

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

In the Matter of the Accusation)	
Against:)	
)	
ENG CHUAN SAW, M.D.)	Case No. 8002014004924
)	
Physician's and Surgeon's)	
Certificate No. G 18874)	
)	
Respondent)	
_____)	

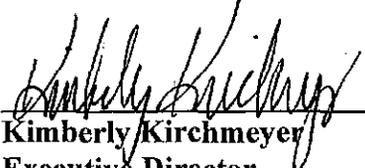
DECISION AND ORDER

The attached Stipulated Surrender of License and Order Following Non-Adoption of Proposed Decision 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 October 4, 2016.

IT IS SO ORDERED September 27, 2016.

MEDICAL BOARD OF CALIFORNIA

By: 

Kimberly Kirchmeyer
Executive Director

1 KAMALA D. HARRIS
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 EMILY L. BRINKMAN
Deputy Attorney General
4 State Bar No. 219400
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5742
6 Facsimile: (415) 703-5843
E-mail: Emily.Brinkman@doj.ca.gov
7 Attorneys for Complainant

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

11 **In the Matter of the Accusation Against:**
12 **Eng Chuan Saw, M.D.**

13 5457 Trumpet Court
14 Castro Valley, CA 94552

15 **Physician's and Surgeon's Certificate**
16 **No. G18874,**

Respondent.

Case No. 800-2014-004924

OAH No. 2016010840

STIPULATED SURRENDER OF
LICENSE AND ORDER FOLLOWING
NON-ADOPTION OF PROPOSED
DECISION

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

19 PARTIES

20 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
21 of California. She brought this action solely in her official capacity and is represented in this
22 matter by Kamala D. Harris, Attorney General of the State of California, by Emily L. Brinkman,
23 Deputy Attorney General.

24 2. Eng Chuan Saw, M.D. (Respondent) is represented in this proceeding by attorney
25 Albert Garcia, whose address is 2000 Powell Street, Ste. 1290, Emeryville, CA 94608.

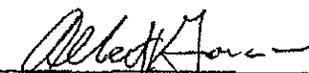
26 3. On or about July 30, 1970, the Medical Board issued Physician's and Surgeon's
27 Certificate No. G18874 to Eng Chuan Saw, M.D.. The Certificate is delinquent because the
28 license renewal fee was not paid as of May 31, 2016.

8/30/16, 1:03 PM

← Back to Message PDF copy Stipulated Surrende... 5 / 7



1 I have read and fully discussed with Respondent Eng Chuan Saw, M.D. the terms and
2 conditions and other matters contained in this Stipulated Surrender of License and Order. I
3 approve its form and content.

4
5 DATED: 8-30-16 
6 ALBERT GARCIA
7 Attorney for Respondent

8
9 ENDORSEMENT

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

12 Dated: Respectfully submitted.
13 KAMALA D. HARRIS
14 Attorney General of California
15 JANE ZACK SIMON
Supervising Deputy Attorney General

16
17 EMILY L. BRINKMAN
18 Deputy Attorney General
Attorneys for Complainant

19
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1 I have read and fully discussed with Respondent Eng Chuan Saw, M.D. the terms and
2 conditions and other matters contained in this Stipulated Surrender of License and Order. I
3 approve its form and content.

4
5 DATED: _____

6 ALBERT GARCIA
7 Attorney for Respondent
8

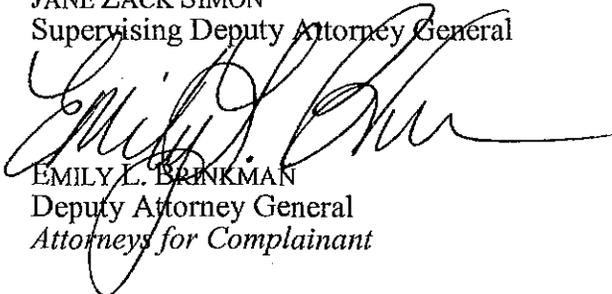
9 ENDORSEMENT

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

12 Dated: *August 30, 2016*

13 Respectfully submitted,

14 KAMALA D. HARRIS
15 Attorney General of California
16 JANE ZACK SIMON
17 Supervising Deputy Attorney General

18 
19 EMILY L. BRINKMAN
20 Deputy Attorney General
21 *Attorneys for Complainant*

