

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

**In the Matter of the  
Petition to Revoke Probation  
Against:**

**Christian Bernard Mathy, M.D.**

**Case No. 800-2019-055435**

**Physician's and Surgeon's  
Certificate No. A66142**

**Respondent**

**DECISION**

**The attached Stipulated Surrender of License and Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on December 20, 2019.**

**IT IS SO ORDERED December 13, 2019.**

**MEDICAL BOARD OF CALIFORNIA**

By:   
**Christine J. Lally**  
**Interim Executive Director**

1 XAVIER BECERRA  
Attorney General of California  
2 E. A. JONES III  
Supervising Deputy Attorney General  
3 JOSHUA M. TEMPLET  
Deputy Attorney General  
4 State Bar No. 267098  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 269-6688  
6 Facsimile: (213) 897-9395  
*Attorneys for Complainant*  
7

8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Petition to Revoke  
Probation Against:

13 **CHRISTIAN BERNARD MATHY, M.D.**  
14 **1216 Drake Avenue**  
**Burlingame, CA 94010**

15 **Physician's and Surgeon's Certificate**  
16 **No. A 66142**

17 Respondent.

Case No. 800-2019-055435

OAH No. 2019080958

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Christine J. Lally (Complainant) is the Interim Executive Director of the Medical  
23 Board of California (Board). She brought this action solely in her official capacity and is  
24 represented in this matter by Xavier Becerra, Attorney General of the State of California, via  
25 Joshua M. Templet, Deputy Attorney General.

26 2. Christian Bernard Mathy, M.D. (Respondent) is representing himself in this  
27 proceeding and has chosen not to exercise his right to be represented by counsel.

28 ///

1           3.     On July 31, 1998, the Board issued Physician's and Surgeon's Certificate No. A  
2     66142 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all  
3     times relevant to the charges brought in Petition to Revoke Probation No. 800-2019-055435 and  
4     will expire on July 31, 2020, unless renewed.

5                                   **JURISDICTION**

6           4.     Petition to Revoke Probation No. 800-2019-055435 (Petition to Revoke Probation)  
7     was filed before the Board, and is currently pending against Respondent. The Petition to Revoke  
8     Probation and all other statutorily required documents were properly served on Respondent, on  
9     July 16, 2019. Respondent timely filed his Notice of Defense contesting the Petition to Revoke  
10    Probation. A copy of the Petition to Revoke Probation is attached as **Exhibit A** and incorporated  
11    by reference.

12                               **ADVISEMENT AND WAIVERS**

13          5.     Respondent has carefully read and understands the charges and allegations in the  
14    Petition to Revoke Probation. Respondent also has carefully read and understands the effects of  
15    this Stipulated Surrender of License and Order.

16          6.     Respondent is fully aware of his legal rights in this matter, including the right to a  
17    hearing on the charges and allegations in the Petition to Revoke Probation; the right to be  
18    represented by counsel, at his own expense; the right to confront and cross-examine the witnesses  
19    against him; the right to present evidence and to testify on his own behalf; the right to the  
20    issuance of subpoenas to compel the attendance of witnesses and the production of documents;  
21    the right to reconsideration and court review of an adverse decision; and all other rights accorded  
22    by the California Administrative Procedure Act and other applicable laws.

23          7.     Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
24    every right set forth above.

25                               **CULPABILITY**

26          8.     Respondent understands that the charges and allegations in the Petition to Revoke  
27    Probation, if proven at a hearing, constitute cause for imposing discipline on his Physician's and  
28    Surgeon's Certificate.

9. For the purpose of resolving the Petition to Revoke Probation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Petition to Revoke Probation and that those charges constitute cause for discipline. Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

10. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

## CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this Stipulated Surrender of License and Order without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph; it shall be inadmissible in any legal action between the parties; and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

## ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 66142, issued to Respondent Christian Bernard Mathy, M.D., is surrendered and accepted by the Board.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline

1 against Respondent. This stipulation constitutes a record of the discipline and shall become a part  
2 of Respondent's license history with the Board.

3 2. Respondent shall lose all rights and privileges as a physician and surgeon in  
4 California as of the effective date of the Board's Decision and Order.

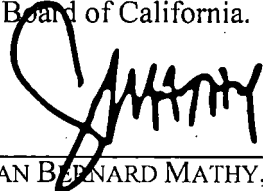
5 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was  
6 issued, his wall certificate on or before the effective date of the Decision and Order.

7 4. If Respondent ever files an application for licensure or a petition for reinstatement in  
8 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must  
9 comply with all the laws, regulations, and procedures for reinstatement of a revoked or  
10 surrendered license in effect at the time the petition is filed, and all of the charges and allegations  
11 contained in the Petition to Revoke Probation shall be deemed to be true, correct, and admitted by  
12 Respondent when the Board determines whether to grant or deny the petition.

13  
14 **ACCEPTANCE**

15 I have carefully read the Stipulated Surrender of License and Order. I understand the  
16 stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this  
17 Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and I agree  
18 to be bound by the Decision and Order of the Medical Board of California.

19  
20 DATED: 11/27/19

  
21 CHRISTIAN BERNARD MATHY, M.D.  
22 *Respondent*

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DATED: 12/2/2019

XAVIER BECERRA  
Attorney General of California  
E. A. JONES III  
Supervising Deputy Attorney General

JOSHUA M. TEMPLET  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Petition to Revoke Probation No. 800-2019-055435**

1 XAVIER BECERRA  
Attorney General of California  
2 MARY CAIN-SIMON  
Supervising Deputy Attorney General  
3 JOSHUA M. TEMPLET  
Deputy Attorney General  
4 State Bar No. 267098  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 510-3533  
6 Facsimile: (415) 703-5480  
E-mail: Joshua.Templet@doj.ca.gov  
7 Attorneys for Complainant

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO JULY 16 2019  
BY *[Signature]* ANALYST

8  
9 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12  
13 In the Matter of the Petition to Revoke  
Probation Against:

Case No. 800-2019-055435

14 **CHRISTIAN BERNARD MATHY, M.D.**

PETITION TO REVOKE PROBATION

15 1216 Drake Avenue  
16 Burlingame, CA 94010

17 Physician's and Surgeon's Certificate  
18 No. A 66142

19 Respondent.

20 Complainant alleges:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) brings this Petition to Revoke Probation solely  
23 in her official capacity as the Executive Director of the Medical Board of California, Department  
24 of Consumer Affairs.

25 2. On July 31, 1998, the Medical Board of California (Board) issued Physician's and  
26 Surgeon's Certificate Number A 66142 to Christian Bernard Mathy, M.D. (Respondent). The  
27 certificate was in effect at all times relevant to the charges brought herein and will expire on July  
28 31, 2020, unless renewed.



3. In a disciplinary action entitled "In the Matter of Accusation Against Christian Bernard Mathy, M.D.," Case No. 800-2015-014348, the Board issued a decision, effective February 3, 2017, in which Respondent's Physician's and Surgeon's Certificate was revoked. However, the revocation was stayed and Respondent's Physician's and Surgeon's Certificate was placed on probation for a period of five years with certain terms and conditions. A copy of that decision is attached as **Exhibit A** and is incorporated by reference.

