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10
11 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:
15 **MICHAEL LEWIS CHUN, M.D.**
1001 Riverside Avenue
16 Roseville, CA 95678
17 Physician's and Surgeon's Certificate No. G
68978
18 Respondent.

Case No. 800-2016-023003

OAH No. 2018110480

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

23 **PARTIES**

24 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
25 of California (Board). She brought this action solely in her official capacity and is represented in
26 this matter by Xavier Becerra, Attorney General of the State of California, by Megan R.
27 O'Carroll, Deputy Attorney General.
28

1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 800-2016-023003, if proven at a hearing, constitute cause for imposing discipline upon his
4 Physician's and Surgeon's Certificate.

5 10. For the purpose of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
7 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
8 those charges.

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

12 CONTINGENCY

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

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

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

1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Ann H. Larson, Esq. I understand the stipulation and the effect it
4 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
5 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the Medical Board of California.

7
8 DATED: 7-5-19

Michael Lewis Chun
9 MICHAEL LEWIS CHUN, M.D.
Respondent

10 I have read and fully discussed with Respondent Michael Lewis Chun, M.D. the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
12 I approve its form and content.

13 DATED: 7-5-19

Ann H. Larson
14 ANN H. LARSON, ESQ.
Attorney for Respondent

15
16 ENDORSEMENT

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

19
20 DATED: 7-5-19

Respectfully submitted,

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

Megan R. O'Carroll
23
24 MEGAN R. O'CARROLL
25 Deputy Attorney General
26 *Attorneys for Complainant*

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Exhibit A

Accusation No. 800-2016-023003

1 XAVIER BECERRA
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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO *Sept. 28 20 18*
BY *[Signature]* ANALYST

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

13 In the Matter of the Accusation Against:
14 **Michael Lewis Chun, M.D.**
15 **1001 Riverside Avenue**
Roseville, CA 95678
16 **Physician's and Surgeon's Certificate**
17 **No. G 68978,**
18 Respondent.

Case No. 800-2016-023003

ACCUSATION

19
20 Complainant alleges:

21 PARTIES

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

25 2. On or about July 2, 1990, the Medical Board issued Physician's and Surgeon's
26 Certificate Number G 68978 to Michael Lewis Chun, M.D. (Respondent). The Physician's and
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein
28 and will expire on April 30, 2020, unless renewed.

JURISDICTION

1
2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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

8 5. Section 2234 of the Code states:

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

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

14 “(b) Gross negligence.

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

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

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

25 “(d) Incompetence.

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

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

1 of or treatment for hyperlipidemia. Respondent directed CP to follow up with additional blood
2 tests in three months.

3 10. On or about April 28, 2013, CP's cholesterol was 379 with an LDL of 237. On or
4 about May 1, 2013, Respondent sent a message to CP informing him that his sugar levels were
5 better, but that he will call CP to discuss further. On or about May 2, 2013, Respondent sent
6 another message to CP recommending that he take a statin drug as part of his medication regimen
7 as a result of having type II diabetes. But Respondent did not reference CP's lipid panel results.
8 CP responded that he was willing to take a statin. Due to his diabetes diagnosis, Respondent was
9 referred to a pharmacist-led program to manage diabetic patients. On or about August of 2013, a
10 pharmacist reviewed CP's medical records and medications. The pharmacist recognized and
11 noted CP's lipid panel test results and made recommendations for managing his cholesterol and
12 adjusting medication doses for his various medical conditions. Over the next several months,
13 CP's LDL levels and A1C level improved.

14 11. On or about October 13, 2014, CP came in for an office visit with Respondent
15 complaining of back pain. Respondent sent CP to physical therapy and ordered an x-ray. On or
16 about November 17, 2014, CP saw Respondent again to have skin tags removed. At each of the
17 October and November 2014 appointments, Respondent made no mention of any of CP's other
18 ongoing medical conditions.

19 12. On or about February 16, 2015, CP sent an email to Respondent stating, "I seem to be
20 going backwards in how I feel. I'm tired walking upstairs still. After about 18 steps I have to
21 wait before I can move forward. I need to force my breathing to feel good. At the gym I am able
22 to pedal for about a minute before stopping and resting and then another minute etc. I could walk
23 30-50 minutes on low treadmill and lately I am able to walk at most 3-4 minutes before stopping
24 to catch my breath before I start again. Worst of all I can barely make it from a car to the front
25 door anywhere I go. Once I sit down somewhere I feel good. It's confusing and frustrating."

