

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

**In the Matter of the Accusation
Against:**

Binoj Joseph Matthew, M.D.

Case No. 800-2016-019740

**Physician's and Surgeon's
Certificate No. A 138022**

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 FEB 04 2020.

IT IS SO ORDERED JAN 28 2020.

MEDICAL BOARD OF CALIFORNIA

By: 
Christine J. Lally
Interim Executive Director

1 XAVIER BECERRA
Attorney General of California
2 STEVEN D. MUNI
Supervising Deputy Attorney General
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8
9 BEFORE THE
MEDICAL BOARD OF CALIFORNIA
10 DEPARTMENT OF CONSUMER AFFAIRS
11 STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 800-2016-019740

13 BINOJ JOSEPH MATTHEW, M.D.
645 E. Champlain Drive, #152
14 Fresno, CA 93730

OAH No. 2018090488

15 STIPULATED SURRENDER OF
16 LICENSE AND ORDER

17 Physician's and Surgeon's Certificate No. A
138022

Respondent.

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

22 PARTIES

23 1. Christine J. Lally (Complainant) is the Interim Executive Director of the Medical
24 Board of California (Board).¹ She brought this action solely in her official capacity and is
25 represented in this matter by Xavier Becerra, Attorney General of the State of California, by
26 Megan R. O'Carroll, Deputy Attorney General.

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28 ¹ Kimberly Kirohmeyer was Complainant at the time the Accusation was filed, became the
Director of the Department of Consumer Affairs on October 28, 2019.

3. On or about August 31, 2015, the Board issued Physician's and Surgeon's Certificate No. A 138022 to Binoj Joseph Matthew, M.D. (Respondent). The Physician's and Surgeon's Certificate was issued on August 31, 2015, Certificate was in full force and effect at all times thereafter relevant to the charges brought in Accusation No. 800-2016-019740, and will expire on January 31, 2021, unless renewed.

4. Accusation No. 800-2016-019740 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 27, 2018. Respondent timely filed his Notice of Defense contesting the Accusation.

ADVISEMENT AND WAIVERS

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

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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.

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1 of Respondent's license history with the Board. This constitutes a final adjudication by the Board
2 of the matters in Accusation No. 800-2016-019740 based on the admissions by the Respondent
3 herein, and there will be no further adjudication of them.

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

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

8 4. If Respondent ever files an application for licensure or a petition for reinstatement in
9 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
10 comply with all the laws, regulations and procedures for reinstatement of a revoked or
11 surrendered license in effect at the time the petition is filed, and all of the charges and allegations
12 contained in Accusation No. 800-2016-019740 shall be deemed to be true, correct and admitted
13 by Respondent when the Board determines whether to grant or deny the petition. Good cause
14 having been shown pursuant to Business and Professions Code section 2307 subdivision (b)(1),
15 Respondent may file a petition for reinstatement two years from the effective date of the decision
16 in resolution of the Accusation No. 800-2016-019740.

17 5. If Respondent should ever apply or reapply for a new license or certification, or
18 petition for reinstatement of a license, by any other health care licensing agency in the State of
19 California, all of the charges and allegations contained in Accusation, No. 800-2016-019740 shall
20 be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
21 Issues or any other proceeding seeking to deny or restrict licensure.

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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney Peter Osinoff, Esq.. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED:

12/23/19

BINOJ JOSEPH MATTHEW, M.D.
Respondent

I have read and fully discussed with Respondent Binoj Joseph Matthew, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED:

12/23/19

PETER OSINOFF, ESQ.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED:

12-24-19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
STEVEN D. MUNI
Supervising Deputy Attorney General

Megan R. Carroll

MEGAN R. O'CARROLL
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 800-2016-019740

1 XAVIER BECERRA
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3 STEVEN D. MUNI
4 Supervising Deputy Attorney General
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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO August 27, 2018
BY [Signature] ANALYST

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

In the Matter of the Accusation Against:

Case No. 800-2016-019740

Binoj Joseph Matthew, M.D.
645 E. Champlain Drive, #131
FRESNO, CA 93730

ACCUSATION

Physician's and Surgeon's Certificate
No. A 138022,

Respondent.

Complainant alleges:

PARTIES

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

2. On or about August 31, 2015, the Medical Board issued Physician's and Surgeon's Certificate Number A 138022 to Binoj Joseph Matthew, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2019, unless renewed.

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 unless otherwise indicated.

4. 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.