## JURISDICTION

4. This Petition to Revoke Probation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 2004 of the Code provides that the Board shall have the responsibility for the enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

6. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

7. Section 2228 of the Code states:

The authority of the board or the California Board of Podiatric Medicine to discipline a licensee by placing him or her on probation includes, but is not limited to, the following:

(a) Requiring the licensee to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral, or both, and may be a practical or clinical examination, or both, at the option of the board or the administrative law judge.

(b) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians and surgeons appointed by the board. If an examination is ordered, the board shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons of the licensee's choice.

(c) Restricting or limiting the extent, scope, or type of practice of the licensee, including requiring notice to applicable patients that the licensee is unable to perform the indicated treatment, where appropriate.

(d) Providing the option of alternative community service in cases other than violations relating to quality of care.

**CAUSE TO REVOKE PROBATION**

**(Violation of Probation Condition 20: Non-Practice While on Probation)**

8. On February 26, 2016, Respondent agreed to entry of an interim order suspending his practice of medicine pending a decision in the Board's disciplinary action against him. The Board filed an Accusation against Respondent on June 23, 2016, charging Respondent with using fictitious names and false documents to prescribe large quantities of controlled substances for his personal use. On February 3, 2017, Respondent entered into a Stipulated Settlement and Disciplinary Order with the Board, in which he agreed that his license was subject to discipline and entered into a five-year term of probation. Respondent's probation imposed various conditions restricting his access to controlled substances and requiring monitoring and treatment of his addiction to controlled substances.

9. At all times after the effective date of Respondent's probation, Condition 20 of his probation stated as follows:

**NON-PRACTICE WHILE ON PROBATION.** Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete a clinical training program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; and General Probation Requirements.

10. Condition 20 limits the period of Respondent's non-practice to two years. Respondent has remained in non-practice since the start of his probation, on February 2, 2017, and his period of non-practice has exceeded two years. Accordingly, Respondent has failed to comply with Condition 20.

11. Respondent's violation of Condition 20 of his probation constitutes cause to revoke his probation.

**PRAYER**

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

1. Revoking the probation that the Board granted in Case No. 800-2015-014348 and imposing the disciplinary order that was stayed, thereby revoking Physician's and Surgeon's Certificate No. A 66142 issued to Christian Bernard Mathy, M.D.;

2. Revoking, suspending, or denying approval of Christian Bernard Mathy, M.D.'s authority to supervise physician's assistants and advance practice nurses;

3. Ordering Christian Bernard Mathy, M.D., if placed on probation, to pay the costs of probation monitoring; and

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

DATED:

July 16, 2019

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant

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## **Exhibit A**

### **Decision and Order**

**Medical Board of California Case No. 800-2019-055435**

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

In the Matter of the Accusation  
Against:

CHRISTIAN BERNARD MATHY, M.D. )

Case No. 800-2015-014348

Physician's and Surgeon's  
Certificate No. A 66142 )

Respondent )

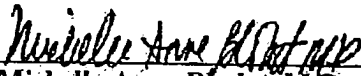
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on February 3, 2017.

IT IS SO ORDERED: January 5, 2017.

MEDICAL BOARD OF CALIFORNIA

  
Michelle Anne Bholat, M.D., Chair  
Panel B

MEDICAL BOARD OF CALIFORNIA

I do hereby certify that this document is a true  
and correct copy of the original on file in this  
office.

S. Woods  
Signature  
For Custodian of Records  
Title

5/3/2019  
Date

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANE ZACK SIMON  
Supervising Deputy Attorney General  
3 JOSHUA M. TEMPLET  
Deputy Attorney General  
4 State Bar No. 267098  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5529  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 800-2015-014348

11 **CHRISTIAN BERNARD MATHY, M.D.**

OAH No. 2016090227

12 **1216 Drake Avenue**  
13 **Burlingame, CA 94010**

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

14 **Physician's and Surgeon's Certificate No.**  
15 **A66142**

16 Respondent.

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
22 of California (Board). She brought this action solely in her official capacity and is represented in  
23 this matter by Kamala D. Harris, Attorney General of the State of California, via Joshua M.  
24 Temple, Deputy Attorney General.

25 2. Respondent Christian Bernard Mathy, M.D. (Respondent) is represented in this  
26 proceeding by attorney Thomas E. Still, 12901 Saratoga Avenue, Saratoga, CA 95070-9988.

27 3. On or about July 31, 1998, the Board issued Physician's and Surgeon's Certificate No.  
28 A66142 to Respondent. The certificate was in full force and effect at all times relevant to the

1 charges brought in Accusation No. 800-2015-014348, and will expire on July 31, 2016, unless  
2 renewed.

3 JURISDICTION

4 4. Accusation No. 800-2015-014348 was filed before the Board, and is currently  
5 pending against Respondent. The Accusation and all other statutorily required documents were  
6 properly served on Respondent on June 23, 2016. Respondent timely filed his Notice of Defense  
7 contesting the Accusation.

8 5. A copy of Accusation No. 800-2015-014348 is attached as **Exhibit A** and  
9 incorporated herein.

10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read, fully discussed with counsel, and understands the  
12 charges and allegations in Accusation No. 800-2015-014348. Respondent has also carefully read,  
13 fully discussed with counsel, and understands the effects of this Stipulated Settlement and  
14 Disciplinary Order.

15 7. Respondent is fully aware of his legal rights in this matter, including the right to a  
16 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine  
17 the witnesses against him; the right to present evidence and to testify on his own behalf; the right  
18 to the issuance of subpoenas to compel the attendance of witnesses and the production of  
19 documents; the right to reconsideration and court review of an adverse decision; and all other  
20 rights accorded by the California Administrative Procedure Act and other applicable laws.

21 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
22 every right set forth above.

23 CULPABILITY

24 9. Respondent understands and agrees that the charges and allegations in Accusation  
25 No. 800-2015-014348, if proven at a hearing, constitute cause for imposing discipline upon his  
26 Physician's and Surgeon's Certificate.

27 10. For the purpose of resolving the Accusation without the expense and uncertainty of  
28 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual

1 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest  
2 those charges.

3 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to  
4 discipline and he agrees to be bound by the Board's probationary terms as set forth in the  
5 Disciplinary Order below.

6 CONTINGENCY

7 12. This stipulation shall be subject to approval by the Medical Board of California.  
8 Respondent understands and agrees that counsel for Complainant and the staff of the Medical  
9 Board of California may communicate directly with the Board regarding this stipulation and  
10 settlement, without notice to or participation by Respondent or his counsel. By signing the  
11 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek  
12 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
13 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
14 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
15 action between the parties, and the Board shall not be disqualified from further action by having  
16 considered this matter.

17 13. The parties understand and agree that Portable Document Format (PDF) and facsimile  
18 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile  
19 signatures thereto, shall have the same force and effect as the originals.

