State Medical Board issued an Emergency Order of Suspension and Notice of Hearing against Respondent's license to practice medicine in the State of Arkansas. On April 23, 2021, the Texas Medical Board issued an Order of Temporary Suspension against Respondent's Texas medical license. The facts under lying the suspension orders issued by the Arkansas and Texas medical boards are that Respondent, a pediatrician, was arrested and criminally charged with sexually molesting a child who was his patient. Felony criminal charges have been filed and are pending in Stoddard County, Missouri. Copies of the

orders issued by the orders issued by the Texas and Arkansas medical boards are attached as Exhibits A and B to the Accusation, Exhibit Package, Exhibit 1.

DETERMINATION OF ISSUES

8. The Board has jurisdiction to adjudicate this case by default, and pursuant to Government Code section 11520, finds that Respondent is in default. The Board will take action without further proceedings or hearing and, based on Respondent's admissions by way of default and the evidence before the Board, contained in the Exhibit Package, finds that the allegations in the Accusation are true and correct.

9. Respondent's conduct and the actions of the Arkansas and Texas medical boards constitute cause for discipline within the meaning of Business and Professions Code sections 2305 and/or 141(a).

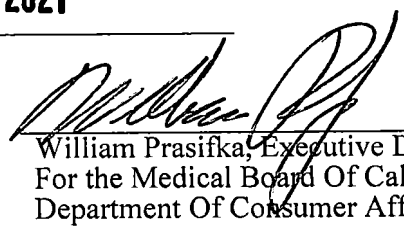
ORDER

IT IS SO ORDERED that Physician's and Surgeon's Certificate No. C167381, heretofore issued to Respondent Joseph Premalal Fernando, M.D., is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective at 5:00 p.m. on SEP 30 2021.

It is so ORDERED AUG 31 2021



William Prasifka, Executive Director
For the Medical Board Of California
Department Of Consumer Affairs

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Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **Joseph Premalal Fernando, M.D.** **2566 Stone Ridge Drive** **Poplar Bluff, MO 63901** **Physician's and Surgeon's Certificate No. C167381,** Respondent.	Case No. 800-2021-076465 **ACCUSATION**

PARTIES

1. William Prasifka (Complainant) brings this Accusation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On December 30, 2019, the Medical Board issued Physician's and Surgeon's Certificate Number C167381 to Joseph Premalal Fernando, M.D. (Respondent). The Physician's and Surgeon's Certificate will expire on December 31, 2021, but is SUSPENDED by virtue of an Order issued by the Board on May 28, 2021, pursuant to Business and Professions Code section 2310(a).

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JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

A. Section 2227 of the Code provides in part that the Board may revoke, suspend for a period not to exceed one year, or place on probation, the license of any licensee who has been found guilty under the Medical Practice Act, and may recover the costs of probation monitoring.

B. Section 2305 of the Code provides, in part, that the revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California under the Medical Practice Act, constitutes grounds for discipline for unprofessional conduct.

C. Section 141 of the Code provides:

> "(a) For any licensee holding a license issued by a board under the jurisdiction of a department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or by another country shall be conclusive evidence of the events related therein.
>
> "(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by the board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country."

FIRST CAUSE FOR DISCIPLINE

(Discipline, Restriction, or Limitation Imposed by Other Jurisdictions)

4. On February 22, 2021, the Arkansas State Medical Board issued an Emergency Order of Suspension and Notice of Hearing against Respondent's license to practice medicine in the

State of Arkansas. On April 23, 2021, the Texas Medical Board issued an Order of Temporary Suspension against Respondent's Texas medical license.

5. The facts underlying the suspension orders issued by the Arkansas and Texas medical boards are that Respondent, a pediatrician, was arrested and criminally charged with sexually molesting a child who was his patient. Felony criminal charges have been filed and are pending in Stoddard County, Missouri.

6. A copy of the Emergency Order of Suspension and Notice of Hearing issued by the Arkansas State Medical Board is attached as Exhibit A. A copy of the Order of Temporary Suspension issued by the Texas Medical Board is attached as Exhibit B.

7. Respondent's conduct and the actions of the Arkansas State Medical Board and the Texas State Medical Board, as set forth above, constitute cause for discipline pursuant to sections 2305 and/or 141 of the Code.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number C167381, issued to Joseph Premalal Fernando, M.D.;

2. Revoking, suspending or denying approval of Joseph Premalal Fernando, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Joseph Premalal Fernando, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: JUL 0 1 2021

WILLIAM PRASTERA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

SF2021401055/42717152

Exhibit A

BEFORE THE ARKANSAS STATE MEDICAL BOARD

IN THE MATTER OF: JOSEPH PREMALAL FERNANDO, M.D.

