BEFORE THE MISSISSIPPI STATE BOARD OF DENTAL EXAMINERS

DOCKET NO. 2012-060

IN RE: ELIJAH ARRINGTON, III, D.M.D.
4562 North State Street
Jackson, Mississippi 39206

Dental License No. 3455-08

CONSENT ORDER

WHEREAS, the Mississippi State Board of Dental Examiners (hereinafter referred to as the "Board") has received documentation regarding a violation of Board Regulation No. 43 (Dental Advertising), by Elijah Arrington, III, D.M.D., Mississippi Dental License No. 3455-08 (hereinafter referred to as "Licensee"); and

WHEREAS, Licensee may be charged with violation of Subsections (1)(b) and (1)(l)(iv) of Miss. Code Ann. § 73-9-61, as amended, which states:

(1) Upon satisfactory proof, and in accordance with statutory provisions elsewhere set out for such hearings and protecting the rights of the accused as well as the public, the State Board of Dental Examiners may deny the issuance or renewal of a license or may revoke or suspend the license of any licensed dentist or dental hygienist practicing in the State of Mississippi, or take any other action in relation to the license as the board may deem proper under the circumstances, for any of the following reasons:

(b) Willful violation of any of the rules or regulations duly promulgated by the board, or of any of the rules or regulations duly promulgated by the appropriate dental licensure agency of another state or jurisdiction.

(l) Any unprofessional conduct to be determined by the board on a case-by-case basis, which shall include, but not be restricted to, the following:

(iv) Advertising that is false, deceptive or misleading.
WHEREAS, Licensee acknowledges, pursuant to this Consent Order, to mailing a flyer/advertisement in such a manner as to violate Board Regulation No. 43 in the following respect:

Failure to state either “general practice” or “general dentistry” when listing services in an advertisement.

WHEREAS, Licensee has agreed to enter into a Consent Order which would, upon execution by the Board, terminate the current investigation and avoid initiation of formal disciplinary proceedings before the Board; and

WHEREAS, the Board, after due consideration, is of the opinion that it should enter into a Consent Order consistent with the preamble heretofore.

NOW, THEREFORE, the Mississippi State Board of Dental Examiners, with the consent of Licensee as indicated by Licensee’s joinder herein, does hereby order:

1. In all future advertisements, Licensee will thoroughly review said advertisements for compliance with the Rules and Regulations of the Board.

2. Within six (6) months from the effective date of this Consent Order (on or before August 1, 2013), Licensee shall successfully complete the Mississippi jurisprudence examination typically administered by the Board to new licensees, such examination to be administered at the Board’s office at a time mutually convenient to both Licensee and the Board.

3. Licensee shall pay, pursuant to Miss. Code Ann. §73-9-61(4)(a), a monetary penalty in the amount of $500.00.

4. Licensee shall pay, pursuant to Miss. Code Ann. §73-9-61(4)(d), the reasonable costs of these proceedings in an amount to be determined by the Board.
This Consent Order shall be subject to approval by the Mississippi State Board of Dental Examiners. It is further understood and agreed that the purpose of this Consent Order is to avoid a hearing before the Board. In this regard, Licensee authorizes the Board to review and examine any documentary evidence or material concerning Licensee prior to, or in conjunction with, its consideration of this Consent Order. It is agreed that presentation and consideration of this Consent Order and other documents and matters pertaining thereto by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation in or consideration of a resolution of the proceedings. Licensee understands and expressly acknowledges that this Consent Order, if approved and executed by the Mississippi State Board of Dental Examiners, shall constitute a public record of the State of Mississippi.

Recognizing Licensee’s right to a notice of charges specified against Licensee, to have such charges adjudicated pursuant to Miss. Code Ann. § 73-9-63, to be represented therein by legal counsel of Licensee’s choice, and to a final decision based on written findings of fact and conclusions of law, Elijah Arrington, III, D.M.D., nonetheless, hereby waives his right to a formal adjudication of charges and authorizes the Board to accept this Consent Order, subject to those conditions and/or restrictions enumerated above.

EXECUTED, this the 1st day of February 2013.

MISSISSIPPI STATE BOARD OF DENTAL EXAMINERS

BY: JEFFERY D. HARTSOG, D.M.D.

PRESIDENT

ACCEPTED AND APPROVED, this the 7th day of January 2012

ELIJAH ARRINGTON, III, D.M.D.

MSBDE DOCKET NO. 2012-060
BEFORE THE MISSISSIPPI STATE BOARD OF DENTAL EXAMINERS
MSBDE DOCKET NOS. 2013-055 AND 2015-081
2014-047

RE: Elijah Arrington, III, D.M.D.
1309 East Northside Drive
Jackson, Mississippi 39211

DENTAL LICENSE NO. 3455-08
LIMITED ENTERAL CONSCIOUS SEDATION PERMIT NO. 1057

CONSENT ORDER

WHEREAS, the investigative staff of the Mississippi State Board of Dental Examiners
(hereinafter referred to as the "Board") has conducted a comprehensive investigation into
the dental practice of Elijah Arrington, III, D.M.D., holder of Mississippi Dental License No.
3455-08 and Limited Enteral Conscious Sedation Permit No. 1057 (hereinafter referred to
as "Licensee"), and has documented evidence indicating that Licensee may be guilty of:

- Willful violation of any of the rules or regulations duly promulgated by the
  board.
- Practicing incompetently or negligently.
- Unprofessional conduct, including, but not limited to practicing deceit or other
  fraud upon the public.
- Delegating professional responsibilities to a person who is not qualified by
  training, experience or licensure to perform them.
- Failing to maintain copies of "patient records including, at a minimum, the
  date(s) and type(s) of treatment; health history; any and all medications
  prescribed, dispensed, and/or administered; any and all radiographs
  administered; and/or other laboratory results".

WHEREAS, such conduct, if established in a disciplinary hearing before the Board,
would constitute violations of the Mississippi Dental Practice Act, specifically Subsections
(1)(b), (1)(f), (1)(l), and (1)(l)(ii) of Miss. Code Ann. § 73-9-61, and Board Regulations 1, 13, and 53, all for which the Board may suspend, revoke, or take other disciplinary action against the dental license of Licensee; and

WHEREAS, it is the desire of Licensee to avoid a hearing before the Board and, in lieu thereof, has consented to certain restrictions on Licensee’s license to practice dentistry in the State of Mississippi.