5. Section 2234 of the Code states:

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

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

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"(d) Incompetence.

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

"(f) Any action or conduct which would have warranted the denial of a certificate.

1 ...”

2 6. Section 726 of the Code states:

3 “(a) The commission of any act of sexual abuse, misconduct, or relations with a patient,
4 client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any
5 person licensed under this or under any initiative act referred to in this division.

6 “(b) This section shall not apply to consensual sexual contact between a licensee and his or
7 her spouse or person in an equivalent domestic relationship when that licensee provides medical
8 treatment, to his or her spouse or person in an equivalent domestic relationship.”

9 7. Section 729 of the Code states:

10 “(a) Any physician and surgeon, psychotherapist, alcohol and drug abuse counselor or any
11 person holding himself or herself out to be a physician and surgeon, psychotherapist, or alcohol
12 and drug abuse counselor, who engages in an act of sexual intercourse, sodomy, oral copulation,
13 or sexual contact with a patient or client, or with a former patient or client when the relationship
14 was terminated primarily for the purpose of engaging in those acts, unless the physician and
15 surgeon, psychotherapist, or alcohol and drug abuse counselor has referred the patient or client to
16 an independent and objective physician and surgeon, psychotherapist, or alcohol and drug abuse
17 counselor recommended by a third-party physician and surgeon, psychotherapist, or alcohol and
18 drug abuse counselor for treatment, is guilty of sexual exploitation by a physician and surgeon,
19 psychotherapist, or alcohol and drug abuse counselor.

20 (b) Sexual exploitation by a physician and surgeon, psychotherapist, or alcohol and drug
21 abuse counselor is a public offense:

22 (1) An act in violation of subdivision (a) shall be punishable by imprisonment in a county
23 jail for a period of not more than six months, or a fine not exceeding one thousand dollars
24 (\$1,000), or by both that imprisonment and fine.

25 (2) Multiple acts in violation of subdivision (a) with a single victim, when the offender has
26 no prior conviction for sexual exploitation, shall be punishable by imprisonment in a county jail
27 for a period of not more than six months, or a fine not exceeding one thousand dollars (\$1,000),
28 or by both that imprisonment and fine.

1 (3) An act or acts in violation of subdivision (a) with two or more victims shall be
2 punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a
3 period of 16 months, two years, or three years, and a fine not exceeding ten thousand dollars
4 (\$10,000); or the act or acts shall be punishable by imprisonment in a county jail for a period of
5 not more than one year, or a fine not exceeding one thousand dollars (\$1,000), or by both that
6 imprisonment and fine.

7 (4) Two or more acts in violation of subdivision (a) with a single victim, when the offender
8 has at least one prior conviction for sexual exploitation, shall be punishable by imprisonment
9 pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of 16 months, two
10 years, or three years, and a fine not exceeding ten thousand dollars (\$10, 000); or the act or acts
11 shall be punishable by imprisonment in a county jail for a period of not more than one year, or a
12 fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

13 (5) An act or acts in violation of subdivision (a) with two or more victims, and the offender
14 has at least one prior conviction for sexual exploitation, shall be punishable by imprisonment
15 pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of 16 months, two
16 years, or three years, and a fine not exceeding ten thousand dollars (\$10, 000).

17 For purposes of subdivision (a), in no instance shall consent of the patient or client be a
18 defense. However, physicians and surgeons shall not be guilty of sexual exploitation for touching
19 any intimate part of a patient or client unless the touching is outside the scope of medical
20 examination and treatment, or the touching is done for sexual gratification.

21 (c) For purposes of this section:

22 (1) "Psychotherapist" has the same meaning as defined in Section 728.

23 (2) "Alcohol and drug abuse counselor" means an individual who holds himself or herself
24 out to be an alcohol or drug abuse professional or paraprofessional.

25 (3) "Sexual contact" means sexual intercourse or the touching of an intimate part of a
26 patient for the purpose of sexual arousal, gratification, or abuse.

27 (4) "Intimate part" and "touching" have the same meanings as defined in Section 243.4 of
28 the Penal Code.

1 ...”

2 **FIRST CAUSE FOR DISCIPLINE**

3 **(Sexual Exploitation of Patient)**

4 8. Respondent is subject to disciplinary action under sections 729 and 2234, subdivision
5 (f), of the Code in that he sexually exploited a patient. The circumstances are as follows:

6 9. During 2014, Confidential Patient (CP)¹, was treated at University Psychiatry
7 Associates (UPA), for adult ADHD, and was prescribed medication. On or about May 28, 2015,
8 CP requested to start psychotherapy at UPA to supplement the medication regimen. She began
9 seeing Respondent, who was then a resident in the psychiatry program at UPA, associated with
10 UCSF Fresno.