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Exhibit A

Accusation No. 800-2014-004924

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO October 26 20 15
BY R. FIDRAYS ANALYST

1 KAMALA D. HARRIS
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 EMILY L. BRINKMAN
Deputy Attorney General
4 State Bar No. 219400
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5742
6 Facsimile: (415) 703-5843
E-mail: Emily.Brinkman@doj.ca.gov
7 *Attorneys for Complainant*

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

11 **In the Matter of the Accusation Against:**
12 **Eng Chuan Saw, M.D.**
13 5457 Trumpet Court
Castro Valley, CA 94552
14 **Physician's and Surgeon's Certificate**
15 **No. G18874,**
16 Respondent.

Case No. 800-2014-004924
ACCUSATION

17
18 Complainant alleges:

19 **PARTIES**

- 20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer
22 Affairs (Board).
23 2. On or about July 30, 1970, the Medical Board issued Physician's and Surgeon's
24 Certificate Number G18874 to Eng Chuan Saw, M.D. (Respondent). The Certificate is renewed
25 and current with an expiration date of May 31, 2016.

26 \\\
27 \\\
28 \\\

1 JURISDICTION

2 3. This Accusation is brought before the Board,¹ 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 2305 of the Code states:

9 The revocation, suspension, or other discipline, restriction or limitation imposed by another
10 state upon a license or certificate to practice medicine issued by that state, or the revocation,
11 suspension, or restriction of the authority to practice medicine by any agency of the federal
12 government, that would have been grounds for discipline in California of a licensee under this
13 chapter [Chapter 5, the Medical Practice Act] shall constitute grounds for disciplinary action for
14 unprofessional conduct against the licensee in this state.

15 6. Section 141 of the Code states:

16 "(a) For any licensee holding a license issued by a board under the jurisdiction of the
17 department, a disciplinary action taken by another state, by any agency of the federal government,
18 or by another country for any act substantially related to the practice regulated by the California
19 license, may be a ground for disciplinary action by the respective state licensing board. A
20 certified copy of the record of the disciplinary action taken against the licensee by another state,
21 an agency of the federal government, or another country shall be conclusive evidence of the
22 events related therein.

23 "(b) Nothing in this section shall preclude a board from applying a specific statutory
24 provision in the licensing act administered by that board that provides for discipline based upon a
25

26
27 ¹ The term "Board" means the Medical Board of California. "Division of Medical
28 Quality" or "Division" shall also be deemed to refer to the Board (Bus. & Prof. Code section 2002).

1 disciplinary action taken against the licensee by another state, an agency of the federal
2 government, or another country."

3 **CAUSE FOR DISCIPLINE**

4 **(Discipline, Restriction, or Limitation Imposed by Another State)**

5 7. On June 25, 2015, the State of Washington Medical Quality Assurance Commission
6 (Washington Commission) issued a Stipulation to Informal Disposition (Stipulation) against
7 Respondent. The Washington Commission's Stipulation was based on allegations that
8 Respondent used poor judgment in the surgical resection of a large retroperitoneal sarcoma. The
9 patient began bleeding at the beginning of the procedure, but Respondent continued with the
10 surgery despite having inadequate assistance, inadequate blood availability, and failed to modify
11 his approach after receiving recommendations. The patient died within 24 hours after the surgery
12 due to blood loss. Additionally, the medical record misstated the timing, source, and the amount
13 of blood loss suffered by the patient.

14 8. As part of the Stipulation, the Washington Commission noted that Respondent's
15 license to practice medicine in Washington is currently expired. Respondent is prohibited from
16 performing, or assisting, any future surgical procedures in Washington. In the event that
17 Respondent decides to return to practice in Washington, Respondent must notify the Washington
18 Commission and request a modification hearing to allow the Washington Commission the
19 opportunity to add additional terms and conditions.

20 9. Respondent's conduct and the action of the Washington Commission as set forth in
21 paragraphs 7 and 8 above, and within the actual Washington Commission's documents attached
22 as Exhibit A, constitutes unprofessional conduct within the meaning of section 2305 and conduct
23 subject to discipline within the meaning of section 141(a).

