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

XAVIER BECERRA
Attorney General of California
STEVEN D. MUNI
Supervising Deputy Attorney General
MEGAN R. O'CARROLL
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Attorneys for Complainant

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.** **1001 Riverside Avenue** **Roseville, CA 95678** **Physician's and Surgeon's Certificate No. G 68978** Respondent.	Case No. 800-2016-023003 OAH No. 2018110480 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

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

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.

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CULPABILITY

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

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

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

CONTINGENCY

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

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

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

DISCIPLINARY ORDER

A. PUBLIC REPRIMAND

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 68978 issued to Respondent Michael Lewis Chun, M.D., shall be and is hereby publicly reprimanded pursuant to California Business and Professions Code, section 2227, subdivision (a)(4). This public reprimand, which is issued in connection with Respondent's care and treatment of a confidential patient, is based on the facts and allegations as set forth in Accusation No. 800-2016-023003.

B. EDUCATION COURSE

Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours. The educational program(s) or course(s) shall be Category 1 certified, and shall cover medical topics including management of patients with dyspnea and cardiovascular disease. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Respondent shall provide proof of attendance to the Board or its designee of satisfaction of this requirement.

Failure to successfully complete and provide proof of attendance to the Board or its designee of the educational program(s) or course(s) within 12 months of the effective date of this Decision, unless the Board or its designee agrees in writing to an extension of that time, shall constitute general unprofessional conduct and may serve as the grounds for further disciplinary action.

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ACCEPTANCE

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

DATED: 7-5-19

MICHAEL LEWIS CHUN, M.D.
Respondent

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

DATED: 7-5-19

ANN H. LARSON, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: 7-5-19

Respectfully submitted,

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

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

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Exhibit A

Accusation No. 800-2016-023003

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

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.** **1001 Riverside Avenue** **Roseville, CA 95678** **Physician's and Surgeon's Certificate No. G 68978,** Respondent.	Case No. 800-2016-023003 **ACCUSATION**

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 July 2, 1990, the Medical Board issued Physician's and Surgeon's Certificate Number 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 herein 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.

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

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

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

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

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

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

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

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

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

PRAYER

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

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

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

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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