NOW, THEREFORE, the Mississippi State Board of Dental Examiners, with consent of Licensee as signified by Licensee’s joinder herein, does hereby suspend, effective fifteen (15) days from the Board’s acceptance of this Consent Order (hereinafter referred to as “effective date”), Licensee’s license to practice dentistry in the State of Mississippi shall be suspended for a period of one (1) year, with said suspension stayed, after expiration of eight (8) weeks, subject to the following terms and conditions, to-wit:

1. As of fifteen (15) days from the effective date of this Consent Order (on or before Monday, November 21, 2016), Licensee shall not be permitted to practice dentistry in the State of Mississippi for a period of eight (8) consecutive weeks. During the eight (8) week period of suspension without stay, Licensee shall not practice dentistry in any manner or form, directly or indirectly, in the State of Mississippi.

2. On or before Monday, November 6, 2017, Licensee shall enter and successfully complete the Dentist Professional Review and Evaluation Program (D-PREP) offered through the American Association of Dental Boards (AADB) at a facility approved in advance by the Board or the Board’s Executive Director. It is the intent of this stipulation to assess Licensee’s clinical skills in a clinical environment wherein actual patients are treated under direct supervision. Upon completion of D-PREP, a written report shall be submitted to Licensee and the Board. Licensee shall adhere to any
and all recommendations as to additional training, education, and remediation found to be required by the D-PREP assessment. Following completion of D-PREP and any required remediation therefrom, Licensee shall submit to the Board documentary proof of successful completion of both the course and all required remediation.

3. On or before Monday, November 6, 2017, Licensee shall personally attend and successfully complete the ProBE Program entitled “Professional/Problem-Based Ethics” presented by the Center for Personalized Education for Physicians (CPEP). Following completion of said course, Licensee shall submit to the Board documentary proof of successful completion thereof. The aforementioned ethics course is in addition to the continuing education required by Board Regulation 41.

4. On or before Monday, November 6, 2017, Licensee shall successfully complete in their entirety the Continuing Online Dental Ethics (CODE), Practice Ethics Assessment and Development (PEAD), and Interactive Dental Ethics Application (IDEA) sections of the on-line ethics courses sponsored by the American College of Dentists (ACD) entitled “Dental Ethics” (https://www.dentaletics.org). Following completion of all courses and/or sections, Licensee shall submit to the Board documentary proof of successful completion thereof. The ethics courses as required herein are in addition to the continuing education required by Board Regulation 41.

5. On or before Monday, November 6, 2017, Licensee shall successfully complete the Board-approved on-line continuing education course sponsored by the American Association of Dental Boards entitled “AADB Guidelines on Dental Patient Records” (https://www.dentalboards.org/ce/index.asp) in the area of patient recordkeeping. Following completion of such course, Licensee shall submit to the Board documentary proof of successful completion thereof. The continuing education as
required herein is in addition to the continuing education required by Board Regulation 41.

6. On or before Monday, November 6, 2017, Licensee shall successfully complete the Mississippi jurisprudence examination typically administered by the Board to new licensees, such examination to be administered at the Board's office at a time mutually convenient to both Licensee and the Board.

7. Licensee's practice shall be subject to periodic unannounced inspections by the Mississippi State Board of Dental Examiners for a period of one (1) year. Any member of the Board, investigator, or dental consultant may perform a patient chart review of a representative sample of those patients treated by Licensee and copy or remove for copying any records needed for that review.

8. Licensee shall pay, pursuant to Miss. Code Ann. (1972), § 73-9-61(4)(a), a monetary penalty in the amount of $2,000.00.

9. Licensee shall pay, pursuant to Miss. Code Ann. (1972) § 73-9-61(4)(d), the reasonable costs of these proceedings in an amount to be determined by the Board.

10. On or before Wednesday, November 30, 2016, Licensee shall provide and furnish to the Board any and all documentation which verifies that Licensee has complied with all requirements of Board Regulation 41, dealing with Continuing Dental Education, and Board Regulation 45, dealing with Cardiopulmonary Resuscitation.

This Consent Order shall be subject to approval by the Mississippi State Board of Dental Examiners. It is further understood and agreed that the purpose of this Consent Order is to avoid a hearing before the Board. In this regard, Licensee authorizes the Board to review and examine any documentary evidence or material concerning Licensee prior to, or in conjunction with, its consideration of this Consent Order. It is agreed that presentation

MSBDE Docket Nos. 2013-055 and 2015-081

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and consideration of this Consent Order and other documents and matters pertaining thereto by the Board shall not unfairly or illegally prejudice the Board or any of its members from participating in any hearing or other consideration of a resolution of the proceedings in the event this Consent Order is not approved by the Board.

Execution of this Consent Order by Licensee shall not be deemed an admission of any wrongful misconduct or violation of the Mississippi Dental Practice Act and the Board’s Regulations. Both parties execute this Consent Order as a reasonable resolution of the charges now pending in the captioned dockets before the Mississippi State Board of Dental Examiners.

With the exception of the captioned dockets, Licensee understands and expressly acknowledges that this Consent Order is not intended to, nor does it, resolve or adjudicate any current or future Board investigations, if any, pertaining to Licensee. As to any remaining complaints which have been formally filed with the Board as of the effective date of this Consent Order, Licensee agrees to discuss the various aspects of those complaints with Board representatives and Licensee’s counsel, if available.

Licensee understands and expressly acknowledges that this Consent Order, if approved and executed by the Board, shall constitute a public record of the State of Mississippi. Recognizing Licensee’s right to a notice of charges specified against Licensee, to have such charges adjudicated pursuant to Miss. Code Ann. (1972) § 73-9-63, to be represented therein by legal counsel of Licensee’s choice, and to a final decision based on written findings of fact and conclusions of law, Elijah Arrington, III, D.M.D., nonetheless, hereby waives his right to a formal adjudication of charges and authorizes the Board to accept this Consent Order, thereby suspending his license for a one (1) year period of time,

2014-047 KSW
MSBDE Docket Nos. 2013-065 and 2015-081
with such suspension stayed, following the eight (8) week period of suspension without stay, pursuant to the aforementioned conditions and/or restrictions.