24 **PRAYER**

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

27 1. Revoking or suspending Physician's and Surgeon's Certificate Number G18874,
28 issued to Eng Chuan Saw, M.D.;

1 2. Revoking, suspending or denying approval of Eng Chuan Saw, M.D.'s authority to
2 supervise physician assistants, pursuant to section 3527 of the Code;

3 3. Ordering Eng Chuan Saw, M.D., if placed on probation, to pay the Board the costs of
4 probation monitoring; and

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

6
7 DATED: October 26, 2015


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

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EXHIBIT A

State of Washington Medical Quality Assurance Commission Stipulation to Informal
Disposition and Statement of Allegations and Summary of Evidence

RECEIVED
MEDICAL BOARD OF CA

2015 JUL 27 PM 4:00

STATE OF WASHINGTON
MEDICAL QUALITY ASSURANCE COMMISSION

DISCIPLINE UNIT

In the Matter of the License to Practice
as a Physician and Surgeon of:

ENG C. SAW, MD
License No. MD00015093

No. M2012-267

STIPULATION TO INFORMAL
DISPOSITION

Respondent

Pursuant to the Uniform Disciplinary Act, Chapter 18.130 RCW, the Medical Quality Assurance Commission (Commission) issued a Statement of Allegations and Summary of Evidence (Statement of Allegations) alleging the conduct described below. Respondent *does not* admit any of the allegations. This Stipulation to Informal Disposition (Stipulation) is not formal disciplinary action and shall not be construed as a finding of unprofessional conduct or inability to practice.

1. ALLEGATIONS

1.1 On May 10, 1976, the state of Washington issued Respondent a license to practice as a physician and surgeon. Respondent's license expired in May, 2014. Respondent is board certified in general surgery and thoracic and cardiac surgery.

1.2 Respondent indicated poor judgment in the surgical resection of a large retroperitoneal sarcoma on August 11, 2011. Bleeding began at the beginning of the procedure. Respondent persevered in the surgery despite inadequate assistance, inadequate blood availability, and recommendations to modify his approach. The patient died within twenty-four hours following the procedure due to blood loss. The medical record significantly misstated the timing, source, and amount of the patient's blood loss.

2. STIPULATION

2.1 The Commission alleges that the conduct described above, if proven, would constitute a violation of RCW 18.130.180(4).

2.2 The parties wish to resolve this matter by means of a Stipulation to Informal Disposition (Stipulation) pursuant to RCW 18.130.172(1).

STIPULATION TO INFORMAL DISPOSITION
NO. M2012-267

PAGE 1 OF 5

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CONFIDENTIAL

2.3 Respondent agrees to be bound by the terms and conditions of this Stipulation.

2.4 This Stipulation is of no force and effect and is not binding on the parties unless and until it is accepted by the Commission.

2.5 If the Commission accepts the Stipulation it will be reported to the National Practitioner Data Bank (45 CFR Part 60), the Federation of State Medical Boards' Physician Data Center, and elsewhere as required by law.

2.6 The Statement of Allegations and this Stipulation are public documents. They will be placed on the Department of Health web site, disseminated via the Commission's electronic mailing list, and disseminated according to the Uniform Disciplinary Act (Chapter 18.130 RCW). They are subject to disclosure under the Public Records Act, Chapter 42.56 RCW, and shall remain part of Respondent's file according to the state's records retention law and cannot be expunged.

2.7 The Commission agrees to forego further disciplinary proceedings concerning the allegations, and will not require Respondent to take any remedial action as long as he is not practicing medicine in Washington.

2.8 Respondent agrees to successfully complete the terms and conditions of this informal disposition.

2.9 A violation of the provisions of Section 3 of this Stipulation, if proved, would constitute grounds for discipline under RCW 18.130.180 and the imposition of sanctions under RCW 18.130.160.

3. INFORMAL DISPOSITION

The Commission and Respondent stipulate to the following terms.

3.1 **License Status.** Respondent's license is currently expired and he is not practicing medicine in Washington.

3.2 **Permanent Practice Restrictions.** Respondent shall not perform, or assist in performing, any future surgical procedures in Washington.