EMERGENCY ORDER OF SUSPENSION AND NOTICE OF HEARING

Pursuant to ACA §25-15-201 and ACA §25-15-211, both of the Administrative Procedure Act, and ACA §17-95-410 of the Medical Practices Act, the Arkansas State Medical Board issues the following Emergency Order of Suspension and Second Amended Notice of Hearing charging Joseph Premalal Fernando, M.D., with alleged violations of the Medical Practices Act, more specifically:

1. ACA §17-95-409(a)(2)(j), that is, becoming physically and/or mentally incompetent to practice medicine to such an extent as to endanger the public;

2. ACA §17-95-409(a)(2)(p), that is, violating a rule of the Board;

3. §17-95-409(a)(2)(s), that is, committing an ethical violation as determined by the by Board by rule; and

4. Rule 32(A), a licensed physician engaging in sexual contact, sexual relations or a romantic relationship with a patient concurrent with the physician-patient relationship; or a licensed physician engaging in the same conduct with a former patient, if the physician uses or exploits trust, knowledge, emotions or influence derived from the previous professional relationship. A patient's consent to, initiation of, or participation in the sexual relationship or conduct with the physician does not change the nature of the conduct nor the prohibition.

The allegations upon which the above charges are based are as follows:

I.

Joseph Premalal Fernando, M.D., is a licensed physician in the State of Arkansas under

the provisions of the Medical Practices Act.

II.

On or about February 10, 2021, turned himself in to the Stoddard County Sheriff's Office. Joseph Premalal Fernando, M.D., and was charged with a felony count of first degree statutory sodomy involving a patient in November 2020.

III.

Pursuant to the Administrative Procedure Act, ACA §25-15-211(c), and upon an affirmative vote of the majority of the Arkansas State Medical Board, the Board finds that the acts of Joseph Premalal Fernando, M.D., described hereinabove, endangers the public health, safety, and welfare of the citizens of Arkansas; and therefore, the license to practice medicine in the State of Arkansas as heretofore issued to Joseph Premalal Fernando, M.D., is suspended on an emergency basis, pending a disciplinary hearing in this matter or further Orders of the Board.

WHEREFORE, IT IS CONSIDERED, ORDERED, AND ADJUDGED by the Arkansas State Medical Board that the license to practice medicine in the State of Arkansas of Joseph Premalal Fernando, M.D., is suspended on an emergency basis, pending a disciplinary hearing in this matter or further Orders of the Board.

IT IS FURTHER CONSIDERED, ORDERED, AND ADJUDGED by the Arkansas State Medical Board, that a hearing should be conducted to determine whether Joseph Premalal Fernando, M.D., has violated the Medical Practices Act; if it is determined that he has, in fact, violated the Medical Practices Act, then the Board should determine whether the license of Joseph Premalal Fernando, M.D., to practice medicine in the State of Arkansas, should be revoked or suspended, or whether other sanctions should be imposed pursuant to the authority granted the

Board in ACA § 17-95-410. Said hearing will be conducted on the 8 day of April, 2021 at 1 o' clock p.m. at a meeting of the Arkansas State Medical Board at the offices of the Board, 1401 W. Capitol Ave, Suite 340, Little Rock, Pulaski County, Arkansas. Joseph Premalal Fernando, M.D., is hereby advised that he may be represented by counsel at the hearing, and that he will be given the opportunity to examine all of the evidence offered to the Board, cross-examine witnesses, and offer evidence and witnesses in his own behalf.

Dr. Fernando is further advised that any additional records and/or exhibits that he as a Respondent wishes to present to the Board at his hearing MUST be supplied to the Board no later than 20 days prior to the hearing date. Failure to do so can result in the Board's refusal to allow the information or documentation to be presented by the Respondent. Any and all documents submitted after the 20-day deadline are subject to the Chairman's discretion regarding admission of those documents to the Board. Further, any submission of documents after the 20-day deadline are provided with the knowledge of the respondent that the Board and/or its expert may not have time to review those documents prior to or during the hearing.

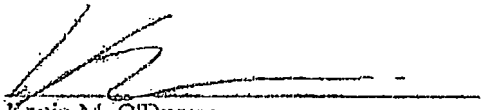
IT IS SO ORDERED.