SO ORDERED, this the 4th day of November, 2016.

MISSISSIPPI STATE BOARD OF DENTAL EXAMINERS

BY: WILLIAM LARRY ALFORD, D.D.S.
PRESIDENT

ACCEPTED AND APPROVED this the 2nd day of November, 2016.

ELIJAH ARRINGTON, III, D.M.D.
BEFORE THE MISSISSIPPI STATE BOARD OF DENTAL EXAMINERS
DOCKET NOS. 2015-010; 2016-021; 2016-027; 2016-054; AND 2016-081

IN RE: ELIJAH ARRINGTON, III, DMD
4562 NORTH STATE STREET
JACKSON, MISSISSIPPI 39206

Dental License No. 3455-08
Limited Enteral Conscious Sedation Permit No. 1057

FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND FINAL ORDER OF THE BOARD

The Mississippi State Board of Dental Examiners (hereinafter referred to as the "Board") convened for a disciplinary hearing in the above-referenced matters on June 15, 16, and 17, 2017 pursuant to Title 73, Chapter 9 of Miss. Code Ann. (1972). The Board initiated these proceedings by issuance of five (5) separate Complaints against Elijah Arrington III, DMD (hereinafter referred to as "Licensee") setting forth a total of seventeen (17) counts of violations of Miss. Code Ann. § 73-9-61 and/or the Board’s Regulations, as more fully set out hereinbelow.

The hearing was held in the Board’s conference facilities located at Suite 100, 600 East Amite Street, Jackson, Mississippi, beginning at 9:00 a.m., June 15, 2017, and continuing through its conclusion at 6:30 p.m., June 17, 2017. Those Board members present for the hearing were William L. Alford, DDS, President, A. Roddy Scarbrough, DMD, Vice-President, Roy L. Irons, DDS, Secretary, Frank L. Conaway, Jr., DMD, Robert Michael Harkins, DMD, Tobie Delton Moore, Jr., DDS, Steven Mark Porter, DDS, and Laura Currie Richoux, RDH.

Also present for the hearing was Ms. Leah Diane Howell, Executive Director, as well as various staff from the Board. Prosecutorial Counsel for the Board was Stan T. Ingram,
Esquire (hereinafter referred to as “Mr. Ingram”). Sitting as administrative counsel and legal advisor to the Board was Ellen O’Neal, Esquire, Special Assistant Attorney General. Licensee also was present and represented by Dennis Sweet, Esquire.

Prior to initiation of the hearing, Mr. Ingram announced that the Board would not be pursuing the Complaint issued in the matter of Patient HE, Docket No. 2016-027. As such, the Complaints to be litigated before the Board were the following:

Docket No. 2015-010 (Patient JM) (issued April 1, 2016) (4 counts)
Docket No. 2016-021 (Patient KC) (issued April 13, 2017) (4 counts)
Docket No. 2016-054 (Patient CWT) (issued April 13, 2017) (5 counts)
Docket No. 2016-081 (Patient SD) (issued April 13, 2017) (4 counts)

DENIAL OF MOTION TO DISMISS

Prior to initiation of the hearing in the aforementioned Complaints, Licensee presented a motion *ore tenus* for dismissal of the Complaints, based on the premise that a prior Consent Order executed by Licensee on November 4, 2016 adjudicated all pending dockets and committed the Board counsel and investigative staff to meet and discuss all outstanding Complaints. The Board finds that the November 4, 2016 Consent Order was limited to two (2) prior and unrelated Complaints (Docket Nos. 2014-047 and 2015-081).

Further, the Consent Order contained the following controlling provision:

With the exception of the captioned dockets [2014-047 and 2015-081], Licensee understands and expressly acknowledges that this Consent Order is not intended to, nor does it, resolve or adjudicate any current or future Board investigations, if any, pertaining to Licensee. As to any remaining complaints which have been formally filed with the Board as of the effective date of this Consent Order, Licensee agrees to discuss the various aspects of those complaints with Board representatives and Licensee’s counsel, if available.

The above language is express, clear, and unequivocal as to the stated intent of the Consent Order. Its effect was to resolve only Docket Nos. 2014-047 and 2015-081. Under
no circumstances whatsoever was the Consent Order to be a “global settlement” of the nearly thirty (30) Complaints then filed against Licensee and received by the Board. Further, Mr. Ingram noted that, contrary to Licensee’s allegations, he, in fact, met with and discussed all then outstanding Complaints with Licensee’s then counsel. Furthermore, the second sentence in the above-quoted paragraph was not a condition placed on the Board; rather, the second sentence was a means to ensure Licensee’s cooperation. For this reason, Licensee’s motion to dismiss was denied.

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER OF THE BOARD**

Based upon the evidence and testimony presented, the Board renders the following Findings of Fact, Conclusions of Law, and Final Order of the Board. The Board presents Findings of Fact and Conclusions of Law separately as to each of the four (4) Complaints, followed by the Final Order of the Board.

The Board initially finds by clear and convincing evidence as to all of the Complaints that Licensee is a dentist licensed to practice dentistry in the State of Mississippi, currently holding Mississippi Dental License No. 3455-08 and Limited Enteral Conscious Sedation Permit No. 1057. His primary practice location is at 4562 North State Street, Jackson, Hinds County, Mississippi, 39206.

