

**BEFORE THE MISSISSIPPI STATE
BOARD OF DENTAL EXAMINERS**

**IN THE MATTER OF MISSISSIPPI:
DENTAL LICENSE NO. 3328-05**

**LEE DAVIS GARY, D.M.D.
611 ARBOR WAY
BRANDON, MS 39047**

RESPONDENT

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DOCKET NO. 2022-081

CONSENT ORDER

WHEREAS, RESPONDENT, LEE DAVIS GARY, D.M.D., has been vested with the right and privilege to practice dentistry in the State of Mississippi by virtue of License No. **3328-05**, issued by the Mississippi State Board of Dental Examiners (hereinafter referred to as “Board”).

WHEREAS, RESPONDENT, LEE DAVIS GARY, D.M.D., has agreed to enter into a **CONSENT ORDER** which would, upon approval and execution by the Board, avoid initiation of formal disciplinary proceedings.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. **RESPONDENT** agrees that sufficient evidence exists to constitute a violation of: Miss. Code Ann. § 73-9-61 (1)(f), in that **RESPONDENT** practiced incompetently or negligently, regardless of whether there is actual harm to the patient.
2. **RESPONDENT** agrees that sufficient evidence exists to constitute a violation of: Miss. Code Ann. § 73-9-61 (1)(b), in that **RESPONDENT** willfully violated 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; namely, that **RESPONDENT** violated 30 Miss. Admin. Code Pt. 2301, R. 1.31, Board Regulation 31 – Report of Morbidity or Mortality, in that **RESPONDENT**

failed to submit a complete report within thirty (30) days to the Board of a mortality or other incident occurring in the outpatient facilities of such dentists which results in permanent physical or mental injury to a patient during, or as a direct result of dental procedures or anesthesia or sedation.

3. Patient P presented to **RESPONDENT'S** clinic on or about September 04, 2020, with complaints of gums bleeding all night, bleeding lower right molars, and discomfort chewing. Patient P completed documentation regarding her medical history, wherein she answered "Yes" to each of the following questions.
 - Has there been a change in your health within the last year? Explain:
 - Patient P indicated, "New diagnosis of MDS."
 - Are you being treated by a physician now? For what?
 - Patient P indicated, "MDS." (Myelodysplastic syndromes)
 - Patient P indicated her date of last Medical Exam with her physician as "Last week."
 - Patient P indicated the name of her treating physician.
 - Do you have or have you had surgeries?
 - Patient P indicated, "Breast surgery."
 - Do you have or have you had Tumors, Cancer?
 - Do you have or have you had Chemotherapy?
 - Have you experienced bleeding gums?
4. In the course of the September 04, 2020, appointment, **RESPONDENT** performed a focused examination and diagnosed Patient P with varied bone loss in multiple teeth and chronic periodontitis. **RESPONDENT** extracted JP30 31. **RESPONDENT** ordered Patient P to return to the clinic for a comprehensive examination and periodontal therapy.
5. On or about September 16, 2020, Patient P notified **RESPONDENT'S** clinic that her gums were still bleeding. Patient P presented to **RESPONDENT** on or about September 17, 2020. **RESPONDENT** performed a comprehensive examination and noted generalized swollen, red, and irritated gingival tissue consistent with periodontal disease. **RESPONDENT** further noted blood in gingival sulcus in lower quadrants appearing to emanate from premolars and not from the prior extraction site. **RESPONDENT** provided a treatment option of periodontal therapy and recommended extracting JP14 32.

Patient P expressed preference against extraction, and **RESPONDENT** advised to proceed with periodontal scaling and root planing “ASAP.”

