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

In the Matter of the Accusation Against: **Michael John Rensink, M.D.** **Physician's and Surgeon's Certificate No. G 20200** **Respondent.**	**Case No. 800-2018-045064**

DECISION

The attached Stipulated Surrender of License 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 13, 2022.

IT IS SO ORDERED January 6, 2022.

MEDICAL BOARD OF CALIFORNIA

William Prasifka
Executive Director

ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
KEITH C. SHAW
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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 JOHN RENSINK, M.D.** 765 Medical Center Ct., Ste. 210 Chula Vista, CA 91911-6600 **Physician's and Surgeon's Certificate No. G 20200** Respondent.	Case No. 800-2018-045064 OAH No. 2021030319 **STIPULATED SURRENDER OF LICENSE 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. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Keith C. Shaw, Deputy Attorney General.

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2. Michael John Rensink, M.D. (Respondent) is represented in this proceeding by attorney Robert W. Frank, Esq., whose address is: 110 West A Street, Suite 1200, San Diego, CA 92101.

3. On or about April 8, 1971, the Board issued Physician's and Surgeon's Certificate No. G 20200 to Michael John Rensink, 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. 800-2018-045064 and will expire on June 30, 2022, unless renewed.

JURISDICTION

4. Accusation No. 800-2018-045064 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 February 4, 2021. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2018-045064 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2018-045064. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Disciplinary Order.

6. 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.

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

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CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 800-2018-045064, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent gives up his right to contest that, at a hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in the Accusation.

10. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

CONTINGENCY

11. Business and Professions Code section 2224, subdivision (b), provides, in pertinent part, that the Medical Board "shall delegate to its executive director the authority to adopt a . . . stipulation for surrender of a license."

12. This Stipulated Surrender of License and Disciplinary Order shall be subject to approval of the Executive Director on behalf of the Medical Board. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive Director for his consideration in the above-entitled matter and, further, that the Executive Director shall have a reasonable period of time in which to consider and act on this Stipulated Surrender of License and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Executive Director, on behalf of the Medical Board, considers and acts upon it.

13. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Executive Director on behalf of the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and

adopt this Stipulated Surrender of License, the Executive Director and/or the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Executive Director, the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving respondent. In the event that the Executive Director on behalf of the Board does not, in his discretion, approve and adopt this Stipulated Surrender of License, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason by the Executive Director on behalf of the Board, Respondent will assert no claim that the Executive Director, the Board, or any member thereof, was prejudiced by its/his review, discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order, or of any matter or matters related hereto.

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

15. 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 Order:

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 20200, issued to Respondent Michael John Rensink, M.D., is surrendered and accepted by the Board.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a physician and surgeon in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2018-045064 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2018-045064 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

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

DATED: 15 December 2021

MICHAEL JOHN RENSINK, M.D.
Respondent

I have read and fully discussed with Respondent Michael John Rensink, M.D., the terms and conditions and other matters contained in this Stipulated Surrender of License and Disciplinary Order. I approve its form and content.

DATED: 12-16-21

ROBERT W. FRANK, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: December 16, 2021

Respectfully submitted,

ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

KEITH C. SHAW
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2018-045064

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

In the Matter of the Accusation Against: **MICHAEL JOHN RENSINK, M.D.** **765 Medical Center Ct., Ste. 210** **Chula Vista, CA 91911-6600** **Physician's and Surgeon's Certificate** **No. G 20200** Respondent.	Case No. 800-2018-045064 **A C C U S A T I O N**

PARTIES

1. William Prasifka (Complainant) brings this Accusation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about April 8, 1971, the Medical Board issued Physician's and Surgeon's Certificate No. G 20200 to Michael John Rensink, 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 June 30, 2022, unless renewed.

JURISDICTION

3. This Accusation is brought before the Medical Board of California, Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code states:

"(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

"(1) Have his or her license revoked upon order of the board.

"(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

"(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

"(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

"(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

"(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1."

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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:

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"(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.

"...."