**Docket No. 2015-010 Concerning Patient JM**

**Findings of Fact Concerning Patient JM**

1. The evidence showed that on or about September 30, 2014, Patient JM went to Licensee for treatment of a toothache.
2. Licensee’s treatment of Patient JM was below the standard of care regarding the placement of a Mini Dental Implant (hereinafter referred to as “MDI”) for Tooth No. 31. When the MDI broke off during placement by Licensee (through no fault of Licensee), Licensee informed Patient JM that the broken implant on Tooth No. 31 would not be removed and would remain as “a retention device.” The records reflected, however, and the testimonies of Robert Michael Harkins, DMD (hereinafter referred to as “Dr. Harkins”), Investigative Board Member, and Brock B. Westover, DDS (hereinafter referred to as “Dr. Westover”), the Board’s expert witness, were that the broken implant was not capable of providing any retentive action. The radiograph presented at the hearing clearly evidenced that the broken MDI now is sideways, providing further proof of its lack of retention capability. As to the remaining single MDI to support Tooth No. 31, Licensee placed the remaining MDI on a molar crown, which is below the standard of care in that it left a cantilever situation which jeopardized the long-term success of the restoration. This conduct constituted practicing incompetently or negligently and violated the ethical principle of refraining from harming the patient.

3. As to splinting crowns for Teeth Nos. 29, 30, and 31, Licensee splinted these crowns together rather than creating individual crowns. As shown by intraoral photographs presented at the hearing, the crowns are heavy in occlusion, resulting in Patient JM’s bite being imbalanced. Insofar as the one (1) MDI that remained to support Tooth No. 31, Licensee placed a molar crown, leaving a cantilever situation which jeopardized the long-term success of the restoration. The fixed bridge has poor embrasure space, making it very difficult for Patient JM to maintain proper oral hygiene. The surface of the crowns are rough and not polished to the standard of
care, especially on the lingual (tongue side) surface where food collects and, again, results in difficulty to maintain. This conduct constituted practicing incompetently or negligently and violated the ethical principle of refraining from harming the patient.

4. As to Tooth No. 15, on October 8, 2014, Licensee performed a root canal on Tooth No. 15 and restored Tooth No. 15 with a 2-unit all porcelain cantilever bridge replacing missing Tooth No. 14. The records reviewed at the hearing, specifically radiographs and intraoral photographs, evidenced an over-extension of the gutta-percha in all three (3) roots. The bridge failed in March 2015, which was less than five (5) months after its fabrication. Intraoral photographs and radiographs revealed an amalgam core build-up that was below the standard of care in that it provided no retention for the core build-up. Due to the substandard care rendered, Patient JM was forced to have the Tooth No. 15 cantilever bridge re-cemented multiple times by other practitioners, and, as a result of Licensee’s treatment, the tooth currently has a poor long-term prognosis. Due to the multiple problems with the bridge, Patient JM has removed it, and it is no longer in use. This conduct constituted practicing incompetently or negligently and violated the ethical principle of refraining from harming the patient.

5. Licensee’s failure to maintain adequate records for Patient JM was below the standard of care. Chart entries failed to provide the proper and necessary information regarding the patient, including, but not limited to, very little information as to the presenting condition of Patient JM; no periodontal charting or entries of the periodontal condition of Patient JM; no explanation or diagnosis as to why endodontic therapy was needed for Teeth Nos. 11 and 15; no details of endodontic therapy; very little information regarding surgical placement of the four (4) MDI's,
including the position and placement of each implant; no information as to the amount of anesthesia used, if any; and no prognosis or treatment plans as to the periodontal health of Patient JM’s remaining teeth.

6. Licensee was charged with unprofessional conduct including practicing deceit and/or other fraud upon the public in charging $750.00 for the broken MDI for Tooth No. 31, since it ultimately had no retentive value. The Board cannot find by clear and convincing evidence that this constituted unprofessional conduct, deceit and/or fraud, in that under certain circumstances, a broken MDI may serve to provide retention.

Conclusions of Law Concerning Patient JM

Based upon the foregoing Findings of Fact, the Board finds Licensee guilty of Counts I, III and IV of the Complaint, and not guilty of Count II, to-wit:

- **Count I:** Based upon the foregoing, the Board finds Licensee guilty of practicing incompetently or negligently, regardless of whether there is actual harm to the patient, all in violation of Subsection (1)(f) of Miss. Code Ann. § 73-9-61.

- **Count III:** Based upon the foregoing, including the testimony of Licensee, the Board finds Licensee guilty of willful violation of the Rules and Regulations duly promulgated by the Board, specifically Board Regulation Number 53, Patient Records, all in violation of Subsection (1)(b) of Miss. Code Ann. § 73-9-61.

- **Count IV:** Based upon the foregoing, the Board finds Licensee guilty of willful violation of the Rules and Regulations duly promulgated by the Board, specifically Board Regulation Number 1, Code of Ethics, by violating the American Dental Association’s *Principles of Ethics and Code of Professional Conduct*, Article III,
Section 2, regarding the ethical duty of licensed dentists to refrain from harming the patient; and Article III, Section 4, regarding the ethical duty of licensed dentists to be honest and trustworthy; all in violation of Subsection (1)(b) of Miss. Code Ann. § 73-9-61.

**Docket No. 2016-021 Concerning Patient KC**

**Findings of Fact Concerning Patient KC**

1. On or about August 8, 2014, Patient KC presented to Licensee seeking a consultation as to dental implants for her maxillary (upper) complete denture. Patient KC has no teeth on her maxillary jaw and has worn complete maxillary dentures for several years. Patient KC also requested a consultation as to crowns to replace her mandibular (lower) partial dentures.

2. Licensee recommended four (4) MDIs to secure Patient KC’s complete maxillary denture, and a 4-unit cantilever bridge on the lower left with Teeth Nos. 21 and 22 as abutment crowns and Teeth Nos. 19 and 20 as pontic crowns, replacing these teeth respectively. For the lower right, Licensee recommended a 4-unit cantilever bridge with Teeth Nos. 27 and 28 as abutment crowns and Teeth Nos. 29 and 30 as pontic crowns, replacing these teeth respectively.

3. The Board finds, as supported by Patient KC’s testimony, patient charts and records, and Licensee’s own testimony, that Patient KC was forced to return to Licensee on numerous occasions due to problems with the mandibular bridges, including, but not limited to, the following:
● **October 27, 2014:** “bridge looseness.”

● **November 18, 2014:** “both bridges are loose at bottom left and right.” Licensee agreed to “REPLACE BOTH BRIDGES WITH A NEW DESIGN. NO CHARGE.”