6. Patient P presented to **RESPONDENT’S** clinic on or about September 18, 2020, for periodontal scaling and root planing. A dental hygienist performed periodontal scaling and root planing on Patient P’s lower left and lower right quadrants. Following the procedure, **RESPONDENT** noted Patient P’s continued bleeding. **RESPONDENT** contacted an Oral and Maxillofacial Surgeon for assistance in stopping Patient P’s bleeding. Unable to slow the bleeding, the surgeon recommended **RESPONDENT** extract JP32. **RESPONDENT** extracted JP32; however, Patient P’s bleeding continued. **RESPONDENT** contacted the surgeon again, who returned to assist, and finally achieved hemostasis. Shortly after achieving hemostasis, Patient P briefly lost consciousness. **RESPONDENT** and surgeon recommended Patient P go to the hospital emergency room.
7. Patient P presented to St. Dominic Hospital Emergency Department on September 18, 2020, with a chief complaint of, “uncontrolled active bleeding, pt has been bleeding x 2 weeks, lethargic, and weakness.” Patient P received treatment for multiple diagnoses including bleeding gums, thrombocytopenia, acute blood loss anemia, acute injury of kidney, MDS, abnormal TSH, hypokalemia, iron deficiency anemia secondary to blood loss (chronic), consumption coagulopathy – suspect DIC, and hypotension. Patient P coded on or about the night of September 22, 2020/ morning of September 23, 2020. Patient P was pronounced dead at 00:58 on September 23, 2020. Patient P’s immediate cause was death was documented as cardiopulmonary arrest with underlying causes documented as disseminated intravascular coagulation, tooth abscess, and myelodysplastic syndrome.
8. From approximately September 04, 2020, through September 18, 2020, **RESPONDENT** failed to take necessary action or precautionary measures in response to Patient P’s documented medical history of cancer and cancer treatment, Myelodysplastic syndrome, and bleeding gums. **RESPONDENT** failed to consider, discuss with, and educate Patient P, and/or failed to document such, of the risks of the dental procedures performed in relation to Patient P’s medical conditions. **RESPONDENT** failed to contact or consult

Patient P's documented treating physician, and/or failed to document such, regarding the safety of the dental procedures performed in relation to Patient P's medical conditions.

IT IS, THEREFORE, STIPULATED AS FOLLOWS:

1. That this **CONSENT ORDER** is entered into freely, willingly and voluntarily by all the parties without threats or promises, and further, such **CONSENT ORDER** is entered into in lieu of having a full administrative hearing before the Mississippi State Board of Dental Examiners.
2. That **RESPONDENT** hereby voluntarily, willingly, and freely waives all **RESPONDENT'S** due process rights, including but not limited to, the right to a hearing whereby **RESPONDENT** could:
 - a. Appear either personally or by counsel or both,
 - b. Cross-examine any witnesses who may testify against **RESPONDENT**,
 - c. Present testimony, evidence, and witnesses on **RESPONDENT'S** behalf, and
 - d. Have subpoenas issued by the Board on **RESPONDENT'S** behalf.
3. The Mississippi State Board of Dental Examiners is established pursuant to Title 73, Chapter 9 of the Mississippi Code of 1972, as amended, and is charged with the duty of licensing and regulating the practice of dentistry and dental hygiene in the State of Mississippi. The **RESPONDENT** is the holder and/or applicant of a license issued by the Board and is, therefore, subject to Miss. Code Ann. § 73-9-1, et seq.
4. Pursuant to Miss. Code Ann. § 73-9-61 (1), upon satisfactory proof of the violation(s) enumerated herein, 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 Board may deny the issuance or renewal of a license, may revoke or suspend the license of any licensee 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.

5. That it is understood and agreed that the purpose of this **CONSENT ORDER** is to avoid a formal disciplinary proceeding, including a full administrative hearing before the Board. As such, **RESPONDENT** authorizes the Board to review and examine any documentary evidence or information concerning **RESPONDENT** prior to or in conjunction with its consideration of the **CONSENT ORDER**.
6. That this **CONSENT ORDER** shall be subject to approval by the Board. If the Board fails to approve the **CONSENT ORDER**, it shall have no force or effect on the parties.
7. That should this **CONSENT ORDER** not be approved by the Board, it is agreed that the presentation and consideration of the **CONSENT ORDER**, including any documentary evidence and information related thereto, shall not unfairly or illegally prejudice the Board or any of its members from participation in hearings or other proceedings pertaining to these or other matters regarding **RESPONDENT**.
8. **PENALTIES.** That upon approval and execution of this **CONSENT ORDER** by the Board, **RESPONDENT** agrees to the following penalties which are authorized by Miss Code Ann. § 73-9-61.
 - a. **PROHIBITION FROM PRACTICE.** Effective January 01st, 2024, **RESPONDENT** shall be **PROHIBITED** from practicing as a dentist in Mississippi for a minimum of ninety (90) days.
 - i. **INACTIVE STATUS.** For the duration of the **PROHIBITION FROM PRACTICE**, **RESPONDENT’S** license shall be placed on “inactive” status.
 - ii. After a period of no less than ninety (90) days from January 01st, 2024, and only upon **RESPONDENT’S** successful compliance with and completion of all terms and conditions of this **CONSENT ORDER** – with the exception of **PENALTY (f.) COMMUNITY SERVICE** – the

PROHIBITION FROM PRACTICE shall be lifted, and
RESPONDENT’S license may be granted “active” status.