20 14. In consideration of the foregoing admissions and stipulations, the parties agree that  
21 the Board may, without further notice or formal proceeding, issue and enter the following  
22 Disciplinary Order:

23 DISCIPLINARY ORDER

24 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A66142 issued  
25 to Respondent Christian Bernard Mathy, M.D. is revoked. However, the revocation is stayed and  
26 Respondent is placed on probation for five (5) years on the following terms and conditions.

27 1. CONTROLLED SUBSTANCES - PARTIAL RESTRICTION. Respondent shall not  
28 order, prescribe, dispense, administer, furnish, or possess any controlled substances as defined by



1 the California Uniform Substances Act except during the following gastroenterology procedures,  
2 performed and documented in the presence of other licensed staff: colonoscopy, flexible  
3 sigmoidoscopy, upper endoscopy, endoscopic retrograde cholangiopancreatography (ERCP),  
4 upper and lower endoscopic ultrasound (EUS), percutaneous liver biopsy, percutaneous  
5 endoscopic gastrostomy (PEG) tube placement.

6 Respondent shall not issue an oral or written recommendation or approval to a patient or a  
7 patient's primary caregiver for the possession or cultivation of marijuana for the personal medical  
8 purposes of the patient within the meaning of Health and Safety Code section 11362.5. If  
9 Respondent forms the medical opinion, after an appropriate prior examination and medical  
10 indication, that a patient's medical condition may benefit from the use of marijuana, Respondent  
11 shall so inform the patient and shall refer the patient to another physician who, following an  
12 appropriate prior examination and medical indication, may independently issue a medically  
13 appropriate recommendation or approval for the possession or cultivation of marijuana for the  
14 personal medical purposes of the patient within the meaning of Health and Safety Code section  
15 11362.5. In addition, Respondent shall inform the patient or the patient's primary caregiver that  
16 Respondent is prohibited from issuing a recommendation or approval for the possession or  
17 cultivation of marijuana for the personal medical purposes of the patient and that the patient or  
18 the patient's primary caregiver may not rely on Respondent's statements to legally possess or  
19 cultivate marijuana for the personal medical purposes of the patient. Respondent shall fully  
20 document in the patient's chart that the patient or the patient's primary caregiver was so  
21 informed. Nothing in this condition prohibits Respondent from providing the patient or the  
22 patient's primary caregiver information about the possible medical benefits resulting from the use  
23 of marijuana.

24 2. CONTROLLED SUBSTANCES- MAINTAIN RECORDS AND ACCESS TO  
25 RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled  
26 substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any  
27 recommendation or approval which enables a patient or patient's primary caregiver to possess or  
28 cultivate marijuana for the personal medical purposes of the patient within the meaning of Health

1 and Safety Code section 11362.5, during probation, showing all the following: 1) the name and  
2 address of patient; 2) the date; 3) the character and quantity of controlled substances involved;  
3 and 4) the indications and diagnosis for which the controlled substances were furnished.

4 Respondent shall keep these records in a separate file or ledger, in chronological order. All  
5 records and any inventories of controlled substances shall be available for immediate inspection  
6 and copying on the premises by the Board or its designee at all times during business hours and  
7 shall be retained for the entire term of probation.

8 3. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain  
9 completely from the personal use or possession of controlled substances as defined in the  
10 California Uniform Controlled Substances Act, dangerous drugs as defined by Business and  
11 Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not  
12 apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide  
13 illness or condition.

14 Within 15 calendar days of receiving any lawfully prescribed medications, Respondent  
15 shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone  
16 number; medication name, strength, and quantity; and issuing pharmacy name, address, and  
17 telephone number.

18 If Respondent has a confirmed positive biological fluid test for any substance (whether or  
19 not legally prescribed) and has not reported the use to the Board or its designee, Respondent shall  
20 receive a notification from the Board or its designee to immediately cease the practice of  
21 medicine. Respondent shall not resume the practice of medicine until final decision on an  
22 accusation and/or a petition to revoke probation. An accusation and/or petition to revoke  
23 probation shall be filed by the Board within 15 days of the notification to cease practice. If  
24 Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board  
25 shall provide Respondent with a hearing within 30 days of the request, unless Respondent  
26 stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or  
27 the Board within 15 days unless good cause can be shown for the delay. The cessation of practice  
28 shall not apply to the reduction of the probationary time period.

1 If the Board does not file an accusation or petition to revoke probation within 15 days of the  
2 issuance of the notification to cease practice or does not provide Respondent with a hearing  
3 within 30 days of such a request, the notification of cease practice shall be dissolved.

4 4. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain completely from the  
5 use of products or beverages containing alcohol.

6 If Respondent has a confirmed positive biological fluid test for alcohol, Respondent shall  
7 receive a notification from the Board or its designee to immediately cease the practice of  
8 medicine. Respondent shall not resume the practice of medicine until final decision on an  
9 accusation and/or a petition to revoke probation. An accusation and/or petition to revoke  
10 probation shall be filed by the Board within 15 days of the notification to cease practice. If  
11 Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board  
12 shall provide Respondent with a hearing within 30 days of the request, unless Respondent  
13 stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or  
14 the Board within 15 days unless good cause can be shown for the delay. The cessation of practice  
15 shall not apply to the reduction of the probationary time period.

16 If the Board does not file an accusation or petition to revoke probation within 15 days of the  
17 issuance of the notification to cease practice or does not provide Respondent with a hearing  
18 within 30 days of such a request, the notification of cease practice shall be dissolved.

19 5. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of  
20 the effective date of this Decision, Respondent shall enroll in a professionalism program that  
21 meets the requirements of title 16, California Code of Regulations, section 1358. Respondent  
22 shall participate in and successfully complete that program. Respondent shall provide any  
23 information and documents that the program may deem pertinent. Respondent shall successfully  
24 complete the classroom component of the program not later than six (6) months after  
25 Respondent's initial enrollment, and the longitudinal component of the program not later than the  
26 time specified by the program, but no later than one (1) year after attending the classroom  
27 component. The professionalism program shall be at Respondent's expense and shall be in  
28 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

1 A professionalism program taken after the acts that gave rise to the charges in the  
2 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
3 or its designee, be accepted towards the fulfillment of this condition if the program would have  
4 been approved by the Board or its designee had the program been taken after the effective date of  
5 this Decision.

6 Respondent shall submit a certification of successful completion to the Board or its  
7 designee not later than 15 calendar days after successfully completing the program or not later  
8 than 15 calendar days after the effective date of the Decision, whichever is later.

9 6. PSYCHIATRIC EVALUATION. Within 180 calendar days of the effective date of  
10 this Decision, and on whatever periodic basis thereafter may be required by the Board or its  
11 designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological  
12 testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall  
13 consider any information provided by the Board or designee and any other information the  
14 psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its  
15 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not be  
16 accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all  
17 psychiatric evaluations and psychological testing.

18 Respondent shall comply with all restrictions or conditions recommended by the evaluating  
19 psychiatrist within 15 calendar days after being notified by the Board or its designee.