11 10. Respondent had approximately ten psychotherapy appointments with CP, beginning
12 with the first appointment on or about June 8, 2015, and ending with the final appointment on or
13 about August 14, 2016. CP's appointments with Respondent were scheduled to be the last
14 appointment of the week, in the late afternoon on Fridays.

15 11. Shortly after beginning psychotherapy with CP, Respondent began an escalating
16 series of boundary violations with CP. He disclosed personal details of his life, beginning with
17 details about his childhood and education and escalating to information about his personal
18 relationships with women. He disclosed personal details of the lives of other physicians and
19 employees at UPA. He began paying CP compliments on her appearance and intelligence. CP
20 reported that some of the more personal remarks he made to her in therapy appeared to play on
21 her insecurities, such as when he commented that he was surprised that she maintained religious
22 beliefs despite her higher education level, or when he referred to her as looking like an “ageing
23 supermodel.”

24 12. He began sending text messages to CP, first about her treatment and then becoming
25 more personal in nature. He arranged to meet her, ostensibly for therapy, outside the UPA clinic
26 at a local Starbucks on or about July 3, 2015 when the clinic was closed. Respondent focused on

27 _____
28 ¹ Patient names are withheld to protect patient privacy.

1 sexual themes early in their therapy sessions, advising CP that she should dress more revealingly
2 and be more confident and open about her sexual nature. He expressed in therapy that he believed
3 most patients were unhappy due to lack of sexual fulfillment, often based on their refusal to
4 discuss personal issues that people found uncomfortable to discuss. He encouraged her to speak
5 about potential sexual abuse or sexual repression she may have experienced.

6 13. During the therapy sessions in the beginning of July 2015, Respondent invited CP to
7 refer to him by his first name when they were alone. CP did refer to him by his first name in
8 texts, but did not feel comfortable doing so in person. Respondent complimented CP frequently
9 on her personality and character traits. Respondent began using profanity during their sessions,
10 commenting that other patients did not like when he used profanity and asking CP how she felt
11 about it. CP told Respondent that it did not bother her because she did not want him to believe
12 that she was narrow-minded. Around this time, Respondent began telling CP more details about
13 his personal life and troubles and inviting her to give him advice. He told CP about his first
14 sexual experience, about the multiple affairs he had engaged in with married women or when he
15 was himself married, and explained the troubles he was having in his current marriage since he
16 began an affair with his wife's niece. He told CP about other patients he was treating and
17 explained some of the frustrations he had with these patients.

18 14. When CP was required to cancel a therapy session in the middle of July, she texted
19 him about it since they had been communicating by text regularly at this point. Respondent told
20 her that the receptionist would call to reschedule and that she should not disclose to the
21 receptionist or any other person that they had been texting each other. On or about July 20, 2015,
22 or July 24, 2015, during approximately the sixth therapy session with Respondent, CP admitted
23 that she had romantic feelings for him. From that point on Respondent and CP texted more often
24 and more explicitly. Respondent and CP texted plans to each other to meet on July 29, 2015 at
25 CP's house. Respondent sent CP an e-gift card for iTunes and suggested she purchase a specific
26 work critical of religion. On or about July 28, 2015, Respondent called CP's telephone and left
27 several voicemail messages. These messages were long and rambling, expressing thoughts and
28 opinions about their relationship.

1 15. On or about July 29, 2015, Respondent went to CP's house and brought wine. The
2 two drank wine and sat on her couch. She then invited him into her bedroom where they kissed.
3 He performed oral sex on her. They attempted to have vaginal sex but Respondent was unable to
4 sustain an erection. In texts Respondent sent to CP after that evening, he suggested initially that
5 he was unable to sustain an erection due to the amount of wine he drank, and later stated that it
6 was because she wore unattractive grey sweatpants. Finally, he commented in texts that he was
7 anxious due to their surroundings and stated that it was not unusual for him to have difficulty
8 sustaining an erection when he was not comfortable in a location. Approximately the next day he
9 sent her a text message with a photograph of his erect penis. The caption stated that this is what
10 he looked like when he was relaxed.