6. Section 2266 of the Code states:

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

7. Section 2229 of the Code states that the protection of the public shall be the highest priority for the Board in exercising their disciplinary authority. While attempts to rehabilitate a licensee should be made when possible, Section 2229, subdivision (c), states that when rehabilitation and protection are inconsistent, protection shall be paramount.

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FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

8. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he committed gross negligence in his care and treatment of Patient A,[1] as more particularly alleged hereinafter:

9. Respondent, an otolaryngologist,[2] began treatment with Patient A, a then 68-year-old female, on or about June 5, 2015, for a painful left tongue lesion. Respondent noted that Patient A's lesion had been biopsied six months earlier, which found dysplasia[3] with no indication of invasive carcinoma, and was treated with steroid injections. The biopsy was actually performed on or about April 16, 2014, over one year prior. Respondent recorded that the lesion was superficial without induration,[4] but failed to document any reference to the tongue lesion in the physical examination portion of his notes. Respondent treated the lesion with a topical steroid and pain medication.

10. On or about June 17, 2015, Patient A returned for an office visit and indicated that she had not experienced any improvement. Respondent noted that the lesion appeared less red or rough and continued the current medication regimen. The next visit occurred on or about August 18, 2015, at which time Patient A conveyed the severity of the lesion had slightly improved. Respondent noted that the lesion appeared smaller and less red. He recommended continuation of the current treatment.

11. On or about October 19, 2015, Respondent saw the patient and commented that the lesion continued to improve. He suggested that the tongue lesion may be the result of irritation from an adjacent dental crown and replacement of the crown may be required. Respondent

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[1] The patient listed in this document is unnamed to protect her privacy. Respondent knows the name of the patient and can confirm her identity through discovery.

[2] Otolaryngologists are physicians that specialize in treatment of the ear, nose and throat.

[3] Dysplasia is the presence of abnormal cells within a tissue or organ. Dysplasia is not cancer, but it may sometimes become cancer.

[4] Induration is the localized hardening of normally soft tissue.

instructed the patient to continue the steroid paste. Patient A returned for a check-up on or about December 17, 2015, and Respondent again commented that the lesion appeared to be slightly improving.[5] Patient A reported that the lesion was still hurting and that she was experiencing pain in her jaw and had a coated tongue. She was continued on steroid paste and started an antifungal medication. The next follow-up visit occurred on or about February 17, 2016, with unchanged findings. Patient A reported that she was still experiencing persistent pain. Respondent noted that the gold crown was the likely cause of the chronic tongue irritation and it was going to be replaced.

12. Patient A was not seen by Respondent until one year later on or about February 17, 2017. By that time, there was a 1 cm painful raised mass on the tongue at the previous location of the ulcer. The mass was noted to be quite large and likely to bleed profusely. Respondent recommended a biopsy because he suspected the lesion could be a tumor. One week later, Respondent performed a biopsy and diagnosed the patient with squamous cell carcinoma.[6] The pathology report indicated that the cancer was not completely removed by biopsy and it invaded into the tongue muscle by a depth of at least 3 mm. On or about March 3, 2017, Respondent recommended additional surgery to remove the remaining tongue cancer. He noted that Patient A had adenopathy (swollen lymph nodes), but later indicated it should have read "no" adenopathy.

13. On or about March 14, 2017, Patient A was taken to the operating room and underwent a wide local excision of the squamous cell carcinoma by Respondent. Respondent used a 4 mm margin to clear the tumor. The final pathology report confirmed that the tongue cancer was completely removed during the procedure. At Patient A's follow-up appointments on or about March 20, 2017, and April 4, 2017, Respondent noted that the tongue was healing appropriately.

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[5] Respondent's description for the tongue lesion often lacked important details, including whether ulceration was present and the approximate dimensions, in order to objectively determine whether the lesion was getting smaller and improving.

[6] Squamous cells are thin, flat cells that line the mouth and other organs. Squamous cell carcinoma can be easily treated when caught early.

14. On or about May 11, 2017, during a follow-up visit, Respondent discovered a 2 cm left upper neck mass. Patient A had lost 20 pounds since surgery and had been experiencing a sore throat recently. Respondent noted that he was unsure of the etiology of the neck mass and ordered a CT scan to assess it. He commented that fine needle aspiration biopsy may be necessary.