20 7. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision,  
21 Respondent shall submit to the Board or its designee for prior approval the name and  
22 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who  
23 has a doctoral degree in psychology and at least five years of postgraduate experience in the  
24 diagnosis and treatment of emotional and mental disorders. At the Board's discretion, and on  
25 whatever periodic basis that may be required by the Board or its designee, Respondent shall  
26 undergo and continue psychotherapy treatment, including any modifications to the frequency of  
27 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

28 The psychotherapist shall consider any information provided by the Board or its designee

1 and any other information the psychotherapist deems relevant and shall furnish a written  
2 evaluation report to the Board or its designee. Respondent shall cooperate in providing the  
3 psychotherapist any information and documents that the psychotherapist may deem pertinent.

4 If the Board or its designee requires Respondent to undergo psychotherapy treatment,  
5 during such time Respondent shall have the treating psychotherapist submit quarterly status  
6 reports to the Board or its designee. The Board or its designee may require Respondent to  
7 undergo psychiatric evaluations by a Board-appointed board certified psychiatrist. If, prior to the  
8 completion of probation, Respondent is found to be mentally unfit to resume the practice of  
9 medicine without restrictions, the Board shall retain continuing jurisdiction over Respondent's  
10 license and the period of probation shall be extended until the Board determines that Respondent  
11 is mentally fit to resume the practice of medicine without restrictions.

12 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

13 8. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the  
14 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice  
15 where: 1) Respondent merely shares office space with another physician but is not affiliated for  
16 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that  
17 location.

18 If Respondent fails to establish a practice with another physician or secure employment in  
19 an appropriate practice setting within 60 calendar days of the effective date of this Decision,  
20 Respondent shall receive a notification from the Board or its designee to cease the practice of  
21 medicine within three (3) calendar days after being so notified. The Respondent shall not resume  
22 practice until an appropriate practice setting is established.

23 If, during the course of the probation, Respondent's practice setting changes and  
24 Respondent is no longer practicing in a setting in compliance with this Decision, Respondent  
25 shall notify the Board or its designee within 5 calendar days of the practice setting change. If  
26 Respondent fails to establish a practice with another physician or secure employment in an  
27 appropriate practice setting within 60 calendar days of the practice setting change, Respondent  
28 shall receive a notification from the Board or its designee to cease the practice of medicine within

1 three (3) calendar days after being so notified. Respondent shall not resume practice until an  
2 appropriate practice setting is established.

3 9. NOTIFICATION. Within seven (7) days of the effective date of this Decision,  
4 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the  
5 Chief Executive Officer at every hospital where privileges or membership are extended to  
6 Respondent, at any other facility where Respondent engages in the practice of medicine,  
7 including all physician and locum tenens registries or other similar agencies, and to the Chief  
8 Executive Officer at every insurance carrier which extends malpractice insurance coverage to  
9 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15  
10 calendar days.

11 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

12 10. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is  
13 prohibited from supervising physician assistants.

14 11. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules  
15 governing the practice of medicine in California and remain in full compliance with any court  
16 ordered criminal probation, payments, and other orders.

17 12. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations  
18 under penalty of perjury on forms provided by the Board, stating whether there has been  
19 compliance with all the conditions of probation.

20 Respondent shall submit quarterly declarations not later than 10 calendar days after the end  
21 of the preceding quarter.

22 13. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION.

23 Within seven (7) days of the effective date of this Decision, Respondent shall provide to the  
24 Board the names, physical addresses, mailing addresses, and telephone numbers of any and all  
25 employers and supervisors. Respondent shall also provide specific, written consent for the Board,  
26 Respondent's worksite monitor, and Respondent's employers and supervisors to communicate  
27 regarding Respondent's work status, performance, and monitoring.

28 For purposes of this section, "supervisors" shall include the Chief of Staff and Health or

1 Well Being Committee Chair, or equivalent, if applicable, when the Respondent has medical staff  
2 privileges.

3 14. BIOLOGICAL FLUID TESTING.

4 Respondent shall immediately submit to biological fluid testing, at Respondent's expense,  
5 upon request of the Board or its designee. "Biological fluid testing" may include, but is not  
6 limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by  
7 the Board or its designee. Respondent shall make daily contact with the Board or its designee to  
8 determine whether biological fluid testing is required. Respondent shall be tested on the date of  
9 the notification as directed by the Board or its designee. The Board may order a Respondent to  
10 undergo a biological fluid test on any day, at any time, including weekends and holidays. Except  
11 when testing on a specific date as ordered by the Board or its designee, the scheduling of  
12 biological fluid testing shall be done on a random basis. The cost of biological fluid testing shall  
13 be borne by the Respondent.

14 During the first year of probation, Respondent shall be subject to 52 to 104 random tests.  
15 During the second year of probation and for the duration of the probationary term, up to five (5)  
16 years, Respondent shall be subject to 36 to 104 random tests per year. Only if there has been no  
17 positive biological fluid tests in the previous five (5) consecutive years of probation, may testing  
18 be reduced to one (1) time per month. Nothing precludes the Board from increasing the number of  
19 random tests to the first-year level of frequency for any reason.

20 Prior to practicing medicine, Respondent shall contract with a laboratory or service,  
21 approved in advance by the Board or its designee, that will conduct random, unannounced,  
22 observed, biological fluid testing and meets all the following standards:

23 (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry  
24 Association or have completed the training required to serve as a collector for the United States  
25 Department of Transportation.

26 (b) Its specimen collectors conform to the current United States Department of  
27 Transportation Specimen Collection Guidelines

28 (c) Its testing locations comply with the Urine Specimen Collection Guidelines published

1 by the United States Department of Transportation without regard to the type of test administered.

2 (d) Its specimen collectors observe the collection of testing specimens.

3 (e) Its laboratories are certified and accredited by the United States Department of Health  
4 and Human Services.

5 (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day  
6 of receipt and all specimens collected shall be handled pursuant to chain of custody procedures.  
7 The laboratory shall process and analyze the specimens and provide legally defensible test results  
8 to the Board within seven (7) business days of receipt of the specimen. The Board will be  
9 notified of non-negative results within one (1) business day and will be notified of negative test  
10 results within seven (7) business days.

11 (g) Its testing locations possess all the materials, equipment, and technical expertise  
12 necessary in order to test Respondent on any day of the week.

13 (h) Its testing locations are able to scientifically test for urine, blood, and hair specimens  
14 for the detection of alcohol and illegal and controlled substances.

15 (i) It maintains testing sites located throughout California.

16 (j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line  
17 computer database that allows the Respondent to check in daily for testing.

18 (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff  
19 access to drug test results and compliance reporting information that is available 24 hours a day.

20 (l) It employs or contracts with toxicologists that are licensed physicians and have  
21 knowledge of substance abuse disorders and the appropriate medical training to interpret and  
22 evaluate laboratory biological fluid test results, medical histories, and any other information  
23 relevant to biomedical information.