11 16. At their next therapy session on or about July 31, 2015, Respondent ordered a sex toy
12 for CP and had it shipped to her home address. He mentioned that his current girlfriend found it
13 helpful in their relationship. On or about August 8, 2015, Respondent texted CP in the evening
14 explaining that he had a fight with his girlfriend and would like to come over to her house. He
15 arrived and they attempted to have sex again. It was a more successful encounter than the
16 previous time they had attempted to have sex, but Respondent still had difficulty maintaining an
17 erection, which he attributed to the use of condoms.

18 17. The following day, CP began to have misgivings about the relationship with
19 Respondent. She had learned that Respondent had left his minor daughter at home alone when he
20 was at her house and that he had told her about CP and asked her not to tell other adults in her life
21 about his relationship with CP. This caused CP distress, and she blocked Respondent's cell
22 phone number. She later unblocked the number and told Respondent that she had done so.
23 Respondent told CP he was upset over this. On or about August 14, 2015, during a therapy
24 session, Respondent appeared more cold and distant and maintained normal patient-therapist
25 boundaries for the early part of the session. Midway through the session Respondent inquired if
26 something was wrong that had caused CP to seem distant. CP offered a false explanation to
27 Respondent, and he began to react more warmly toward her as he had done in previous sessions.
28 CP continued to have substantial misgivings about the status of their relationship.

1 18. On or about August 16, 2015, Respondent again went over to CP's house, explaining
2 that he was only there to talk to her because he was upset. The two discussed his frustrations with
3 his girlfriend. CP was surprised by Respondent's level of concern over his girlfriend's status as
4 Respondent had previously told CP that his relationship with the girlfriend was over and he had
5 given her one month to find a new place to live and move out of his residence.

6 19. After their first two sexual encounters, Respondent's texts to CP became sexually
7 explicit. He asked her to write out and send him her sexual fantasies and indicated he would do
8 the same. He texted explicit messages to her specifying sexual acts he wanted to perform on her
9 including choking and spanking her and engaging in anal sex. He inquired whether she had
10 concerns with any of these activities. CP responded that she had fears of choking and would not
11 want to do that. CP expressed concerns in therapy sessions that if she participated in sexually
12 submissive behaviors that it might be negative for her psychological well being, but Respondent
13 assured her that to find sexual fulfillment and happiness she needed to act out these sexual
14 fantasies.

15 20. Respondent and CP planned to meet at her house for a third sexual encounter on or
16 about August 19, 2015. In advance of the meeting, Respondent texted CP specific instructions on
17 how he wanted her to shave her body hair and pubic hair before the meeting. When Respondent
18 arrived at CP's house she expressed a preference to put off having anal sex and Respondent
19 responded that "you'll either love it or you'll hate it." Respondent stated to CP that "you're not
20 the only person in the world with a vagina." CP became concerned that Respondent would not
21 continue to be interested in her and so did not raise any further protest to the sexual activities.
22 Respondent and CP proceeded to have vaginal and anal sex. CP found Respondent to be sexually
23 aggressive at that sexual encounter and she developed a bruise on her shoulder from where her
24 shoulder hit a footboard during sex. After the encounter Respondent was more affectionate to CP
25 and she felt as though she was receiving positive attention from him again.

26 21. On or about August 23, 2015, Respondent and CP had their final sexual encounter,
27 again at her house. CP found Respondent to be very impersonal and found the experience painful
28 and degrading. They had vaginal and anal sex. CP realized that she was bleeding from the

1 rectum after the encounter, but Respondent did not tell her that while it was occurring.
2 Respondent was impatient to leave after they had sex. He gave CP a brief hug and left. After
3 Respondent left, CP realized that there was something very wrong in her relationship with
4 Respondent and told a friend about her experiences. CP's friend told her that she believed
5 Respondent was a sexual predator and that CP would be better not continuing any type of
6 relationship with him.

7 22. On or about August 26, 2015, CP called UPA and spoke to the receptionist explaining
8 that she wanted to cancel any further therapy treatments with Respondent. She did not tell the
9 receptionist about the nature of her relationship with Respondent, but instead made excuses to
10 avoid having to explain why she was terminating therapy.

11 23. On or about August 28, 2015, Respondent sent an email to CP. The content of the
12 email was the following: "It's a pity and very saddening that you won't communicate to the one
13 person who was trying to understand you and help in a genuine and completely undemanding
14 way. For what it's worth, nothing has changed from my end and if you ever feel the need to
15 talk...look me up." CP responded to that email on or about September 1, 2015, explaining that
16 she was terminating therapy with him, and requested that he not contact her again. She
17 nonetheless explained that "I harbor no animus towards you or motivation to cause you any
18 trouble, so please don't worry about that."

