

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

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

Kwang Pong Chiu, M.D.

**Physician's and Surgeon's
Certificate No. C 37989,**

Respondent.

Case No. 800-2017-031376

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 November 25, 2020.

IT IS SO ORDERED: October 30, 2020.

MEDICAL BOARD OF CALIFORNIA



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

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
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6688
Facsimile: (916) 731-2117
7 *Attorneys for Complainant*

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

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

14 **Kwang Pong Chiu, M.D.**
15 **477 Cabral Peak Street**
16 **Las Vegas, NV 89138-1140**

17 **Physician's and Surgeon's Certificate**
No. C 37989,

18 Respondent.

Case No. 800-2017-031376

OAH No. 2020040175

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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. William Prasifka (Complainant) is the Executive Director of the Medical Board of
24 California (Board). He brought this action solely in his official capacity and is represented in this
25 matter by Xavier Becerra, Attorney General of the State of California, via Joshua M. Temple,
26 Deputy Attorney General.

27 2. Respondent Kwang Pong Chiu, M.D. (Respondent) is represented in this proceeding
28 by Michael S. Biggs, Biggs Laws Office, A.P.C., 319 Lennon Lane, Walnut Creek, CA 94598.

1 3. On May 16, 1978, the Board issued Physician's and Surgeon's Certificate
2 No. C 37989 to Kwang Pong Chiu, M.D. (Respondent). The certificate was in full force and
3 effect at all times relevant to the charges brought in Accusation and Petition to Revoke Probation
4 No. 800-2017-031376, and will expire on August 31, 2021, unless renewed. Said certificate was
5 the subject of disciplinary action, on March 6, 2002, in Medical Board of California Case Number
6 12-2000-107216, *In the Matter of the Accusation Against Kwang Pong Chiu, M.D.* In that case,
7 the Board revoked Respondent's certificate, but stayed the order of revocation and placed
8 Respondent on probation for ten years, with terms and conditions.

9 JURISDICTION

10 4. Accusation and Petition to Revoke Probation No. 800-2017-031376 ("Accusation and
11 Petition to Revoke Probation") was filed before the Board, and is currently pending against
12 Respondent. The Accusation and Petition to Revoke Probation and all other statutorily required
13 documents were properly served on Respondent, on February 7, 2020. Respondent timely filed
14 his Notice of Defense contesting the Accusation and Petition to Revoke Probation.

15 5. A copy of the Accusation and Petition to Revoke Probation is attached as Exhibit A
16 and incorporated herein.

17 ADVISEMENT AND WAIVERS

18 6. Respondent has carefully read, fully discussed with counsel, and understands the
19 charges and allegations in the Accusation and Petition to Revoke Probation. Respondent has also
20 carefully read, fully discussed with his counsel, and understands the effects of this Stipulated
21 Settlement and Disciplinary Order.

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

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

3 **CULPABILITY**

4 9. Respondent understands and agrees that the charges and allegations in the Accusation
5 and Petition to Revoke Probation, if proven at a hearing, constitute cause for imposing discipline
6 on his Physician's and Surgeon's Certificate.

7 10. Respondent agrees that, at a hearing, Complainant could establish a prima facie case
8 for the charges in the Accusation and Petition to Revoke Probation, and that he hereby gives up
9 his right to contest those charges.

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

13 **CONTINGENCY**

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

23 13. Respondent agrees that if he ever petitions for early termination or modification of
24 probation, or if an Accusation or Petition to Revoke Probation is filed against him before the
25 Board, all of the charges and allegations contained in the Accusation and Petition to Revoke
26 Probation shall be deemed true, correct, and fully admitted by Respondent for purposes of any
27 such proceeding or any other licensing proceeding involving Respondent in the State of
28 California.

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

4 15. In consideration of the foregoing admissions and stipulations, the parties agree that
5 the Board may, without further notice or opportunity to be heard by the Respondent, issue and
6 enter the following Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 37989, issued
9 to Respondent Kwang Pong Chiu, M.D., is revoked. However, the revocation is stayed and
10 Respondent is placed on probation for two years, which shall be served consecutive to
11 Respondent's remaining term of probation in Medical Board of California Case No. 12-2000-
12 107216. The terms and conditions of probation in Medical Board of California Case No. 12-2000-
13 107216 remain in effect, and the following additional terms are hereby ordered:

14 1. **CONTROLLED SUBSTANCES - SURRENDER OF DEA PERMIT.** Within 60
15 calendar days of the effective date of this Decision, Respondent shall provide documentary proof
16 to the Board or its designee that Respondent's DEA permit has been surrendered to the Drug
17 Enforcement Administration for cancellation, together with any state prescription forms and all
18 controlled substances order forms. Thereafter, Respondent shall not reapply for a new DEA
19 permit without the prior written consent of the Board or its designee.