24 (m) It will not consider a toxicology screen to be negative if a positive result is obtained  
25 while practicing, even if the Respondent holds a valid prescription for the substance.

26 Prior to changing testing locations for any reason, including during vacation or other travel,  
27 alternative testing locations must be approved by the Board and meet the requirements above.

28 The contract shall require that the laboratory directly notify the Board or its designee of



1 non-negative results within one (1) business day and negative test results within seven (7)  
2 business days of the results becoming available. Respondent shall maintain this laboratory or  
3 service contract during the period of probation.

4 A certified copy of any laboratory test result may be received in evidence in any  
5 proceedings between the Board and Respondent.

6 If a biological fluid test result indicates Respondent has used, consumed, ingested, or  
7 administered to himself or herself a prohibited substance, the Board shall order Respondent to  
8 cease practice and instruct Respondent to leave any place of work where Respondent is practicing  
9 medicine or providing medical services. The Board shall immediately notify all of Respondent's  
10 employers, supervisors and work monitors, if any, that Respondent may not practice medicine or  
11 provide medical services while the cease-practice order is in effect.

12 A biological fluid test will not be considered negative if a positive result is obtained while  
13 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited  
14 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

15 After the issuance of a cease-practice order, the Board shall determine whether the positive  
16 biological fluid test is in fact evidence of prohibited substance use by consulting with the  
17 specimen collector and the laboratory, communicating with the licensee, his or her treating  
18 physician(s), other health care provider, or group facilitator, as applicable.

19 For purposes of this condition, the terms "biological fluid testing" and "testing" mean the  
20 acquisition and chemical analysis of a Respondent's urine, blood, breath, or hair.

21 For purposes of this condition, the term "prohibited substance" means an illegal drug, a  
22 lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by  
23 Respondent and approved by the Board, alcohol, or any other substance the Respondent has been  
24 instructed by the Board not to use, consume, ingest, or administer to himself or herself.

25 If the Board confirms that a positive biological fluid test is evidence of use of a prohibited  
26 substance, Respondent has committed a major violation, as defined in section 1361.52(a), and the  
27 Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to  
28 any other terms or conditions the Board determines are necessary for public protection or to

1 enhance Respondent's rehabilitation.

2 15. SUBSTANCE ABUSE SUPPORT GROUP MEETING.

3 Within thirty (30) days of the effective date of this Decision, Respondent shall submit to the  
4 Board or its designee, for its prior approval, the name of a substance abuse support group which  
5 he or she shall attend for the duration of probation. Respondent shall attend substance abuse  
6 support group meetings at least once per week, or as ordered by the Board or its designee.  
7 Respondent shall pay all substance abuse support group meeting costs.

8 The facilitator of the substance abuse support group meeting shall have a minimum of three  
9 (3) years experience in the treatment and rehabilitation of substance abuse, and shall be licensed  
10 or certified by the state or nationally certified organizations. The facilitator shall not have a  
11 current or former financial, personal, or business relationship with Respondent within the last five  
12 (5) years. Respondent's previous participation in a substance abuse group support meeting led by  
13 the same facilitator does not constitute a prohibited current or former financial, personal, or  
14 business relationship.

15 The facilitator shall provide a signed document to the Board or its designee showing  
16 Respondent's name, the group name, the date and location of the meeting, Respondent's  
17 attendance, and Respondent's level of participation and progress. The facilitator shall report any  
18 unexcused absence by Respondent from any substance abuse support group meeting to the Board,  
19 or its designee, within twenty-four (24) hours of the unexcused absence.

20 16. WORKSITE MONITOR.

21 Within thirty (30) calendar days of the effective date of this Decision, Respondent shall  
22 submit to the Board or its designee for prior approval as a worksite monitor, the name and  
23 qualifications of one or more licensed physician and surgeon, other licensed health care  
24 professional if no physician and surgeon is available, or, as approved by the Board or its designee,  
25 a person in a position of authority who is capable of monitoring the Respondent at work.

26 The worksite monitor shall not have a current or former financial, personal, or familial  
27 relationship with Respondent, or any other relationship that could reasonably be expected to  
28 compromise the ability of the monitor to render impartial and unbiased reports to the Board or its

1 designee. If it is impractical for anyone but Respondent's employer to serve as the worksite  
2 monitor, this requirement may be waived by the Board or its designee, however, under no  
3 circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

4 The worksite monitor shall have an active unrestricted license with no disciplinary action  
5 within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms  
6 and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth  
7 by the Board or its designee.

8 Respondent shall pay all worksite monitoring costs.

9 The worksite monitor shall have face-to-face contact with Respondent in the work  
10 environment on as frequent a basis as determined by the Board or its designee, but not less than  
11 once per week; interview other staff in the office regarding Respondent's behavior, if requested  
12 by the Board or its designee; and review Respondent's work attendance.

13 The worksite monitor shall verbally report any suspected substance abuse to the Board and  
14 Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected  
15 substance abuse does not occur during the Board's normal business hours, the verbal report shall  
16 be made to the Board or its designee within one (1) hour of the next business day. A written  
17 report that includes the date, time, and location of the suspected abuse; Respondent's actions; and  
18 any other information deemed important by the worksite monitor shall be submitted to the Board  
19 or its designee within 48 hours of the occurrence.

20 The worksite monitor shall complete and submit a written report monthly or as directed by  
21 the Board or its designee which shall include the following: (1) Respondent's name and  
22 Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3)  
23 the worksite monitor's license number, if applicable; (4) the location or location(s) of the  
24 worksite; (5) the dates Respondent had face-to-face contact with the worksite monitor; (6) the  
25 names of worksite staff interviewed, if applicable; (7) a report of Respondent's work attendance;  
26 (8) any change in Respondent's behavior and/or personal habits; and (9) any indicators that can  
27 lead to suspected substance abuse by Respondent. Respondent shall complete any required  
28 consent forms and execute agreements with the approved worksite monitor and the Board, or its

1 designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

2 If the worksite monitor resigns or is no longer available, Respondent shall, within five (5)  
3 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior  
4 approval, the name and qualifications of a replacement monitor who will be assuming that  
5 responsibility within fifteen (15) calendar days. If Respondent fails to obtain approval of a  
6 replacement monitor within sixty (60) calendar days of the resignation or unavailability of the  
7 monitor, Respondent shall receive a notification from the Board or its designee to cease the  
8 practice of medicine within three (3) calendar days after being so notified. Respondent shall  
9 cease the practice of medicine until a replacement monitor is approved and assumes monitoring  
10 responsibility.

11 17. VIOLATION OF PROBATION CONDITION.

12 Failure to fully comply with any term or condition of probation is a violation of probation.

13 A. If Respondent commits a major violation of probation as defined by section 1361.52,  
14 subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take one or  
15 more of the following actions:

16 (1) Issue an immediate cease-practice order and order Respondent to undergo a clinical  
17 diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1),  
18 of Title 16 of the California Code of Regulations, at Respondent's expense. The cease-  
19 practice order issued by the Board or its designee shall state that Respondent must test  
20 negative for at least a month of continuous biological fluid testing before being allowed to  
21 resume practice. For purposes of the determining the length of time a Respondent must test  
22 negative while undergoing continuous biological fluid testing following issuance of a  
23 cease-practice order, a month is defined as thirty calendar (30) days. Respondent may not  
24 resume the practice of medicine until notified in writing by the Board or its designee that he  
25 or she may do so.