● **November 20, 2014:** lower right cantilever bridge was loose. Patient records indicated Licensee removed the MDI and the cantilever bridge that was attached to it, and Licensee fabricated a new 4-unit bridge with Teeth Nos. 27 and 28 as abutment crowns and Teeth Nos. 29 and 30 as pontic crowns.

● **November 24, 2014:** left side mandibular 4-unit cantilever bridge has completely fallen out. Licensee then “REFABRICATED LOWER LEFT BRIDGE” and seated it the following day.

● **December 29, 2014:** left bridge had come out over the holidays. Licensee “recemented ketac (metal cement).”

● **February 23, 2015:** Patient KC presented complaining of a “broken bridge.” Patient record failed to indicate which side was broken, but would be remade at “no charge.”

● **April 7, 2015:** “adjustment” was performed on the lower left bridge (recemented with 3M Cement).

● **June 2, 2015:** 4-unit bridge on right side was again removed “due to Looseness.” Patient record noted “pt will be RS two weeks for redesigning of the lower right side bridge.”

4. Prior to the hearing, Patient KC was examined by Dr. Harkins, the investigative Board member, who testified as an expert for the Board. Dr. Harkins testified that
the lower left cantilever bridge failed to meet the standard of care. Tooth No. 21 was (and remains) abscessed. Dr. Harkins also explained that the design of the lower left cantilever bridge was faulty and threatened the stability of Teeth Nos. 21 and 22, because the total root surface area of the supporting teeth was less than the total root surface area of the teeth being replaced by the bridge. During his testimony, Dr. Westover, the Board’s independent dental expert, agreed with the findings of Dr. Harkins.

5. Similarly, as to the 4-unit cantilever bridge on the right side, Licensee attempted to replace Teeth Nos. 29 and 30 with a cantilever bridge supported by a single MDI, the practice of which is below the standard of care. The Board finds that both the right and left mandibular bridges ultimately failed because each bridge’s construction and design was below the standard of care. This conduct constituted practicing incompetently and negligently and violates the ethical principle to refrain from harming the patient. During his testimony, Dr. Westover, the Board’s independent dental expert, agreed with the findings of Dr. Harkins.

6. Patient KC testified she was misled as to the cost of her dental work. Patient KC’s testimony, and that of Ms. Pamela Kelly, a former employee/office manager for Licensee, was that Patient KC was told by Licensee that he would replace all of Patient KC’s failing MDIs with standard body implants at no charge. However, $3,999.00 was ultimately charged to Patient KC’s Care Credit account for the procedure. Patient KC testified she had no idea that Licensee had removed two (2) MDIs and replaced them with four (4) standard body implants until she was presented with the $3,999.00 in additional charges. Licensee’s record shows the following entry and charges: “D7999 UNSPECIFIED ORAL SURGERY PRO-
CEDURE $3,999.00.” The evidence would tend to indicate that, because Patient KC had paid approximately $4,000.00 on her Care Credit account, Licensee realized Patient KC now had available credit; thus, Licensee used approximately the same amount for this “UNSPECIFIED ORAL SURGERY PROCEDURE.” Patient KC testified that she voiced her objection to the charge but finally agreed to it out of fear Licensee would refuse to complete her dental work. This conduct constitutes unprofessional conduct, including fraud or deceit upon the public, as well as violation of Licensee’s ethical duty to be honest.

7. A review of Patient KC’s patient records indicated, as with the other patients, that Licensee failed to maintain proper records and that Licensee’s records fell below the standard of care. Licensee admitted as much in his own testimony. The lack of documentation in Patient KC’s record included, but is not limited to, no charting of periodontal health of the remaining mandibular teeth; inadequate explanation for procedures performed; no record of existing restorations or caries of the remaining mandibular arch; no record of the size, diameter, manufacturer, or platform of some of the MDIs and standard implants; no record of where implants were placed; no record of whether or how much sedation and/or anesthesia was used when MDIs were placed and teeth were prepped; and overall poor documentation making it difficult to understand the procedures performed by Licensee.

8. Licensee also was charged with practicing incompetently or negligently and with violating the ethical principle to refrain from harming the patient for the following: placing multiple MDIs in Patient KC’s upper arch, when impressions taken by Dr. Harkins showed that Patient KC had an adequate maxillary ridge to avoid the necessity of implants even being placed; and replacing Patient KC’s upper right
implant with a 7.8 mm “shorty” implant (short and very wide) which is typically used only for posterior/back teeth. The Board cannot find by clear and convincing evidence, however, that either of these two situations constituted incompetent or negligent practice or a violation of the ethical principle to refrain from harming the patient.

**Conclusions of Law Concerning Patient KC**

Based upon the foregoing Findings of Fact, the Board finds Licensee guilty of Counts I, II, III and IV, to-wit:

- **Count I:** Based upon the foregoing, the Board finds Licensee guilty of practicing incompetently or negligently, regardless of whether there is actual harm to the patient, all in violation of Subsection (1)(f) of Miss. Code Ann. § 73-9-61.

- **Count II:** Based upon the foregoing, the Board finds Licensee guilty of unprofessional conduct, which includes, but is not limited to, practicing deceit or fraud on the public, all in violation of Subsection (1)(l)(ii) of Miss. Code Ann. § 73-9-61.

- **Count III:** Based upon the foregoing, including the testimony of Licensee, the Board finds Licensee guilty of willful violation of the Rules and Regulations duly promulgated by the Board, specifically Board Regulation Number 53, Patient Records, all in violation of Subsection (1)(b) of Miss. Code Ann. § 73-9-61.

- **Count IV:** Based upon the foregoing, the Board finds Licensee guilty of willful violation of the Rules and Regulations duly promulgated by the Board, specifically Board Regulation Number 1, Code of Ethics, by violating the American Dental Association *Principles of Ethics and Code of Professional Conduct*, Article III,
Section 2, regarding the ethical duty of licensed dentists to refrain from harming the patient; and Article III, Section 4, regarding the ethical duty of licensed dentists to be honest and trustworthy; all in violation of Subsection (1)(b) of Miss. Code Ann. § 73-9-61.

