

# LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

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**In The Matter of:**

**MARIA MIGDALIA FONTANEZ, M.D.**  
*(Certificate No. 08550R)*

**No. 09-I-150**

**CONSENT ORDER FOR  
OFFICIAL REPRIMAND**

The above-entitled proceeding was docketed for investigation by the Louisiana State Board of Medical Examiners (the "Board") following the receipt of apparently reliable information which indicated that Maria Migdalia Fontanez, M.D. ("Dr. Fontanez"), a physician who at all times material to the facts and matters alleged herein was and is licensed and engaged in the practice of medicine in and around Jennings, Louisiana, engaged in inappropriate prescribing of narcotic medications, including, but not limited to, the prescribing of Phenergan with Codeine to pediatric patients, some of whom were under two years of age.

Predicated upon the foregoing information, the Investigating Officer ("I/O") assigned by the Board with respect to this matter has determined that reasonable cause exists for recommending that a formal Administrative Complaint be filed against Dr. Fontanez, charging her with violation of the Louisiana Medical Practice Act (the "Act"), pursuant to La. Rev. Stat. §37:1285A (6) and (14)<sup>1</sup>.

On her behalf, Dr. Fontanez has advised the I/O that she is a competent pediatric physician who has obtained no monetary gain from issuing prescriptions and that she was not aware that her prescribing practices could be construed as being outside the usual and

<sup>1</sup> Pursuant to La. Rev. Stat. §37:1285A(6) and (14), respectively, the Board may suspend, revoke or impose other terms and conditions on the license of a physician as a result of: "(6) [P]rescribing, dispensing, or administering legally controlled substances or any dependency-inducing medication without legitimate medical justification therefor or in other than a legal or legitimate manner;" and "(14) [C]ontinuing or recurring medical practice which fails to satisfy the prevailing and usually accepted standards of medical practice in this state; ..."

prevailing standards of medical practice in this state. Upon receipt of the notice of the investigation, Dr. Fontanez discontinued prescribing narcotic medications to her pediatric patients. Furthermore in meeting with the I/O she stated that she realized that she often responded to parent requests for cough syrup and was unaware of the volume of prescriptions she was writing. She also was unaware that Phenergan with Codeine had become a medication with a high rate of drug abuse and diversion. Nevertheless, as evidenced by her subscription hereto, Dr. Fontanez acknowledges that the reported information could provide the I/O with probable cause to pursue formal administrative proceedings against her for violation of the Act, La. Rev. Stat. §§37:1285(A)(6), and (14), respectively and, further, that proof of such information upon administrative evidentiary hearing could establish grounds under the Act for the suspension, revocation or imposition of such other terms, conditions or restrictions on her license to practice medicine in the state of Louisiana as the Board might deem appropriate.

Recognizing her right to have administrative adjudication of such charges, at which time she would be entitled to be represented by legal counsel, to call witnesses and to present evidence on her own behalf in defense or in mitigation of the charges made and to a decision thereon by the Board based upon written findings of fact and conclusions of law pursuant to La. Rev. Stat. §§49:955-965, Dr. Fontanez, nonetheless, hereby waives her right to notice of charges, formal adjudication and written decision and pursuant to La. Rev. Stat. §49:955(D) consents to entry of the Order set forth hereinafter. Moreover, by her subscription hereto, Dr. Fontanez also waives any right to which she may be entitled pursuant to the Louisiana Administrative Procedure Act, La. Rev. Stat. §§49:951, *et seq.* or which otherwise may be afforded to her by law to contest her agreement to or the force and effect of this document in any court or other forum or body relating to the matters referred to herein. By her subscription hereto, Dr. Fontanez also hereby authorizes the Investigating Officer designated by the Board with respect hereto to present this Consent Order to the Board for its consideration and to fully disclose to and discuss with the Board the nature and results of the investigation and she waives any objection to such disclosures under La. Rev. Stat. §49:960. Furthermore, Dr. Fontanez expressly acknowledges that the disclosure of information to the Board by the Investigating Officer shall be without prejudice to the Investigating Officer's authority to pursue an Administrative Complaint against her or to the Board's capacity to adjudicate such Complaint should the Board decline to approve this Consent Order.