26 (2) Increase the frequency of biological fluid testing.

27 (3) Refer Respondent for further disciplinary action, such as suspension, revocation, or  
28 other action as determined by the Board or its designee. (Cal. Code Regs., tit. 16, §

1 1361.52, subd. (b).)

2 B. If Respondent commits a minor violation of probation as defined by section  
3 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take  
4 one or more of the following actions:

5 (1) Issue a cease-practice order;

6 (2) Order practice limitations;

7 (3) Order or increase supervision of Respondent;

8 (4) Order increased documentation;

9 (5) Issue a citation and fine, or a warning letter;

10 (6) Order Respondent to undergo a clinical diagnostic evaluation to be conducted in  
11 accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of  
12 Regulations, at Respondent's expense;

13 (7) Take any other action as determined by the Board or its designee. (Cal. Code Regs., tit.  
14 16, § 1361.52, subd. (d).)

15 C. Nothing in this Decision shall be considered a limitation on the Board's authority to  
16 revoke Respondent's probation if he or she has violated any term or condition of probation. (See  
17 Cal. Code Regs., tit. 16, § 1361.52, subd. (e).) If Respondent violates probation in any respect, the  
18 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and  
19 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,  
20 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have  
21 continuing jurisdiction until the matter is final, and the period of probation shall be extended until  
22 the matter is final.

23 18. GENERAL PROBATION REQUIREMENTS.

24 Compliance with Probation Unit

25 Respondent shall comply with the Board's probation unit and all terms and conditions of  
26 this Decision.

27 Address Changes

28 Respondent shall, at all times, keep the Board informed of Respondent's business and

1 residence addresses, email address (if available), and telephone number. Changes of such  
2 addresses shall be immediately communicated in writing to the Board or its designee. Under no  
3 circumstances shall a post office box serve as an address of record, except as allowed by Business  
4 and Professions Code section 2021(b).

5 Place of Practice

6 Respondent shall not engage in the practice of medicine in Respondent's or patient's place  
7 of residence, unless the patient resides in a skilled nursing facility or other similar licensed  
8 facility.

9 License Renewal

10 Respondent shall maintain a current and renewed California physician's and surgeon's  
11 license.

12 Travel or Residence Outside California

13 Respondent shall immediately inform the Board or its designee, in writing, of travel to any  
14 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty  
15 (30) calendar days.

16 In the event Respondent should leave the State of California to reside or to practice  
17 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of  
18 departure and return.

19 19. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be  
20 available in person upon request for interviews either at Respondent's place of business or at the  
21 probation unit office, with or without prior notice throughout the term of probation.

22 20. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
23 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
24 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
25 defined as any period of time Respondent is not practicing medicine in California as defined in  
26 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month  
27 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All  
28 time spent in an intensive training program which has been approved by the Board or its designee

1 shall not be considered non-practice. Practicing medicine in another state of the United States or  
2 Federal jurisdiction while on probation with the medical licensing authority of that state or  
3 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall  
4 not be considered as a period of non-practice.

5 In the event Respondent's period of non-practice while on probation exceeds 18 calendar  
6 months, Respondent shall successfully complete a clinical training program that meets the criteria  
7 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and  
8 Disciplinary Guidelines" prior to resuming the practice of medicine.

9 Respondent's period of non-practice while on probation shall not exceed two (2) years.

10 Periods of non-practice will not apply to the reduction of the probationary term.

11 Periods of non-practice will relieve Respondent of the responsibility to comply with the  
12 probationary terms and conditions with the exception of this condition and the following terms  
13 and conditions of probation: Obey All Laws; and General Probation Requirements.

14 21. COMPLETION OF PROBATION. Respondent shall comply with all financial  
15 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
16 completion of probation. Upon successful completion of probation, Respondent's certificate shall  
17 be fully restored.

18 22. VIOLATION OF PROBATION. Failure to fully comply with any term or condition  
19 of probation is a violation of probation. If Respondent violates probation in any respect, the  
20 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and  
21 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,  
22 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have  
23 continuing jurisdiction until the matter is final, and the period of probation shall be extended until  
24 the matter is final.

25 23. LICENSE SURRENDER. Following the effective date of this Decision, if  
26 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
27 the terms and conditions of probation, Respondent may request to surrender his or her license.  
28 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in

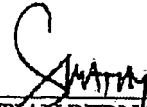
1 determining whether or not to grant the request, or to take any other action deemed appropriate  
2 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
3 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its  
4 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
5 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
6 application shall be treated as a petition for reinstatement of a revoked certificate.

7 24. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
8 with probation monitoring each and every year of probation, as designated by the Board, which  
9 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
10 California and delivered to the Board or its designee no later than January 31 of each calendar  
11 year.

12  
13 ACCEPTANCE

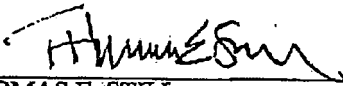
14 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
15 discussed it with my attorney, Thomas E. Still. I understand the stipulation and the effect it will  
16 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and  
17 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
18 Decision and Order of the Medical Board of California.

19  
20 DATED: 11/1/16

  
CHRISTIAN BERNARD MATHY, M.D.  
Respondent

22 I have read and fully discussed with Respondent Christian Bernard Mathy, M.D. the terms  
23 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary  
24 Order. I approve its form and content.

25 DATED: 11/1/2016

  
THOMAS E. STILL  
Attorney for Respondent

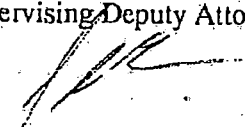


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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: 11/1/2016

Respectfully submitted,  
  
KAMALA D. HARRIS  
Attorney General of California  
JANE ZACK SIMON  
Supervising Deputy Attorney General  
  
JOSHUA M. TEMPLET  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 800-2015-014348**

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANE ZACK SIMON  
Supervising Deputy Attorney General  
3 JOSHUA M. TEMPLET  
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E-mail: joshua.templet@doj.ca.gov  
7 Attorneys for Complainant

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO June 23 2016  
BY 210111 ANALYST

MEDICAL BOARD OF CALIFORNIA  
I do hereby certify that this document is a true  
and correct copy of the original on file in this  
office.

S. Woods  
Signature

BEFORE THE Custodian of Records  
MEDICAL BOARD OF CALIFORNIA 5/3/2019  
DEPARTMENT OF CONSUMER AFFAIRS Date  
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

12 Christian Bernard Mathy, M.D.  
1701 Divisadero St., #120  
13 San Francisco, CA 94115-3011

14 Physician's and Surgeon's Certificate  
No. A 66142,

16 Respondent.

Case No. 800-2015-014348

OAH No.