3.3 **Notice to the Commission.** Respondent has indicated he does not intend to practice again in Washington. In the unlikely event that Respondent seeks to return to practice in Washington, he must first notify the Commission in writing. The Commission will issue a notice scheduling a date and time for Respondent to appear for

000000

a modification hearing. At such time, the Commission may impose additional sanctions it deems necessary to protect the public.

3.4 **Obey Laws.** Respondent must obey all federal, state, and local laws, and all administrative rules governing the practice of the profession in Washington.

3.5 **Costs.** Respondent must assume all costs of complying with this Stipulation.

3.6 **Violations.** If Respondent violates any provision of this Stipulation in any respect, the Commission may initiate further action against Respondent's license.

3.7 **Change of Address.** Respondent must inform the Commission and the Adjudicative Clerk Office in writing, of changes in his residential and/or business address within thirty (30) days of such change.

3.8 **Effective Date.** The effective date of this Stipulation to Informal Disposition is the date the Adjudicative Clerk Office places the signed Stipulation into the U.S. mail. If required, Respondent shall not submit any fees or compliance documents until after the effective date of this Stipulation.

4. COMPLIANCE WITH SANCTION RULES

4.1 The Commission applies WAC 246-16-800, *et seq.*, to determine appropriate sanctions. Tier C of the "Practice Below Standard of Care" schedule, WAC 246-16-810, applies to cases where substandard practices result in severe patient harm or death to a patient. The alleged substandard care of Patient A was a contributing factor to Patient A's death. Tier C therefore applies.

4.2 Tier C requires the imposition of sanctions ranging from three years of oversight to permanent conditions, restrictions, or revocation. Under WAC 246-16-800(3)(d), the starting point for the duration of the sanctions is the middle of the range. The Commission uses aggravating and mitigating factors to move towards the maximum or minimum ends of the range.

4.3 The permanent restriction on performing surgery is a sanction that falls at the high end of the range. However, no additional meaningful oversight is imposed as long as Respondent refrains from practicing medicine in Washington. This may be considered a slight deviation from the sanction guidelines. These sanctions, in the judgment of the Commission, constitute an appropriate variance that is fully consistent

COMMISSION

with patient safety. These sanctions are appropriate within the Tier C range given the facts of the case and the following aggravating and mitigating factors.

- A. As a mitigating factor, Respondent fully cooperated with the Commission.
- B. As a mitigating factor, Respondent has no other history of disciplinary action since becoming licensed in Washington in 1976.
- C. As a mitigating factor, Respondent demonstrated his competence as a surgeon in other complex surgeries contemporaneous with this incident.
- D. As a mitigating factor, Respondent has retired from practicing medicine in Washington.
- E. The Commission did not recognize any aggravating factors, because the patient's death is already taken into account by applying Tier C.

5. RESPONDENT'S ACCEPTANCE.

I, ENG C. SAW, MD, Respondent, certify that I have read this Stipulation to Informal Disposition in its entirety; that my counsel of record, if any, has fully explained the legal significance and consequence of it; that I fully understand and agree to all of it; and that it may be presented to the Commission without my appearance. If the Commission accepts the Stipulation to Informal Disposition, I understand that I will receive a signed copy.

Eng C. Saw
ENG C. SAW, MD
RESPONDENT

06-16-2015
DATE

WSBA #
ATTORNEY FOR RESPONDENT

DATE

ORIGINAL

6. COMMISSION'S ACCEPTANCE

The Commission accepts this Stipulation to Informal Disposition. All parties shall be bound by its terms and conditions.

DATED: June 25, 2015.

STATE OF WASHINGTON
MEDICAL QUALITY ASSURANCE COMMISSION

Michael J. Kramer

PANEL CHAIR

PRESENTED BY:

JANELL STEWART, WSBA #35211

COMMISSION STAFF ATTORNEY

I certify that this is a true and accurate copy of
the original on file with the
Washington State Department of Health

Date 21st of July 7 2015

Michael J. Kramer

Michael J. Kramer



ORIGINAL

STATE OF WASHINGTON
MEDICAL QUALITY ASSURANCE COMMISSION

FILED

JUN 30 2015

Adjudicative Clerk Office

In the Matter of the License to Practice
as a Physician and Surgeon of:

No. M2012-267

ENG C. SAW, MD
License No. MD00015093

**STATEMENT OF ALLEGATIONS
AND SUMMARY OF EVIDENCE**

Respondent

The Executive Director of the Medical Quality Assurance Commission (Commission), on designation by the Commission, makes the allegations below, which are supported by evidence contained in Commission file number 2011-160584. The patient referred to in this Statement of Allegations and Summary of Evidence is identified in the attached Confidential Schedule.