19 24. On or about September 1, 2015, Respondent emailed CP back in response to her
20 message. The subject line of the email was "Very sad!!!" The content of the email was as
21 follows:

22 Despite your desire not to hear a response from me...sometimes there's the
23 requirement of a modicum of decency considering the extent of the situation. So if
24 your excuse is being based in financial and logistics constraints via-a-via
25 childcare...with all due respect that is utter nonsense.

26 You could at least make your feelings known...truthfully!

27 But if you choose to stay silent...so be it! Don't worry about anything from my
28 end...I only react to flagrant violations of trust.

1 CP did not respond to that email. On or about October 11, 2015, Respondent sent a final
2 email to CP stating, "Just a shout-out to say hello! Hope you are doing well. I was reading
3 something today that reminded me of you..." CP did not respond to that email.

4 25. Respondent's conduct as described above constitutes sexual exploitation of a patient
5 in violation of section 729 of the Code, thus subjecting Respondent's license to discipline.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Sexual Misconduct with a Patient)**

8 26. Respondent is subject to disciplinary action under section 726 and 2234, subdivision
9 (f), of the Code in that he committed sexual misconduct with a patient. The circumstances are as
10 follows:

11 27. Paragraphs 8 through 25, above, are incorporated herein as if fully set forth.

12 28. Respondent's conduct, as set forth above, constitutes sexual misconduct with a patient
13 in violation of section 726 of the Code, thus subjecting Respondent's license to discipline.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct/Gross Negligence)**

16 29. Respondent is subject to disciplinary action under section 2234, subdivisions (b) and
17 (f), of the Code in that he committed gross negligence. The circumstances are as follows:

18 30. Paragraphs 8 through 25 are incorporated as if fully set forth herein.

19 31. Respondent was grossly negligent in his care and treatment of CP, for his acts
20 including, but not limited to, the following:

- 21 a. Having sexual relations with a patient;
- 22 b. Communicating with a patient using sexually explicit and unprofessional language;
- 23 c. Using his position of power and privileged information to exploit a psychiatric patient;
- 24 d. Meeting with a psychiatric patient outside the treatment setting;
- 25 e. Purchasing and giving gifts to a psychiatric patient;
- 26 f. Practicing outside his area of professional competence without supervision;
- 27 g. Disclosing sensitive, personal information about himself, coworkers and other patients;

28 and

1 h. Contacting a former patient without her consent after termination of the treatment.

2 **FOURTH CAUSE FOR DISCIPLINE**

3 **(Conduct That Would Warrant Denial of a License)**

4 32. Respondent is subject to disciplinary action under section 2234, subdivision (f) of the
5 Code in that he committed conduct that would have warranted denial of a license. The
6 circumstances are as follows:

7 33. Paragraphs 8 through 25 are incorporated as if fully set forth herein.

8 34. Respondent's conduct in his care and treatment of CP would have warranted denial of
9 a license, for his acts including, but not limited to, the following:

10 a. Having sexual relations with a patient;

11 b. Communicating with a patient using sexually explicit and unprofessional language;

12 c. Using his position of power and privileged information to exploit a psychiatric patient;

13 d. Meeting with a psychiatric patient outside the treatment setting;

14 e. Purchasing and giving gifts to a psychiatric patient;

15 f. Practicing outside his area of professional competence without supervision;

16 g. Disclosing sensitive, personal information about himself, coworkers and other patients;

17 and

18 h. Contacting a former patient without her consent after termination of the treatment.

19 **FIFTH CAUSE FOR DISCIPLINE**

20 **(Acts of Dishonesty and Corruption)**

21 35. Respondent is subject to disciplinary action under section 2234, subdivision (e) in that
22 he committed acts of dishonesty and corruption. The circumstances are as follows:

23 36. On or about January 20, 2016, CP sent an email to administrators at UPA and
24 Respondent's residency program, explaining that she had a sexual relationship with Respondent
25 while he was a resident and while he was treating her through the UPA. She explained that she
26 had not felt comfortable reporting the conduct during the summer, but that upon reflection she
27 realized she needed to protect future patients in the event that Respondent may act similarly with
28 other patients. The Director of the UCSF Fresno Psychiatry Residency Program began an

1 immediate investigation into CP's allegations. On the following morning, before the Director
2 contacted Respondent, Respondent sent a text message to the Director stating, "May I see you for
3 a few minutes this morning at 8. Need to do some explaining and set things right regarding the
4 malicious manipulation that is occurring vis-à-vis a patient." The Director set up a meeting with
5 Respondent for noon.