Based upon the information provided, the Board has concluded that the public interest would be properly protected and served by allowing Dr. Fontanez to maintain her license subject to appropriate specified terms, conditions and restrictions. In consideration of this finding, accordingly, and on the recommendation of the Investigating Officer, the Board has concluded that its responsibility to insure the health, safety and welfare of the citizens of this state, pursuant to La. Rev. Stat. §37:1261, will be effectively served by entry of the Order set forth hereinafter by consent. Accordingly, in consideration of the foregoing, and pursuant to the authority vested in the Board by La. Rev. Stat. §37:1285 and La. Rev. Stat. §49:955(D);

**IT IS ORDERED** that Maria Migdalia Fontanez, M.D., is hereby issued an **OFFICIAL REPRIMAND** and that Dr. Fontanez's license to practice as a physician in this state and her continuing exercise of the rights and privileges granted to her thereby, shall be subject to her acceptance of and strict compliance with the following terms and conditions:

**(1) Limitations on Prescribing - Narcotics.** Until and unless modified by the Board, Dr. Fontanez shall not prescribe in an office setting any narcotic medication classified in Schedule II through Schedule IV in 21 C.F.R. §§1308, La. Rev. Stat. §40:964, or any substance which may hereafter be designated a narcotic by inclusion in such regulations and statute. The prohibition contained in this paragraph shall not prohibit Dr. Fontanez from prescribing in an office setting any other (non-narcotic) Schedule II-IV controlled substance, including, but not limited to controlled substances for the treatment of Attention Deficit Disorder, or ordering controlled substances (including narcotics) and other prescription medications for administration to in-patients of and at a hospital or similar institution where she is employed or exercises staff and clinical privileges under the controlled substance license and registration of such hospital or institution and in accordance with such hospital or institution's prescribed policies and procedures governing the administration of controlled substances.

**(2) Continuing Medical Education – Course on Proper Prescribing.** Within one hundred eighty (180) days of the issuance of this Order, Dr. Fontanez shall successfully complete one or more courses of study in the area of proper prescribing of controlled substances, including narcotic medications, in a pediatric population. All courses required by this provision shall be pre-approved by the Board or its designee

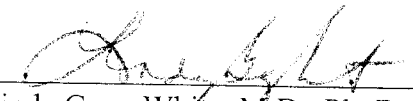
**(3) Effective Date.** This Order shall be effective the date it is approved and accepted by the Board as shown by the signature of its representative below.

**IT IS FURTHER ORDERED** that any violation or failure of strict compliance with any of the terms, conditions or restrictions set forth by this Order by Dr. Fontanez shall be deemed adequate and sufficient cause, upon proof of such violation or failure, for the revocation and cancellation of Dr. Fontanez's license to practice medicine in this state, or for such other action as the Board may deem appropriate, as if such violations were enumerated among the causes provided in La. Rev. Stat. §37:1285.

**IT IS FURTHER ORDERED** that this Consent Order shall be, and shall be deemed to be, a PUBLIC RECORD.

Signed in New Orleans, Louisiana, and effective on this 20<sup>th</sup> day of July, 2009.

**LOUISIANA STATE BOARD  
OF MEDICAL EXAMINERS**

By:   
Linda Gage-White, M.D., Ph. D.  
*President*

*Acknowledgement and Consent  
Follows on Next Page*

**ACKNOWLEDGMENT  
AND CONSENT**

STATE OF LOUISIANA  
PARISH OF JEFF. DAVIS

I, MARIA MIGDALIA FONTANEZ, M.D., hereby acknowledge, approve, accept and consent to entry of the above and foregoing Order, this 8th day of July, 2009.

Maria Migdalia Fontanez  
MARIA MIGDALIA FONTANEZ, M.D.

WITNESSES:

Joan S. Smith  
Signature

JOAN S. SMITH  
Printed Name

108 THOMPSON RD.  
Address

CROWLEY, LA. 70526  
City, State, Zip Code

Celena Kratzer  
Signature

Celena Kratzer  
Printed Name

17293 HWY 395  
Address

Roanoke, LA 70581  
City, State, Zip Code

Sworn to and subscribed before me at Jennings, Louisiana, this 8th day of July, 2009, in the presence of the two stated witnesses.

Andra H. Oustalet  
Notary Public (signature and seal)

ANDRA H. OUSTALET #013517  
Printed Name/Notary Number