**Docket No. 2016-054 Concerning Patient CWT**

**Findings of Fact Concerning Patient CWT**

1. The Board finds, as supported by the testimony of Patient CWT, her patient charts and records, and Licensee’s own testimony, that Patient CWT went to Licensee for a toothache and was approved for $14,400.00 in Care Credit, of which Licensee used $10,422.00 in two (2) visits, most of this amount used toward fabrication and placement of three 2-unit cantilever bridges. After repeated repairs and replacements, all three (3) 2-unit cantilever bridges failed in less than two (2) years, and Licensee refused to honor his warranty as to his work. A cantilever bridge can be used in replacing a maxillary lateral incisor with the canine as the abutment tooth. The cantilever bridge also may be used in replacing a mandibular first premolar if there is occlusal contact in the distal fossa only. Abutment crowns for both the second premolar and first molar are required in this case. Furthermore, a finger rest must be incorporated in the design of the cantilever bridge to aid in occlusal support of the pontic crown and to prevent rotation of the cantilever bridge. None of these procedures were followed in the fabrication of the cantilever bridges prepared for Patient CWT, which resulted in their failure.
2. More specifically, Licensee attempted to replace missing Teeth Nos. 3, 12, and 14 with CEREC two-unit cantilever bridges, which fell below the standard of care. The replacement of these missing teeth does not meet the guidelines for a cantilever bridge. The CEREC pontic crowns did not include a finger rest to the adjacent tooth for occlusal support. This lack of occlusal support caused: (1) excessive off-axial loading of the abutment tooth which resulted in further destruction of the periodontal attachment; (2) excessive stress on the pontic-to-abutment interface which led to fracture of the pontic crown; and (3) stress on the cement bond of the abutment tooth causing the bridge to de-bond.

3. As a result of Licensee's failing to abide by proper prosthodontic technique, the CEREC fabricated bridges failed repeatedly over the span of two (2) weeks. The cantilever bridge for Teeth Nos. 2 and 3 failed once on April 22, 2014. This was just five (5) days after said bridge was fabricated by Licensee. The cantilever bridge for Teeth Nos. 11 and 12 failed twice. The first failure occurred on April 19, 2014, a mere two (2) days after fabrication. The second failure occurred on April 24, 2014, only three (3) days after the re-fabrication on April 21, 2014. The cantilever bridge for Teeth Nos. 14 and 15 failed once on April 24, 2014, which was only seven (7) days after its fabrication. By February 2016, all three (3) bridges had failed. Prior to the hearing, Patient CWT was examined by Dr. Harkins, the investigative Board member, who testified that the aforementioned dental care failed to meet the standard of care; that is, Licensee practiced incompetently and/or negligently. During his testimony, Dr. Westover, the Board's independent dental expert, agreed with the findings of Dr. Harkins.
4. Believing that said bridges were still under "warranty," Patient CWT contacted Licensee to have them remade. Patient CWT testified she was informed that the warranty was no longer valid due to her failure to return for regular checkups.

5. Licensee admitted repeatedly during his testimony that his treatment of Patient CWT and preparation of the cantilever bridges prepared for Patient CWT did not meet the standard of care.

6. Licensee noted on April 22, 2014 in the Patient Notes Master that Patient CWT had "severe periodontal disease" with "mobility of mouth." While the Board found no evidence of periodontal disease in Patient CWT’s records, as more fully discussed below, Licensee’s preparation of fixed prosthodontics (bridges) for Patient CWT prior to the initiation and successful treatment of any periodontal disease falls below the standard of care, in that severe periodontal disease indicates the supporting bone structure of the teeth and gingival tissues are neither strong nor healthy enough for fixed prosthodontics. Again, this was further evidence that Licensee practiced incompetently and/or negligently.

7. Licensee recorded the use of CDT Code D4341, "PERIODONTAL SCALING AND ROOT PLANNING [SIC]," for all four (4) quadrants meaning that Licensee charged for four (4) quadrants of periodontal scaling and root planing. However, Patient CWT’s record fails to include any periodontal charts, as well as bitewing or periapical radiographs, to support the need for periodontal therapy. The minimum threshold for diagnosing periodontal therapy involves documentation of this baseline data, none of which was performed by Licensee. Thus, Licensee failed to maintain adequate records.
8. The Board finds additional evidence of Licensee’s failure to maintain adequate patient records. The entry from the Patient Notes Master for April 17, 2014 stated:

limited exam with
pt continuing on tx plan
informed consent performed
and pt agreed on certain tx items
and had performed items on tx plan
six cerec crowns shade A3 (2 unit bridges)
laser sx performed on 15 distal in order to place crown and remove decay.
simple extraction performed on patient

Anesthetic used: septocaine 1:100kepi
Carpules given: 2
Tooth # (‘s) Removed tooth, simple extraction. 12
Hemostasis controlled
Post-op instructions given, written and verbal given
Pt was ambulatory and able to leave.
Next Visit: prn-pt refused to save tooth via RCT pt stated she wanted 12
NV Deep Scale Root Plane x 4 quads and simple ext on 1 along with Lower bridge.

With the exception of the extraction of Tooth No. 12, this entry makes it unclear as to what procedures were performed and which teeth were involved. Patient CWT’s record contains no diagnosis or description of the presenting condition of Tooth No. 12. While a panoramic radiograph is present in the patient record, no periapical radiographs were used to document the presenting condition of Patient CWT. The patient record also contains no periodontal charting to document the need for periodontal scaling and root planing. Referencing the Gingivectomy or Gingivoplasty performed on April 17, 2014, the patient record, again, contains no periodontal charting to show the need for this procedure. The entry for the Patient Notes Master for April 21, 2014 stated:
pt came in for broken bridge on UL Side
bridge was cut off and remeved [SIC]
temp was placed due to bridge alteration in crown oven
nv replace bridge SRP

While the entry stated that Licensee replaced one (1) of the two (2) cantilever bridges on the maxillary left quadrant, the record fails to state which bridge failed and was in need of replacement. The entry in the Patient Notes Master for April 22, 2014 stated:

Anesthetic used: septocaine 1:100kepi
Carpules given: 2
Tooth # (‘s)   2 Removed tooth, simple extraction.
Hemostasis controlled
Post-op instructions given, written and verbal given
Pt was ambulatory and able to leave.
srp4 quadrants also performed on all four quadrants [SIC]
Next Visit: pm
pt also had bridge two unit seated on tooth 11, 12
dentist broke bridge on tooth 3, 2
and will be recemented [SIC] on follow up visit next wk.