1. ALLEGATIONS

1.1 On May 10, 1976, the state of Washington issued Respondent a license to practice as a physician and surgeon. Respondent's license expired in May, 2014. Respondent is board certified in general surgery and thoracic and cardiac surgery.

1.2 Respondent indicated poor judgment in the surgical resection of a large retroperitoneal sarcoma on August 11, 2011. Bleeding began at the beginning of the procedure. Respondent persevered in the surgery despite inadequate assistance, inadequate blood availability, and recommendations to modify his approach. The patient died within twenty-four hours following the procedure due to blood loss. The medical record significantly misstated the timing, source, and amount of the patient's blood loss.

2. SUMMARY OF EVIDENCE

2.1 Commission's investigative file.

3. ALLEGED VIOLATIONS

3.1 The facts alleged in Section 1, if proven, would constitute unprofessional conduct in violation of RCW 18.130.180(4) which provides in part:

RCW 18.130.180 Unprofessional conduct. The following conduct, acts, or conditions constitute unprofessional conduct for any license holder or applicant under the jurisdiction of this chapter:

...

(4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not constitute unprofessional conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed;

....

4. NOTICE TO RESPONDENT

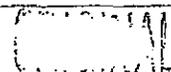
4.1 The Commission has determined that this case may be appropriate for resolution through a Stipulation to Informal Disposition pursuant to RCW 18.130.172(2). A proposed Stipulation to Informal Disposition is attached, which contains the disposition the Commission believes is necessary to address the conduct alleged in this Statement of Allegations and Summary of Evidence.

4.2 If Respondent agrees that the disposition imposed by the Stipulation to Informal Disposition is appropriate, Respondent should sign and date the Stipulation to Informal Disposition and return it within fourteen (14) days to the Medical Quality Assurance Commission at P.O. Box 47866, Olympia, Washington 98504-7866.

4.3 If Respondent does not agree that the terms and conditions contained in the Stipulation to Informal Disposition are appropriate, Respondent should contact Janell Stewart, Staff Attorney for the Medical Quality Assurance Commission, P.O. Box 47866, Olympia, Washington 98504-7866, (360) 236-2798 within fourteen (14) days.

4.4 If Respondent does not respond within fourteen (14) days, the Commission will assume Respondent has declined to resolve the allegations by means of a Stipulation to Informal Disposition.

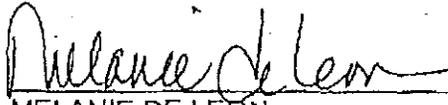
4.5 If Respondent declines to resolve the allegations by means of a Stipulation to Informal Disposition pursuant to RCW 18.130.172(2), the Commission may proceed to formal disciplinary action against Respondent by filing a Statement of Charges, pursuant to RCW 18.130.172(3).



4.6 The cover letter enclosed with this Statement of Allegations and Summary of Evidence was mailed to the name and address currently on file for Respondent's license. Respondent must notify, in writing, the Commission if Respondent's name and/or address changes.

DATED: April 16, 2015.

STATE OF WASHINGTON
MEDICAL QUALITY ASSURANCE
COMMISSION

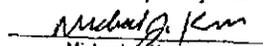

MELANIE DE LEON
EXECUTIVE DIRECTOR



JANELL STEWART, WSBA #35211
COMMISSION STAFF ATTORNEY

I certify that this is a true and accurate copy of
the original on file with the
Washington State Department of Health

Date July 21, 2015


Michael J. Kramer



~~CONFIDENTIAL~~ SCHEDULE

This information is confidential and is NOT to be released without the consent of the individual or individuals named herein. RCW 42.56.240(1)

Patient A

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

In the Matter of Accusation Against:)	
)	
Eng Chuan Saw, M.D.)	
)	Case No.: 8002014004924
Physician's & Surgeon's)	
Certificate No: G18874)	OAH No.: 2016010840
)	
Respondent)	
)	
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**ORDER OF NON-ADOPTION
OF PROPOSED DECISION**

The Proposed Decision of the Administrative Law Judge in the above-entitled matter has been **non-adopted**. A panel of the Medical Board of California (Board) will decide the case upon the record, including the transcript and exhibits of the hearing, and upon such written argument as the parties may wish to submit directed to the question of whether the proposed penalty should be modified and what, if any, limitations should be placed on respondent's ability to perform surgeries. The parties will be notified of the date for submission of such argument when the transcript of the above-mentioned hearing becomes available.

