

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

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

**Michael Lewis Chun, M.D.**

**Case No. 800-2016-023003**

**Physician's and Surgeon's  
Certificate No. G 68978**

**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 January 10, 2020.**

**IT IS SO ORDERED December 11, 2019**

**MEDICAL BOARD OF CALIFORNIA**

By: \_\_\_\_\_

**Ronald H. Lewis, M.D., Chair  
Panel A**

1 XAVIER BECERRA  
Attorney General of California  
2 STEVEN D. MUNI  
Supervising Deputy Attorney General  
3 MEGAN R. O'CARROLL  
Deputy Attorney General  
4 State Bar No. 215479  
1300 I Street, Suite 125  
5 P.O. Box 944255  
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6 Telephone: (916) 210-7543  
Facsimile: (916) 327-2247  
7 *Attorneys for Complainant*

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9  
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.**  
16 **1001 Riverside Avenue**  
**Roseville, CA 95678**

17 **Physician's and Surgeon's Certificate No. G**  
**68978**

18 Respondent.  
19

Case No. 800-2016-023003

OAH No. 2018110480

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

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

2. Respondent Michael Lewis Chun, M.D. (Respondent) is represented in this proceeding by attorney Ann H. Larson, Esq., whose address is: 2420 Camino Ramon, Suite 202 San Ramon, CA 94583-4202.

3. On or about July 2, 1990, the Board issued Physician's and Surgeon's Certificate No. G 68978 to Michael Lewis Chun, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2016-023003, and will expire on April 30, 2020, unless renewed.

#### JURISDICTION

4. Accusation No. 800-2016-023003 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 September 28, 2018. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2016-023003 is attached as exhibit A and incorporated herein by reference.

#### ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2016-023003. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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.

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

///

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  
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  
ANN H. LARSON, ESQ.  
Attorney for Respondent

14  
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

23 Megan R. O'Carroll  
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  
Attorney General of California  
2 STEVEN D. MUNI  
Supervising Deputy Attorney General  
3 MEGAN R. O'CARROLL  
Deputy Attorney General  
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7 *Attorneys for Complainant*

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

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

13 In the Matter of the Accusation Against:

Case No. 800-2016-023003

14 Michael Lewis Chun, M.D.  
1001 Riverside Avenue  
15 Roseville, CA 95678

ACCUSATION

16 Physician's and Surgeon's Certificate  
No. G 68978,

Respondent.

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

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       “(g) The practice of medicine from this state into another state or country without meeting  
2 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not  
3 apply to this subdivision. This subdivision shall become operative upon the implementation of the  
4 proposed registration program described in Section 2052.5.

5       “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and  
6 participate in an interview by the board. This subdivision shall only apply to a certificate holder  
7 who is the subject of an investigation by the board.”

8                                   **FIRST CAUSE FOR DISCIPLINE**

9                                   **(Gross Negligence)**

10       6.     Respondent Michael Lewis Chun, M.D. is subject to disciplinary action under section  
11 under section 2234, subdivision (b), of the Code, in that he was repeatedly negligent in his care  
12 and treatment of the Confidential Patient, (CP). The circumstances are as follows:

13       7.     Respondent is employed by Kaiser Permanente as a primary care provider in  
14 Roseville, California. On or about November 7, 2012, Respondent became the Confidential  
15 Patient's (CP's) primary care provider. At the time, CP was fifty-eight years of age.  
16 Respondent's list of medical conditions included hypertension at this first appointment on  
17 November 7, 2012. CP was prescribed Lisinopril. CP's blood pressure was noted to be 120/110  
18 at that visit. CP's creatinine was 1.64 with a Glomerular Filtration Rate of 43. Respondent  
19 ordered tests including a lipid panel and chest x-ray.

20       8.     CP completed the lipid panel testing, which showed him to have a total cholesterol of  
21 430, with his HDL at 59, and LDL at 292. Respondent reviewed these findings on or about  
22 November 14, 2012, but made no comment about the high cholesterol levels and did not prescribe  
23 a statin at that time.

24       9.     On or about December 23, 2012, CP had a series of abnormal laboratory findings.  
25 CP's A1C was found to be 7.6. In January of 2013, Respondent diagnosed CP with pre-diabetes  
26 and prescribed glipizide. Also in January of 2013, Respondent informed CP that his laboratory  
27 tests were better, but that he should have an ultrasound of his kidneys. There was still no mention  
28

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;  
28

1           3.     Ordering Michael Lewis Chun, 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  
5 DATED: September 28, 2018

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

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