6 37. On or about January 21, 2016, Respondent met with the Director and another UPA
7 administrator for approximately 90 minutes to discuss CP's complaint. Respondent was informed
8 that a former patient had alleged that he and she were in a sexual relationship during therapy
9 sessions, and that she had provided text messages showing erotic communications between her
10 cell phone and his personal cell phone. During the meeting Respondent began by denying, and
11 then eventually admitting some of the specific details of CP's complaint. For example, he
12 initially denied that he purchased a sex toy for CP on Amazon.com during a therapy session, but
13 later clarified that he had gone onto the Amazon.com website during a session to point out a
14 particular vibrator that he recommended and had recommended to his girlfriend. When asked
15 whether he gave CP an iTunes gift card, he initially said he had not, then stated he could not
16 recall, and later indicated that he may have done so. When asked whether he had sent erotic text
17 messages to CP, he admitted that he done so, but claimed that they were merely a form of
18 therapeutic "role playing" to assist her with her emotional state. He denied that he ever went to
19 CP's house, or that he had any form of sexual contact with her.

20 38. On or about the evening of January 21, 2016, Respondent sent an email to the
21 Director and other administrators, stating:

22 First of all the messages were sent by me and this is what transpired. The last 3 or 4
23 sessions with this patient were focused mostly on one main theme and that was her
24 intense all consuming "sexual fantasies" she was having about me ever since she
began therapy. The text messages were a compromise in that all they did was
represent an innocent approach by me—suggested by her—that was far short of an

25 actual physical encounter. No such physical or sexual encounter ever took place.
26 These phone text messages that went back and forth were "electronic fantasy
fulfillment" and that's all it was. The patient and I both felt it would help her.

27 39. On or about April 5, 2018, Respondent was interviewed by an Investigator working
28 on behalf of the Board. At that interview, Respondent denied that he had ever sent sexually

1 explicit texts or emails to CP. He denied that he ever texted her about sexual fantasies or sex acts
2 he planned to perform on her. When presented with printouts of emails sent between CP and
3 him, Respondent denied he had ever written or read the texts before, and claimed that CP must
4 have fabricated or falsified the content of the messages to make it appear that he had sent and
5 received text messages with explicit content with CP. During the interview Respondent claimed
6 that CP was seriously mentally and emotionally disturbed, and had made numerous disclosures
7 regarding previous severe abuse and trauma. None of these serious diagnoses or disclosures were
8 contained in the records Respondent maintained of CP's care and treatment at UPA. Respondent
9 claimed that it was because of these serious mental and emotional conditions that CP had
10 fabricated the allegations and false records of their communications.

11 40. Paragraphs 8 through 34, above, are incorporated herein as if fully set forth.

12 41. Respondent's conduct, as set forth above, constitutes acts of dishonesty and
13 corruption in violation of section 2234, subdivision (e) of the Code, thus subjecting Respondent's
14 license to discipline.

15 **SIXTH CAUSE FOR DISCIPLINE**

16 **(General Unprofessional Conduct)**

17 42. Respondent is subject to disciplinary action under section 2234 in that he has engaged
18 in conduct which breaches the rules or ethical code of the medical profession; or conduct which is
19 unbecoming to a member in good standing of the medical profession, and which demonstrates an
20 unfitness to practice medicine, as alleged in paragraphs 8 through 41 above, which are
21 incorporated by reference and realleged as if fully set forth here.

22 **PRAYER**

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

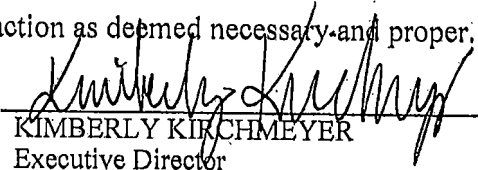
25 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 138022,
26 issued to Binoj Joseph Matthew, M.D.;

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

1 3. Ordering Binoj Joseph Matthew, M.D., if placed on probation, to pay the Board the
2 costs of probation monitoring; and

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

4 DATED: August 27, 2018


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

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