26 13. On or about February 17, 2015, Respondent wrote back "Your labs are not bad. Do
27 some more for me due to these symptoms—a blood count and also a chest x-ray. Let me know if
28 you are having chest pain." On or about February 18, 2015, CP responded to that email with the

1 following: "My chest only hurts when I eat on occasion too late at night or spicy foods. Mainly
2 just walking anywhere is instant exhaustion. Going from stationary and feeling normal to a few
3 steps and gasping for breath is really strange."

4 14. On or about February 21, 2015, CP had a complete blood count and a chest x-ray
5 performed, with normal results. He also had a TSH test that showed his TSH level was 69.92.
6 On or about February 23, 2015, Respondent informed CP that his diabetic tests were good. On or
7 about February 24, 2015, Respondent ordered synthroid medication at 75 micrograms per day for
8 CP. Respondent sent an email message to CP as follows: "Your thyroid is low and I think that is
9 the reason why you're so tired. Go to Riverside 1 and pick up levothyroxine which I called in.
10 Then, in about 3 week[s], repeat your blood test."

11 15. On or about March 2, 2015, CP wrote another email to Respondent explaining that he
12 had been using the thyroid medication for five days, but still had overall fatigue and
13 breathlessness. He explained, "I am great while sitting. As I stand, I lose my breath and feel an
14 overall fatigue that takes a while to go away. I can't walk any distance without needing to stop
15 and really breathe hard to catch my breath. My chest, arms, and hands are bloated and I "feel" full
16 of gas. The pain in my body goes away as I pass the gas or urinate. I am just checking to see if
17 this is normal with new medicine and if I need to give the medicine time to work on me."
18 Respondent wrote back later that day stating, "I think it's going to take a few week[s] for the
19 thyroid to fully kick in. Your thyroid levels were pretty low so I think your history is consistent
20 with low thyroid but if you are developing exertional chest pain, let me know."

21 16. On or about March 6, 2015 at 3:08 a.m. CP wrote a final email to Respondent stating
22 that he was feeling extremely ill. Later that morning CP's wife took him to the Emergency Room.
23 In the Emergency Room, CP was diagnosed with an acute myocardial infarction. He underwent a
24 cardiac catheterization and his ejection fraction was found to be 15%. He died three days later on
25 March 9, 2015.

26 17. Respondent was grossly negligent in his care and treatment of CP in that he failed to
27 adequately evaluate exertional dyspnea in CP. Multiple differential diagnoses should have been
28 considered and ruled out including cardiac ischemia, pulmonary embolism, and anemia. Cardiac

1 ischemia should be considered strongly in a patient with type II diabetes, hyperlipidemia and
2 hypertension. Respondent failed to consider atypical presentation of cardiac ischemia in patients
3 with type II diabetes. Respondent attributed CP's dyspnea to hypothyroidism, even as CP
4 continued to have increasingly severe symptoms without recommending CP come in for an
5 appointment. Respondent failed to recommend that CP come in for an appointment or to warn
6 CP of the consequences of failing to come in for an appointment with his serious symptoms.
7 Respondent started CP on a course of medication that can place patients at increased risk of
8 coronary artery disease without first ruling out a cardiac condition, even though CP reported
9 symptoms of cardiac disease. This conduct, combined, constitutes an extreme departure from the
10 standard of care.

11 SECOND CAUSE FOR DISCIPLINE

12 (Repeated Negligent Acts)

13 18. Respondent Michael Lewis Chun, M.D. is subject to disciplinary action under section
14 2234, subdivision (c), in that he was repeatedly negligent in his care and treatment of CP.

15 19. Paragraphs 6 through 17, are incorporated by reference as if fully set forth herein.

16 20. Respondent was repeatedly negligent in his care and treatment of CP in that each of
17 the following represents a separate departure from the standard of care:

18 (a) Failure to adequately evaluate exertional dyspnea in CP;

19 (b) Failure to timely evaluate and treat hyperlipidemia and its underlying causes in CP; and

20 (c) Failure to adequately monitor a patient with diabetes for complications of the disease.

21 PRAYER

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

24 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 68978,
25 issued to Michael Lewis Chun, M.D.;

26 2. Revoking, suspending or denying approval of Michael Lewis Chun, M.D.'s authority
27 to supervise physician assistants and advanced practice nurses;


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3. Ordering Michael Lewis Chun, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

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

DATED: September 28, 2018


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

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