Narrative: Patient recived [SIC] simple extraction on tooth #1. Pt has severe periodontal disease. Dr performed periodontal scaling and root planing on LR, LL, UR, and UL quadrants to improve mobility of mouth.

9. As noted above, Patient CWT’s record contained no periodontal charting to support the need for periodontal scaling and root planing, and the panoramic radiograph indicated that Patient CWT’s bone level appeared to be within normal limits. The standard of care calls for periodontal charts which should record the pocket depths, gingival recession, and mobility of each tooth to support a diagnosis of periodontal disease. Patient CWT did not recall Licensee performing a periodontal examination which would involve the charting of periodontal pocketing, gingival recession, or mobility of each tooth. Licensee charged Patient CWT for a Gingivectomy/Gingivoplasty without proper documentation to prove the need for the procedure.
The fee was $415.00. Patient CWT was charged twice for the Gingivectomy/Gingivoplasty which was not credited back to her account. Patient CWT was charged twice for a composite restoration on the same Tooth No. 7; that is, Licensee charged for a surface that was not prepped or restored. Such conduct is unprofessional and includes deceit and fraud on the public.

10. Licensee was charged with improper delegation of professional responsibilities by permitting unqualified staff to take radiographs of Patient CWT without a valid radiology permit or dental hygiene license. The Board could not find by clear and convincing evidence that Licensee improperly delegated professional responsibilities to employees at that time who were not duly qualified; however, it should be noted that the Board’s inability to make this finding was due to Licensee’s failure to properly and timely report his employees to the Board, as well as the failure of Licensee’s employees to properly and timely report their employment with Licensee to the Board.

11. Licensee was charged with unprofessional conduct in committing what the Complaint alleged to be fraudulent practices regarding Care Credit financing. The evidence presented at the hearing indicated that Patient CWT was not provided Care Credit’s toll-free number, which is in violation of a mandate set by the Federal Consumer Financial Protection Bureau. While the Board heard sufficient evidence to be concerned with Licensee’s office practices regarding his use of Care Credit, the Board could not find by clear and convincing evidence based on the testimony provided that Licensee was guilty of unprofessional conduct as to Care Credit by failing to permit Patient CWT to use Care Credit’s toll-free number.
Conclusions of Law Concerning Patient CWT

Based upon the foregoing Findings of Fact, the Board finds Licensee guilty of Counts I, II, III and IV and not guilty of Count V, to-wit:

• **Count I:** Based upon the foregoing, including the testimony of Licensee, the Board finds Licensee guilty of willful violation of the Rules and Regulations duly promulgated by the Board, specifically Board Regulation Number 53, Patient Records, all in violation of Subsection (1)(b) of Miss. Code Ann. § 73-9-61.

• **Count II:** Based upon the foregoing, the Board finds Licensee guilty of practicing incompetently or negligently, regardless of whether there is actual harm to the patient, all in violation of Subsection (1)(f) of Miss. Code Ann. § 73-9-61.

• **Count III:** Based upon the foregoing, the Board finds Licensee guilty of unprofessional conduct, which includes, but is not limited to, practicing deceit or fraud on the public, all in violation of Subsection (1)(l)(ii) of Miss. Code Ann. § 73-9-61.

• **Count IV:** Based upon the foregoing, the Board finds Licensee guilty of willful violation of the Rules and Regulations duly promulgated by the Board, specifically Board Regulation Number 1, Code of Ethics, by violating the American Dental Association *Principles of Ethics and Code of Professional Conduct*, Article III, Section 2, regarding the ethical duty of licensed dentists to refrain from harming the patient; and Article III, Section 4, regarding the ethical duty of licensed dentists to be honest and trustworthy; all in violation of Subsection (1)(b) of Miss. Code Ann. § 73-9-61.
Findings of Fact Concerning Patient SD

1. Albeit Patient SD was out-of-state at the time of the Board’s hearing and did not testify, evidence regarding Patient SD’s Complaint was supported by her patient charts and records. Based on the records and Licensee’s own testimony, Patient SD initially presented to Licensee on July 15, 2014 with the chief complaint of a loose porcelain-fused-to-metal 5-unit fixed bridge that restored Teeth Nos. 22 through 26. (Teeth Nos. 22 and 26 were abutment crowns replacing missing Teeth Nos. 23, 24, and 25 with pontic crowns.) Patient SD requested only re-cementation of her mandibular bridge. According to her written Complaint, Patient SD handed her bridge to Licensee and asked that it be re-cemented, whereupon Licensee remarked that it was a “piece of garbage” and, without consent from Patient SD, tossed her bridge into the medical waste trash, resulting in the necessity of fabricating a new bridge at an additional cost to Patient SD. Licensee told Patient SD that he could make a new bridge which would be far superior to Patient SD’s discarded bridge. Patient SD did not desire a new bridge because her discarded bridge performed adequately, nor did she have the money to pay for an entirely new bridge. This conduct constitutes unprofessional conduct, including deceit and/or fraud upon the public and violation of the ethical duty to be honest.

2. The entry for July 15, 2014 in Patient SD’s account history showed that a Gingivectomy or Gingivoplasty procedure was performed for both Teeth Nos. 22 and 26, and the associated CDT Code D4210 was charged to Patient SD ($830.00); however, the evidence at the hearing indicated that Licensee did not perform any
procedure consistent with either a Gingivectomy or Gingivoplasty (no surgical removal or reshaping of the gingival tissue). There were no entries in the Patient Notes Master concerning these procedures, and the post-cementation photos taken by Licensee on July 15, 2014 do not show that surgery was performed. CDT Code D4210 also is for a procedure involving four (4) or more teeth in a single quadrant. If performed at all, the Gingivectomy allegedly performed by Licensee would only have been performed on two (2) teeth, Teeth Nos. 22 and 26, and Licensee should have used CDT Code 4211, which is intended for one (1) to three (3) teeth in a single quadrant. This conduct is considered procedural “upcoding” in that Patient SD was charged for a procedure never performed by Licensee. Such conduct constitutes unprofessional conduct, including deceit and/or fraud upon the public and violation of the ethical duty to be honest.