To order a copy of the transcript, please contact Diamond Court Reporters, 1107 2nd Street, Suite 210, Sacramento, CA 95814. The telephone number is (916) 498-9288.

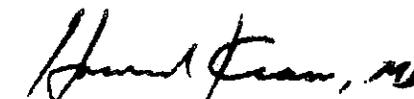
To order a copy of the exhibits, please submit a written request to this Board.

In addition, oral argument will only be scheduled if a party files a request for oral argument with the Board within 20 days from the date of this notice. If a timely request is filed, the Board will serve all parties with written notice of the time, date and place for oral argument. Oral argument shall be directed only to the question of whether the proposed penalty should be modified. Please do not attach to your written argument any documents that are not part of the record as they cannot be considered by the Panel. The Board directs the parties attention to Title 16 of the California Code of Regulations, sections 1364.30 and 1364.32 for additional requirements regarding the submission of oral and written argument.

Please remember to serve the opposing party with a copy of your written argument and any other papers you might file with the Board. The mailing address of the Board is as follows:

MEDICAL BOARD OF CALIFORNIA
2005 Evergreen Street, Suite 1200
Sacramento, CA 95815-3831
(916) 263-2442
Attention: Rozana Firdaus

Date: August 2, 2016



Howard Krauss, M.D., Chair
Panel B

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

In the Matter of the Accusation Against:

ENG CHUAN SAW, M.D.,

Physician and Surgeon's Certificate No.
G 18874,

Respondent.

Case No. 800-2014-004924

OAH No. 2016010840

PROPOSED DECISION

Administrative Law Judge Ruth S. Astle, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on April 7, 2016.

Emily Brinkman, Deputy Attorney General, represented complainant.

Respondent Eng Chuan Saw, M.D. was present and represented by Albert J. Garcia, Attorney at Law.

Submission of the matter was deferred to April 14, 2016, for receipt of further evidence, which was received, marked for the record and considered as administrative hearsay. The matter was submitted on April 14, 2016.

FACTUAL FINDINGS

1. Complainant Kimberly Kirchmeyer made this accusation in her official capacity as the Executive Director of the Medical Board of California (Board).

2. On July 30, 1970, Physician and Surgeon's Certificate No. G 18874 was issued by the Board to Eng Chuan Saw, M.D. (respondent). Respondent's certificate is renewed and current, and will expire on May 31, 2016.

Cause for Discipline – Discipline, Restriction, or Limitation Imposed by Another State

3. On June 25, 2015, the State of Washington Medical Quality Assurance Commission (Washington Commission) issued a Stipulation to Informal Disposition

(Stipulation) against respondent. The Washington Commission's Stipulation was based on allegations that respondent used poor judgment in the surgical resection of a large retroperitoneal sarcoma. The patient began bleeding at the beginning of the procedure, but respondent continued with the surgery despite having inadequate assistance, inadequate blood availability, and failed to modify his approach after receiving recommendations. The patient died within 24 hours after the surgery due to blood loss. Additionally, the medical record misstated the timing, source, and amount of blood loss suffered by the patient.

4. As part of the Stipulation, the Washington Commission noted that respondent's license to practice medicine in Washington is currently expired. Respondent is prohibited from performing, or assisting, any future surgical procedures in Washington. In the event that respondent decides to return to practice in Washington, respondent must notify the Washington Commission and request a modification hearing to allow the Washington Commission the opportunity to add additional terms and conditions.

5. Respondent's conduct and the action of the Washington Commission constitute unprofessional conduct and conduct subject to discipline within the meaning of the law.