20 This term shall be exempt from the "Tolling Provision" condition in Medical
21 Board of California Case No. 12-2000-107216 and shall apply immediately upon the effective
22 date of this Decision and Order.

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

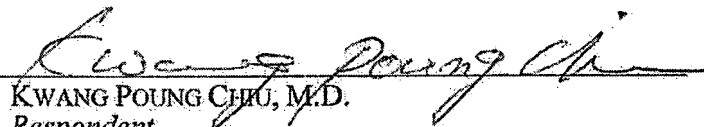
1 the matter is final.

2 3. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
3 a new license or certification, or petition for reinstatement of a license, from any other health care
4 licensing agency in the State of California, all of the charges and allegations contained in the
5 Accusation and Petition to Revoke Probation shall be deemed to be true, correct, and admitted by
6 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
7 restrict such license or certification.

8
9 ACCEPTANCE

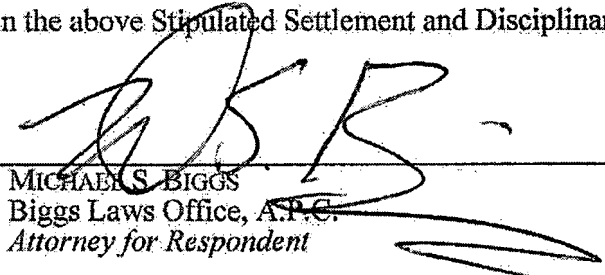
10 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
11 discussed it with my attorney, Michael S. Biggs. I understand the stipulation and the effect it will
12 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
13 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
14 Decision and Order of the Medical Board of California.

15
16 DATED: 9-3-2020


KWANG POUNG CHIU, M.D.
Respondent

18 I have read and fully discussed with Respondent Kwang Pong Chiu, M.D. the terms and
19 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
20 I approve its form and content.

21 DATED: 9-3-2020


MICHAEL S. BIGGS
Biggs Laws Office, A.P.C.
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: September 3, 2020

Respectfully submitted,

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

Joshua M. Templet
JOSHUA M. TEMPLET
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation and Petition to Revoke Probation No. 800-2017-031376

1 XAVIER BECERRA
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 JOSHUA M. TEMPLET
Deputy Attorney General
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO FILED 7 20 20
BY *M. J. JONES III* ANALYST

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

13 In the Matter of the Accusation and Petition to
Revoke Probation Against:

Case No. 800-2017-031376

14 **Kwang Pong Chiu, M.D.**
15 **477 Cabral Peak St.**
Las Vegas, NV 89138-1140

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

16 **Physician's and Surgeon's Certificate**
17 **No. C 37989,**

18 Respondent.

19
20 **PARTIES**

21 1. Christine J. Lally (Complainant) brings this Accusation and Petition to Revoke
22 Probation solely in her official capacity as the Interim Executive Director of the Medical Board of
23 California, Department of Consumer Affairs (Board).

24 2. On May 16, 1978, the Board issued Physician's and Surgeon's Certificate Number
25 C 37989 to Kwang Pong Chiu, M.D. (Respondent). The Physician's and Surgeon's Certificate
26 was in full force and effect at all times relevant to the charges brought herein and will expire on
27 August 31, 2021.

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1 **DISCIPLINARY HISTORY**

2 3. In a disciplinary action entitled "In the Matter of Accusation Against Kwang Pong
3 Chiu, M.D.," Case No. 12-2000-107216, the Board issued a decision, effective March 6, 2002,
4 revoking Respondent's Physician's and Surgeon's Certificate based on allegations of gross
5 negligence in the quality of his care of three obstetrics patients. The decision stayed the
6 revocation and placed Respondent's Physician's and Surgeon's Certificate on probation for ten
7 years with certain terms and conditions.

8 **JURISDICTION**

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

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

14 6. Section 2227 of the Code authorizes the Board to take action against a licensee who
15 has been found guilty under the Medical Practice Act by revoking his or her license, suspending
16 the license for a period not to exceed one year, placing the license on probation and requiring
17 payment of costs of probation monitoring, or taking such other action as the Board deems proper.

18 **STATUTORY PROVISIONS**

19 7. Section 2234 of the Code states:

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

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

24 (b) Gross negligence.

25 (c) Repeated negligent acts. To be repeated, there must be two or more negligent acts
26 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.

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

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

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9 8. Section 2238 of the Code states:

10 A violation of any federal statute or federal regulation or any of the statutes or
11 regulations of this state regulating dangerous drugs or controlled substances
12 constitutes unprofessional conduct.

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16 9. Section 2242, subdivision (a), of the Code states:

17 Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022
18 without an appropriate prior examination and a medical indication, constitutes
19 unprofessional conduct

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23 10. Section 2266 of the Code states:

24 The failure of a physician and surgeon to maintain adequate and accurate records
25 relating to the provision of services to their patients constitutes unprofessional
26 conduct.