15. The CT scan was not completed for nearly one month, on or about June 9, 2017, even though there should have been a high level of suspicion that the mass was a cancerous lymph node.[7] The CT scan revealed a 2.7 cm partially necrotic mass (suspicious for cancer). Based on the results, Respondent ordered image guided needle biopsy,[8] which was performed six weeks later on or about July 18, 2017. The pathology result showed metastatic[9] squamous cell carcinoma of the left lymph node. Patient A's follow-up appointment occurred on or about July 20, 2017, at which time the left upper neck mass had grown significantly to 5 cm. Respondent noted that he would refer Patient A for further therapy. Respondent did not see Patient A following this visit.

16. Subsequently, Patient A had a consult with Oncology on or about July 27, 2017, and was treated with chemotherapy. However, the disease progressed and metastasized throughout the neck and hypopharynx. Patient A eventually developed lung metastasis and ultimately succumbed to her disease.

17. During the time Patient A was under Respondent's care, he treated her regularly for approximately eight months from June 2015 to February 2016 while she had a persistent, painful,

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[7] A sizeable neck mass in a patient with a recent history of tongue cancer should be presumed malignant until proven otherwise.

[8] Instead of ordering a biopsy at the time the neck mass was found, Respondent waited until after the CT scan was performed. Even then, Respondent elected to order an image guided biopsy (using radiographic imaging to direct the biopsy) when a needle biopsy could have been performed just as easily and timelier. The choice in ordering an image guided biopsy contributed to a six-week delay from the time of the CT scan to the time of the image guided biopsy. During the period of time that the neck mass was found to the time the diagnosis of cancerous lymph node was made (approximately 70 days), the neck mass had increased in size from 2 cm to 5 cm.

[9] Metastatic cancer is cancer that spreads from its site of origin to another part of the body.

and non-healing ulcer without obtaining a biopsy, despite a previous biopsy in April 2014 that showed moderate dysplasia. There was a lack of follow-up with Patient A until she presented one year later in February 2017 with an obvious mass that appeared cancerous.

18. Despite Patient A being at an elevated risk for the spread of tongue cancer to the lymph nodes given the depth of the tongue mass,[10] Respondent did not perform any imaging or appropriate assessment of the lymph nodes once the diagnosis of tongue cancer was established. No documented discussion was provided to Patient A regarding the risk of cancer spreading to the lymph nodes, or offering her potential assessment and treatment options, including imaging, neck dissection (removal of potentially cancerous lymph nodes) or sentinel lymph node biopsy (sample of neck lymph nodes to look for cancer spread). There lacks any documentation that Respondent considered presenting Patient A's case to the tumor board or referring her case to oncology for treatment once she was diagnosed with tongue carcinoma.

19. During an interview on or about July 23, 2020, Respondent indicated that he did not know why it took six weeks to obtain the CT scan of the neck mass. Respondent admitted that in hindsight, he could have referred Patient A to oncology earlier than he did.

20. Respondent committed gross negligence in his care and treatment of Patient A which included, but was not limited to, the following:

(a) Respondent failed to biopsy a persistent tongue ulcer in a timely manner;

(b) Respondent failed to assess the neck for potential cancer lymph nodes prior to the initial surgical treatment of tongue cancer; and

(c) Respondent failed to timely establish the diagnosis of cancer in the lymph nodes once a neck mass developed.

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[10] Squamous cell carcinoma of the tongue is associated with a high incidence of lymph node metastasis.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

21. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in his care and treatment of Patient A, as more particularly alleged herein.

(a) Paragraphs 8 through 20, above, are hereby incorporated by reference and realleged as if fully set forth herein;

(b) Respondent failed to maintain accurate and consistent documentation, and failed to include pertinent details.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

22. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that Respondent failed to maintain adequate and accurate records regarding his care and treatment of Patient A, as more particularly alleged in paragraphs 8 through 21, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

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 No. G 20200, issued to Michael John Rensink, M.D.;

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

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

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

DATED: FEB 04 2021

WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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