3. Patient SD’s account records indicate she was charged for a 6-unit fixed bridge consisting of three (3) abutment crowns and three (3) pontic crowns. However, Patient SD received only a 5-unit fixed bridge. Such conduct constitutes unprofessional conduct, including deceit and/or fraud upon the public and violation of the ethical duty to be honest.

4. Licensee was charged with practicing incompetently or negligently and with violating the ethical principle to refrain from harming the patient for the following conduct: performing extensive prosthodontic procedures, such as a 5-unit bridge, without first addressing the overall dental health of the patient when radiographs presented at the Board’s hearing clearly indicated advancing periodontal disease; and fabricating a 5-unit bridge to replace three (3) incisor teeth using a mandibular lateral incisor as a lone abutment. As to this particular allegation in the Complaint, the Board cannot
find by clear and convincing evidence that such conduct was incompetent or negligent or violated the ethical principle to refrain from harming the patient.

5. Licensee was charged with improper delegation of professional responsibilities by permitting unqualified staff to take radiographs of Patient SD without a valid radiology permit or dental hygiene license. The Board could not find by clear and convincing evidence that Licensee improperly delegated professional responsibilities to employees at that time who were not duly qualified; however, it should be noted that the Board’s inability to make this finding was due to Licensee’s failure to properly and timely report his employees to the Board, as well as the failure of Licensee’s employees to properly and timely report their employment with Licensee to the Board.

6. As to all four (4) Complaint dockets, being Patients JM, KC, CWT and SD, Licensee did not call any dental experts in his defense. Furthermore, during cross-examination, Licensee acknowledged as to each of the aforementioned four (4) patients his failure to meet the standard of care. In support of the allegations from all four (4) patients on whom Licensee practiced incompetently or negligently, among the other allegations, the Board heard testimony from both Robert Michael Harkins, DMD, investigative Board Member, and Brock B. Westover, DDS, the Board’s independent dental expert.

Conclusions of Law Concerning Patient SD

Based upon the foregoing Findings of Fact, the Board finds Licensee guilty of Counts II and III, and not guilty of Counts I and IV, to-wit:
• **Count II:** Based upon the foregoing, the Board finds Licensee guilty of unprofessional conduct, which includes, but is not limited to, practicing deceit or fraud on the public, all in violation of Subsection (1)(l)(ii) of Miss. Code Ann. § 73-9-61.

• **Count III:** Based upon the foregoing, the Board finds Licensee guilty of willful violation of the Rules and Regulations duly promulgated by the Board, specifically Board Regulation Number 1, Code of Ethics, by violating the American Dental Association *Principles of Ethics and Code of Professional Conduct*, Article III, Section 2, regarding the ethical duty of licensed dentists to refrain from harming the patient; and Article III, Section 4, regarding the ethical duty of licensed dentists to be honest and trustworthy; all in violation of Subsection (1)(b) of Miss. Code Ann. § 73-9-61.

**FINAL ORDER OF THE BOARD**

The Mississippi State Board of Dental Examiners, by unanimous vote of those Board members present, takes the following action concerning the charges against Licensee. It is noted herein that Robert Michael Harkins, DMD, who served as investigative Board member and also testified as an expert witness, did not vote or participate in the Board’s deliberations. Furthermore, William L. Alford, DDS, as the Board’s President and presiding hearing officer, and Laura Currie Richoux, RDH, as the Board’s dental hygienist member, did not vote on this matter.

**IT IS HEREBY ORDERED** that, pursuant to Miss. Code Ann. § 73-9-1 *et seq.*, Mississippi Dental License No. 3455-08 and Limited Enteral Conscious Sedation Permit No. 1057, issued to Elijah Arrington, III, DMD., are hereby revoked. Licensee is allowed a maximum of forty-five (45) days from service of this Final Order of the Board (on or before
Wednesday, September 6, 2017) to conclude his dental practice in the State of Mississippi. After that time, Licensee no longer may practice dentistry of any kind whatsoever in the State of Mississippi.

**IT IS FURTHER ORDERED** that following the expiration of three (3) consecutive years of not practicing dentistry of any kind whatsoever in the State of Mississippi, Licensee may apply as a new candidate for a Mississippi Dental License. In addition to fulfilling all requirements at that time for initial dental licensure in the State of Mississippi and prior to applying for such licensure, Licensee also must:

1. Successfully complete a Board-approved clinical remediation program;
2. Successfully complete all manikin-based and patient-based procedures on a Board-approved clinical dental examination; and
3. Personally attend and successfully complete a Board-approved ethics course, i.e., the “Professional/Problem-Based Ethics” (ProBE) course provided by the Center for Personalized Education for Physicians (CPEP) stipulated in the Consent Order for MSBDE Docket Nos. 2014-047 and 2015-081.

**IT IS FURTHER ORDERED** that Licensee shall reimburse the Board for all costs associated with these Complaints, investigations, and this hearing in an amount to be determined by the Board and provided to Licensee following transmission to Licensee of this Final Order of the Board. Such costs must be remitted within six (6) months from service of this Final Order of the Board (on or before Wednesday, January 24, 2018).

**IT IS FURTHER ORDERED** that inasmuch as Licensee’s Mississippi Dental License No. 3455-08 and Limited Enteral Conscious Sedation Permit No. 1057 are revoked, the twenty-four (24) remaining and ongoing Complaints received and docketed by the Board...
as of the effective date of this Final Order of the Board (Saturday, June 17, 2017) are hereby remanded to the files with no formal determination as to the validity of each Complaint.

**IT IS FURTHER ORDERED** that a copy of this Final Order of the Board shall be sent by registered mail or personally served upon Licensee and/or his legal counsel of record for this hearing, Dennis Sweet, Esquire.

**SO ORDERED,** this the 17th day of June, 2017.

MISSISSIPPI STATE BOARD
OF DENTAL EXAMINERS

BY: WILLIAM L. ALFORD, DDS
PRESIDENT