6. Respondent is basically retired. He is still Board certified by the American Board of Surgery and has been since 1974. He practiced in Washington State until 2011. He now volunteers for his church. He went to Guam as a volunteer and he does health screening at his church conventions. He does not prescribe medication.

7. Respondent has not addressed the record keeping issue from his Washington Commission Stipulation. He should take a record keeping course.

8. Respondent does not want to be evaluated by the PACE program. He has not performed surgery since March 2015. Such an evaluation would be required to determine if respondent is safe to engage in surgery in California. However, respondent is qualified to do health screening for his church.

9. Respondent presented a letter from Kevin Thio, M.D. He is a pediatrician. He has known respondent for 18 years, both as a colleague and as a fellow member of their church. He finds respondent to be a caring professional and a person of great faith, character, and integrity.

10. It would not be against the public interest to allow respondent to continue to practice medicine in California on probationary terms and conditions as long as he does not engage in surgery. He must take a record keeping class, and additional continuing medical education.

LEGAL CONCLUSIONS

1. By reason of the matters set forth in Factual Findings 3, 4, and 5, cause for disciplinary action exists pursuant to Business and Professions Code sections 2305 (out of state discipline - unprofessional conduct), and 141, subdivision (a) (out of state discipline).

2. The matters set forth in Factual Findings 6 through 10 have been considered in making the following order.

ORDER

Physician and Surgeon's Certificate No. G 18874 issued to respondent Eng Chuan Saw, M.D., is hereby revoked pursuant to the Legal Conclusions set forth above. However, the revocation is stayed for a period of four (4) years upon the following terms and conditions.

1. Education Course

Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, 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 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. 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. Following the completion of each course, the Board or its designee may administer an examination to test respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

2. Medical Record Keeping Course

Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a course in medical record keeping equivalent to the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program), approved in advance by the Board or its designee. Respondent shall provide the program with any information and documents that the Program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical

record keeping course shall be at respondent's expense and shall be in addition to the CME requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

3. Professionalism Program (Ethics Course)

Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a professionalism program that meets the requirements of California Code of Regulations Title 16 (CCR), section 1358. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at respondent's expense and shall be in addition to the CME requirements for renewal of licensure.

A professionalism program taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the program would have been approved by the Board or its designee had the program been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

4. Prohibited Practice

During probation, respondent is prohibited from practicing surgery. After the effective date of this Decision, all patients being treated by the respondent shall be notified that the respondent is prohibited from performing surgery. Any new patients must be provided this notification at the time of their initial appointment.

Respondent shall maintain a log of all patients to whom the required oral notification was made. The log shall contain the: 1) patient's name, address

and phone number; 2) patient's medical record number, if available; 3) the full name of the person making the notification; 4) the date the notification was made; and 5) a description of the notification given. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation.

5. Notification

Within seven (7) days of the effective date of this Decision, the respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to respondent, at any other facility where respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

6. Supervision of Physician Assistants

During probation, respondent is prohibited from supervising physician assistants.

7. Obey All Laws

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

8. Quarterly Declarations

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

9. General Probation Requirements

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit and all terms and conditions of this Decision.

Address Changes

Respondent shall, at all times, keep the Board informed of respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice

Respondent shall not engage in the practice of medicine in respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event respondent should leave the State of California to reside or to practice respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

11. Interview with the Board or its Designee

Respondent shall be available in person upon request for interviews either at respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

12. Non-practice While on Probation

Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of respondent's return to practice. Non-practice is defined as any period of time respondent is not practicing medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event respondent's period of non-practice while on probation exceeds 18 calendar months, respondent shall successfully complete a clinical training program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; and General Probation Requirements.

13. Completion of Probation

Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, respondent's certificate shall be fully restored.

14. Violation of Probation

Failure to fully comply with any term or condition of probation is a violation of probation. If respondent violates probation in any respect, the Board, after

giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

15. License Surrender

Following the effective date of this Decision, if respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may request to surrender his or her license. The Board reserves the right to evaluate respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent shall within 15 calendar days deliver respondent's wallet and wall certificate to the Board or its designee and respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

16. Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

DATED: April 25, 2016

DocuSigned by:
Ruth Astle
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RUTH S. ASTLE
Administrative Law Judge
Office of Administrative Hearings