ARKANSAS STATE MEDICAL BOARD

BY: Sylvia Simon MD
Sylvia D. Simon, M.D., Chairman

DATE: 2/22/2021

APPROVED AS TO FORM:



Kevin M. O'Dwyer
Attorney for Arkansas State Medical Board

Exhibit B

LICENSE NO. S-8036

IN THE MATTER OF THE LICENSE OF JOSEPH PREMALAL KUMARA FERNANDO, M.D.	BEFORE THE DISCIPLINARY PANEL OF THE TEXAS MEDICAL BOARD

ORDER OF TEMPORARY SUSPENSION
(WITHOUT NOTICE OF HEARING)

On April 23, 2021, came to be heard before the Disciplinary Panel (Panel) of the Texas Medical Board (Board), composed of Manuel "Manny" Quinones, Jr., M.D., Robert Gracia, and Sharon Barnes, members of the Board duly in session, the matter of the Application for Temporary Suspension (Without Notice of Hearing) of the license of Joseph Premalal Kumara Fernando, M.D. (Respondent). Jared Brehmer represented Board Staff. Based on evidence submitted, the Board through this Panel makes the following Findings of Fact and Conclusions of Law and enters this Order of Temporary Suspension (Without Notice of Hearing):

FINDINGS OF FACT

1. Respondent is sixty-five years of age and is engaged in the practice of pediatrics.

2. Until his recent arrest, related to the underlying allegations, Respondent was employed as a pediatrician by Heartland Women's Healthcare, located at 2340 Katy Lane, Poplar Bluff, Missouri.

3. Respondent is currently being held in jail, in the state of Missouri, and has been charged with first-degree felony statutory sodomy, deviate sexual behavior with a minor.

4. The victim is twelve years of age and a male patient of Respondent.

5. The alleged sexual crimes took place outside of Respondent's medical practice setting.

6. This matter came to light after the victim's father discovered unusual text messages and video from Respondent to the victim on the victim's cellular telephone. When questioned about these text messages, the victim indicated that Respondent had sexually assaulted the victim on several occasions. On one occasion, Respondent was allegedly at the victim's house while the victim's mother was away and Respondent allegedly threatened to harm

the victim's mother and other family members if the victim refused to allow Respondent to perform oral sex upon him.

7. On January 18, 2021, Detective Lt. Cory Mills obtained Respondent's cellular telephone which was subsequently searched and produced evidence corroborating that the crime had occurred as alleged by the victim.

8. Respondent turned himself in on February 10, 2021, and is being held in custody without bail. Respondent has a Preliminary Hearing set for May 27, 2021.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Panel concludes the following:

1. Section 164.059 of the Act authorizes the Disciplinary Panel to temporarily suspend or restrict the medical license of Respondent if the Disciplinary Panel determines from evidence presented to it that the Respondent's continuation in the practice of medicine would constitute a continuing threat to the public welfare.

2. Section 164.0595(a) of the Act authorizes the Board to suspend or restrict the license of a person arrested for certain sexual offenses committed against children.

3. Section 164.0595(c) of the Act provides that a suspension or restriction under Section 164.0595 remains in effect until the final disposition of the case.

4. Based on the evidence presented and the Findings of Fact set forth herein, the Disciplinary Panel finds that Respondent violated various sections of the Medical Practice Act, specifically:

> Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public as provided by Section 164.053 of the Act, or injure the public, and further defined by Board Rules 190.8(2)(E), engaging in sexual contact with a patient; 190.8(2)(F), engaging in sexually inappropriate behavior or comments directed towards a patient; 190.8(2)(G), becoming financially or personally involved with a patient in an inappropriate manner; and 190.8(2)(R), commission of the following violations of federal and state laws whether or not there is a complaint, indictment, or

conviction: (i), any felony; (ii), any offense in which assault or battery, or the attempt of either is an essential element; and (vii), child molestation.

ORDER

Based on the above Findings of Fact and Conclusions of Law, the Panel ORDERS that:

1. Respondent's Texas Medical License No. S-8036 is hereby TEMPORARILY SUSPENDED. Respondent shall not be permitted to practice medicine in Texas.

2. This Order of Temporary Suspension (Without Notice of Hearing) is effective on the date rendered.

3. Notice of this Order of Temporary Suspension (Without Notice of Hearing) shall be given immediately to Respondent.

4. A hearing on the Application for Temporary Suspension (With Notice of Hearing) will hereby be scheduled before a Disciplinary Panel of the Board at a date to be determined as soon as practicable, at the offices of the Board, unless such hearing is specifically waived by Respondent.

5. This Order of Temporary Suspension (Without Notice of Hearing) shall remain in effect until such time as a hearing on the Application for Temporary Suspension (With Notice of Hearing) is conducted and a Disciplinary Panel enters an order, or until superseded by a subsequent order of the Board.

Signed and entered this April 23, 2021.

Manuel "Manny" Quinones, Jr., M.D.
Chair, Disciplinary Panel
Texas Medical Board