ACCUSATION

17 Complainant alleges:

18 **PARTIES**

19 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
20 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
21 Affairs (Board).

22 2. On July 31, 1998, the Medical Board issued Physician's and Surgeon's Certificate  
23 Number A 66142 to Christian Bernard Mathy, M.D. (Respondent). The Physician's and  
24 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein  
25 and will expire on July 31, 2016, unless renewed.

26 3. On February 25, 2016, an Interim Suspension Order (ISO) was issued in this matter  
27 suspending Respondent's Physician's and Surgeon's Certificate and prohibiting him, among other  
28 things, from practicing as a physician and surgeon and from possessing, prescribing, dispensing,

1 furnishing, administering, or otherwise distributing any controlled substance or dangerous drug in  
2 California. The ISO shall remain in force and effect until the Board issues and adopts a final  
3 decision on this Accusation.

#### 4 JURISDICTION

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

7 5. Section 2227 of the Code provides that a licensee who is found guilty under the  
8 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed  
9 one year, placed on probation and required to pay the costs of probation monitoring, or such other  
10 action taken in relation to discipline as the Board deems proper..

11 6. Section 2234 of the Code, states, in pertinent part:

12 "The board shall take action against any licensee who is charged with  
13 unprofessional conduct. In addition to other provisions of this article, unprofessional  
conduct includes, but is not limited to, the following:

14 "(a) Violating or attempting to violate, directly or indirectly, assisting in  
15 or abetting the violation of, or conspiring to violate any provision of this chapter.

16 "(b) Gross negligence

17 "....

18 "(e) The commission of any act involving dishonesty or corruption which  
19 is substantially related to the qualifications, functions, or duties of a physician and  
surgeon.

20 "...."

21 7. Section 2238 of the Code states: "A violation of any federal statute or federal  
22 regulation or any of the statutes or regulations of this state regulating dangerous drugs or  
23 controlled substances constitutes unprofessional conduct."

24 8. Section 2239 of the Code states, in pertinent part:

25 "(a) The use or prescribing for or administering to himself or herself, of  
26 any controlled substance . . . to the extent, or in such a manner as to be dangerous or  
27 injurious to the licensee, or to any other person or to the public, or to the extent that  
such use impairs the ability of the licensee to practice medicine safely . . . constitutes  
unprofessional conduct.

28 "...."

9. Section 2261 of the Code states: "Knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct."

10. Section 2262 of the Code states, in pertinent part, that "creating any false medical record, with fraudulent intent, constitutes unprofessional conduct."

## DRUG LAWS

11. Section 4324 of the Code states:

“(a) Every person who signs the name of another, or of a fictitious person, or falsely makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by imprisonment in a county jail for not more than one year.

“(b) Every person who has in his or her possession any drugs secured by a forged prescription shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by imprisonment in the county jail for not more than one year.”

12. Section 11153(a) of the Health and Safety Code states, in pertinent part:

“(a) A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. Except as authorized by this division, the following are not legal prescriptions: (1) an order purporting to be a prescription which is issued not in the usual course of professional treatment or in legitimate and authorized research . . . .”

13. Section 11157 of the Health and Safety Code states: "No person shall issue a prescription that is false or fictitious in any respect."

14. Section 11170 of the Health and Safety Code states: "No person shall prescribe, administer, or furnish a controlled substance for himself."

15. Section 11173(a) of the Health and Safety Code states: "No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact."

16. Section 11174 of the Health and Safety Code states: "No person shall, in connection with the prescribing, furnishing, administering, or dispensing of a controlled substance, give a false name or false address."

17. Section 11175 of the Health and Safety Code states: "No person shall obtain or possess a prescription that does not comply with this division, nor shall any person obtain a controlled substance by means of a prescription which does not comply with this division or possess a controlled substance obtained by such a prescription."

**DRUGS INVOLVED**

18. Methylphenidate hydrochloride (trade names Methylin, Concerta, Metadate, Ritalin) is a central nervous system (CNS) stimulant indicated for the treatment of attention deficit hyperactivity disorder and narcolepsy. Methylphenidate may produce anxiety, nervousness, insomnia, and rapid heart beat. Chronic abusive use can lead to marked tolerance and psychological dependence with varying degrees of abnormal behavior. When taken in high doses or crushed and taken intravenously or intranasally, methylphenidate produces a euphoric effect similar to that of cocaine or amphetamines. Methylphenidate is a dangerous drug as defined in section 4022 of the Code and a Schedule II controlled substance under Health and Safety Code section 11055(d)(6).

19. Hydrocodone/APAP tablets (trade names Vicodin, Norco, Lortab) is a combination of hydrocodone, a semisynthetic narcotic analgesic, a dangerous drug as defined in section 4022 and a Schedule II controlled substance and narcotic as defined by section 11055, subdivision (b)(1)(I) of the Health and Safety Code, and acetaminophen. Hydrocodone/APAP is prescribed with varying amounts of hydrocodone and acetaminophen such as 10 mg of hydrocodone and 325 mg of acetaminophen, written hydrocodone/APAP 10/325, or 5 mg of hydrocodone and 500 mg of

1 acetaminophen, written hydrocodone/APAP 5/500. Repeated administration of hydrocodone over  
2 a course of several weeks may result in psychic and physical dependence.

3 20. Alprazolam (Trade name Xanax) is a psychotropic drug of the benzodiazepine class  
4 of CNS-active compounds and is indicated for the management of anxiety disorders or for the  
5 short-term relief of the symptoms of anxiety. It is a dangerous drug as defined in section 4022 of  
6 the Code and a schedule IV controlled substance and narcotic as defined by section 11057(d)(1)  
7 of the Health and Safety Code. Alprazolam can produce psychological and physical dependence  
8 and it should be prescribed with caution particularly with other CNS depressants. The maximum  
9 recommended dosage is 10 mg per day.

10 21. Lorazepam (trade name Ativan) is a psychotropic drug of the benzodiazepine class of  
11 CNS-active compounds and is indicated for the management of anxiety disorders or for the short-  
12 term relief of the symptoms of anxiety. It is a dangerous drug as defined in section 4022 and a  
13 schedule IV controlled substance as defined by section 11057(d)(16) of the Health and Safety  
14 Code. It has a CNS depressant effect. Lorazepam can produce psychological and physical  
15 dependence and it should be prescribed with caution particularly with other CNS depressants.  
16 The maximum recommended dosage is 10 mg per day.

17 22. Methylphenidate hydrochloride (trade name Ritalin) is a CNS stimulant indicated for  
18 the treatment of ADHD and narcolepsy. Methylphenidate hydrochloride is a dangerous drug as  
19 defined in section 4022 of the Code and a Schedule II controlled substance under Health and  
20 Safety Code section 11055(d)(6). Methylphenidate can be habit forming. The maximum  
21 recommended dosage is 60 mg per day.