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28
FACTUAL ALLEGATIONS

On or about March 28, 2016, Respondent prescribed 100 Valium¹ 10 mg tablets to his
sister-in-law, a three-month supply based on the prescribed dosage of one tablet per day.
Respondent did not take the medical history or conduct a physical examination of his sister-in-
law. Nor did he establish a working diagnosis or treatment plan for her, or obtain her informed
consent for treatment with Valium. Respondent did not create any medical records regarding his
prescription or treatment of his sister-in-law.

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¹ Valium is a trade name of diazepam, a benzodiazepine. It is a psychotropic drug used for
the management of anxiety disorders or for the short-term relief of the symptoms of anxiety. It is
a dangerous drug as defined in Code section 4022 and a Schedule IV controlled substance
pursuant to Health and Safety Code, section 11057, subdivision (d)(9).

1 CAUSE FOR DISCIPLINE

2 **(Gross Negligence, Repeated Negligence, Inappropriate Prescribing, Inadequate Records)**

3 11. Respondent is guilty of unprofessional conduct and subject to disciplinary action
4 under section 2234, subdivisions (a) (violation of Medical Practice Act), (b) (gross negligence),
5 and/or (c) (repeated negligent acts), of the Code in that Respondent engaged in the conduct
6 described above including but not limited to the following:

- 7 A. Respondent failed to obtain a history of his sister-in-law.
- 8 B. Respondent failed to perform a physical examination of his sister-in-law.
- 9 C. Respondent failed to establish a working diagnosis and treatment plan for his
10 sister-in-law.
- 11 D. Respondent failed to obtain informed consent from his sister-in-law for treatment
12 with Valium.
- 13 E. Respondent prescribed a three-month quantity of Valium in a single prescription.
- 14 F. Respondent failed to exclude his sister-in-law's concurrent opioid use and to warn
15 her about the danger of the use of Valium with opioid medication.

16 12. In addition, Respondent is guilty of unprofessional conduct and subject to disciplinary
17 action under sections 2238 (violation of drug statute) and 2242 (prescribing dangerous drug
18 without appropriate prior examination and medical indication) of the Code in that Respondent
19 engaged in the conduct described above including but not limited to the following:

- 20 A. Respondent prescribed Valium to his sister-in-law without an appropriate prior
21 examination.
- 22 B. Respondent prescribed Valium to his sister-in-law without a medical indication.

23 13. In addition, Respondent is guilty of unprofessional conduct and subject to disciplinary
24 action under section 2266 (inadequate record keeping) of the Code in that Respondent failed to
25 maintain adequate and accurate records relating to his prescription of Valium to his sister-in-law,
26 including but not limited to the following:

- 27 A. Respondent failed to document obtaining a history of his sister-in-law.

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1 B. Respondent failed to document performing a physical examination of his sister-in-
2 law.

3 C. Respondent failed to document a working diagnosis and treatment plan for his
4 sister-in-law.

5 D. Respondent failed to document obtaining informed consent for treatment of his
6 sister-in-law with Valium.

7
8 **CAUSE TO REVOKE PROBATION**

9 **(Failure to Obey Medical Practice Act in Violation of Probation)**

10 14. At all times after the effective date of Respondent's probation, Term D of his
11 probation stated:

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

14 15. Respondent's probation is subject to revocation because he failed to comply with
15 Term D, in that he violated Business and Professions Code, sections 2234, subdivisions (a)
16 (violation of Medical Practice Act), (b) (gross negligence), and/or (c) (repeated negligent acts) of
17 the Code; sections 2238 (violation of drug statute) and 2242 (prescribing dangerous drug without
18 appropriate prior examination and medical indication) of the Code; and section 2266 (inadequate
19 record keeping) of the Code, as pleaded in the Cause for Discipline.

20 **PRAYER**

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

23 1. Revoking the probation that the Medical Board of California granted in Case No. 12-
24 2000-107216 and imposing the stayed disciplinary order, thereby revoking Physician's and
25 Surgeon's Certificate Number C 37989 issued to Kwang Pong Chiu, M.D.;

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

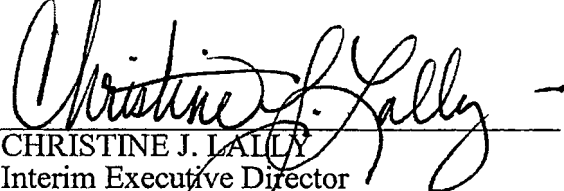
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3. Ordering Kwang Pong Chiu, M.D., if placed on further probation, to pay the Board the costs of probation monitoring; and

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

DATED: FEB 07 2020


CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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