### 22 FACTS

23 23. For over ten years Respondent has been prescribing controlled substances to as many  
24 as four fictitious patients whom he created expressly for that purpose. The names of the fictitious  
25 patients are Joseph Greenwall, Ronald Greenwall, Joseph Greenwell (or Joseph Ron Greenwell),  
26 and Ronald Greenwell.<sup>1</sup> He gave all four the same birthdate. He gave the two Greenwells the

27  
28 <sup>1</sup> These four names were invented by Respondent and are not the names of actual patients.

1 same San Francisco address and Joseph Greenwall an address in Palo Alto. Respondent also  
2 occasionally entered the San Francisco address he had assigned to the Greenwells on prescriptions  
3 for Joseph Greenwall.

4 24. Initially and until August 2011, Respondent prescribed hydrocodone with  
5 acetaminophen and benzodiazepines—alprazolam and/or lorazepam—to the various fictitious  
6 patients.

7 25. In the final six months of 2009, Respondent prescribed an average of approximately 5  
8 tablets of hydrocodone/APAP 325/10 a day and 8.3 mg of benzodiazepines—alprazolam and  
9 lorazepam—a day to the various fictitious patients. In addition, Respondent himself was being  
10 prescribed an average of approximately 1 mg of lorazepam a day by another physician, for a total  
11 of 9.3 mg of benzodiazepines a day.

12 26. In 2010, Respondent prescribed an average of approximately 9.2 tablets of  
13 hydrocodone/APAP 325/10 a day and 11.1 mg of lorazepam a day to the various fictitious  
14 patients. In addition, Respondent was being prescribed an average of approximately 2.2 mg of  
15 lorazepam a day by another physician, for a total of 13.3 mg of lorazepam a day.

16 27. From January through August 2011—when Respondent ceased prescribing  
17 hydrocodone and benzodiazepines to the various fictitious patients—Respondent prescribed an  
18 average of approximately 16.2 tablets of hydrocodone/APAP 325/10 a day and 16.7 mg of  
19 lorazepam a day to the various fictitious patients. In addition, Respondent was being prescribed  
20 an average of approximately 1.9 mg of lorazepam a day by another physician, for a total of 18.6  
21 mg of lorazepam a day. Also, in June and July 2011, Respondent was prescribed 30 tablets a  
22 month of hydrocodone/APAP 500/5 by another physician.

23 28. By April, May, and June of 2011, Respondent was prescribing an average of over 23  
24 tablets of hydrocodone/APAP 325/10—equaling 230 mg of hydrocodone—a day and 23 mg of  
25 lorazepam a day to the fictitious patients. Respondent prescribed decreasing amounts of  
26 hydrocodone and benzodiazepines to the fictitious patients in July and August 2011 and after  
27 August 2011, no longer prescribed hydrocodone or benzodiazepines to the fictitious patients.

28



1       29. In March 2012, he began prescribing methylphenidate to three of the four fictitious  
2 patients—Ronald and Joseph Greenwell and Joseph Greenwall—and continued prescribing  
3 methylphenidate to them through April 2015 when his prescribing for and picking up the  
4 prescriptions of the fictitious patients was discovered and reported to various authorities.

5       30. In 2012, Respondent prescribed approximately 66.3 mg of methylphenidate a day to  
6 the fictitious patients; in 2013, he prescribed approximately 65 mg of methylphenidate a day to  
7 the fictitious patients; in 2014, he prescribed approximately 68.3 mg of methylphenidate a day to  
8 the fictitious patients; and from January through April in 2015—when it was discovered that he  
9 had been prescribing for fictitious patients—he prescribed approximately 82.3 mg of  
10 methylphenidate a day to the fictitious patients.

11       31. In July 2015, Respondent admitted that he had been writing prescriptions for  
12 methylphenidate to fictitious patients for his own use. He stated that all the methylphenidate he  
13 prescribed for the fictitious patients was for his own use and that he had been the one who picked  
14 up the drugs. He admitted that he had been taking up to ten tablets—or 100 mg—of  
15 methylphenidate daily.

#### 16                                   **FIRST CAUSE FOR DISCIPLINE**

##### 17                                   **(Violation of Drug Laws)**

18       32. Respondent Christian Bernard Mathy, M.D. is subject to disciplinary action under  
19 section 2234 for unprofessional conduct pursuant to section 2234, subdivision (a) (violating  
20 provisions of this chapter), section 2238 (violation of statutes or regulations regulating dangerous  
21 drugs or controlled substances) including section 4324 of the Code (falsely making a prescription  
22 for drugs and possessing drugs secured by a forged prescription), Health and Safety Code section  
23 11153 (prescribing a controlled substance not in the usual course of professional treatment),  
24 Health and Safety Code section 11157 (issuing a false or fictitious prescription), Health and  
25 Safety Code section 11570 (writing prescription for controlled substance for himself), Health and  
26 Safety Code section 11174 (writing prescription for controlled substance giving false name and  
27 address), and Health and Safety Code section 11175 (possessing a prescription that does not  
28 comply with this division, obtaining and possessing a controlled substance by means of a

1 prescription which does not comply with this division) in that he prescribed controlled substances  
2 for himself under fictitious names as described above.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Dishonesty)**

5 33. Respondent Christian Bernard Mathy, M.D. is subject to disciplinary action under  
6 section 2234 for unprofessional conduct pursuant to section 2234, subdivisions (a) (violating  
7 provisions of this chapter) and (e) (committing dishonest act), in that he wrote prescriptions for  
8 controlled substances for persons he knew to be fictitious as described above.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(False Documents)**

11 34. Respondent Christian Bernard Mathy, M.D. is subject to disciplinary action under  
12 section 2234 for unprofessional conduct pursuant to section 2261 (signing documents related to  
13 the practice of medicine which falsely represent the existence of a state of facts) and section 2262  
14 (creating false medical records with fraudulent intent), in that he wrote prescriptions for  
15 controlled substances for persons he knew to be fictitious as described above.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 **(Prescribing Controlled Substances for Himself)**


18 35. Respondent Christian Bernard Mathy, M.D. is subject to disciplinary action under  
19 section 2234 for unprofessional conduct pursuant to section 2234, subdivision (a) (violating  
20 provisions of this chapter), section 2239 (prescribing controlled substances for himself to the  
21 extent or in such a manner as to be dangerous to him or the public or to impair his ability to  
22 practice medicine safely), and Health and Safety Code section 11570 (writing prescription for  
23 controlled substance for himself) in that he prescribed excessive amounts of controlled substances  
24 for his personal use as described above.

25 **PRAYER**

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
27 and that following the hearing, the Medical Board of California issue a decision:  
28

- 1           1.    Revoking or suspending Physician's and Surgeon's Certificate Number A 66142,  
2 issued to Christian Bernard Mathy, M.D.;
- 3           2.    Revoking, suspending or denying approval of Christian Bernard Mathy, M.D.'s  
4 authority to supervise physician assistants, pursuant to section 3527 of the Code;
- 5           3.    Ordering Christian Bernard Mathy, M.D., if placed on probation, to pay the Board the  
6 costs of probation monitoring; and
- 7           4.    Taking such other and further action as deemed necessary and proper.

8  
9   DATED: June 23, 2016

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant

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