- b. **FINE.** **RESPONDENT** shall pay a fine in the amount of **\$2,000.00**, which must be received in the Board’s office within thirty (30) calendar days from the date the Board approves and executes this **CONSENT ORDER**. Certified checks for payment of the **FINE** should be made payable to the “Mississippi State Treasury.”
- c. **COSTS.** Pursuant to Miss. Code Ann. § 73-9-61 (4)(d), **RESPONDENT** shall pay the reasonable costs of these proceedings in an amount to be determined by the Board within thirty (30) calendar days from the date the Board sends the notice of costs. Certified checks for payment of the **COSTS** should be made payable to the Board.
- d. **REMEDIAL EDUCATION – AADB REMEDIATE +.** Within six (6) months from the date the Board approves and executes this **CONSENT ORDER**, **RESPONDENT** shall successfully complete an American Association of Dental Boards (“AADB”) Remediate + dental program that is designed in coordination with the Board which focuses on the *Medically Comprised Patient* as well as *Dental/Medical Records*. **RESPONDENT** agrees that **RESPONDENT** is responsible for the cost of the AADB Remediate + Program. Continuing education hours obtained in satisfaction of this requirement may not be utilized towards satisfaction of the continuation education requirements in Board Regulation 41 – Continuing Education (30 Miss. Admin. Code Pt. 2301, R. 1.41).
- e. **JURISPRUDENCE EXAM.** Within thirty (30) days from the date the Board approves and executes this **CONSENT ORDER**, **RESPONDENT** shall successfully complete the Mississippi Jurisprudence Examination.
- f. **COMMUNITY SERVICE.** Within one (1) year from the date the Board approves and executes this **CONSENT ORDER**, **RESPONDENT** shall

complete eighty (80) hours of community service at Mission First Dental Clinic in Jackson, MS. **RESPONDENT** must obtain Board approval in writing of the proposed community service prior to commencement in order to satisfy this requirement. **RESPONDENT** shall be responsible for submitting to the Board satisfactory evidence of completion of this requirement.

- g. **COMPLIANCE.** **RESPONDENT** shall comply with Miss. Code Ann. § 73-9-1 et seq., 30 Miss. Admin. Code Pt. 2301 et seq., and all laws and regulations related to the practice of dentistry in Mississippi. Further, **RESPONDENT'S** practice shall be subject to periodic monitoring by the Board for a period of five (5) years. Any member of the Board, investigator, or dental consultant may perform a patient chart review of a representative sample of those treated by **RESPONDENT**.
9. That **RESPONDENT** accepts the above penalties and acknowledges that **RESPONDENT'S** license is conditioned on full compliance with these terms. Failure to adhere to any of the terms of this **CONSENT ORDER** may result in further disciplinary action against **RESPONDENT'S** license.
10. That the **RESPONDENT** does hereby fully, completely and finally release the Board, its agents, servants or employees from any and all claims, charges, demands, damages, costs, expenses, actions and causes of action of every kind and nature which the **RESPONDENT** may now or hereafter have related to this **CONSENT ORDER** between the **RESPONDENT** and the Board. The Mississippi State Board of Dental Examiners admits no liability in any way related to this **CONSENT ORDER**.
11. That upon approval and execution of this **CONSENT ORDER** by the Board, this document will be a public record and will be entered as a **FINAL ORDER** of the Board. Further, the **FINAL ORDER** will be reported as disciplinary action to the American Association of Dental Boards (AADB) and to all federally mandated data banks.

AGREED TO, this the 11 day of November, 2023.

Dr. Lee Gary
Dr. Lee Gary (Nov 6, 2023 12:14 CST)

LEE DAVIS GARY, D.M.D.

Approved as to Form & Substance:

Tommie G. Williams Jr.
Tommie G. Williams Jr. (Nov 6, 2023 09:42 CST)

Tommie G. Williams Jr.
Counsel for **RESPONDENT**

W. Westley Mutziger

W. Westley Mutziger
Board Counsel, MSBDE

Stan Ingram
Stan Ingram (Nov 6, 2023 09:29 CST)

Stan Ingram
Counsel for **RESPONDENT**

SO APPROVED & ORDERED, this the 07th day of November, 2023.

MISSISSIPPI STATE BOARD OF DENTAL EXAMINERS

BY: Robert L. Smith Jr
Robert L. Smith Jr (Nov 7, 2023 15:23 CST)

ROBERT L. SMITH, JR., D.D.S.
PRESIDENT










Gary, Lee Davis - Consent Order - FINAL Proposed 11-03-2023


Final Audit Report

2023-11-06

Created:	2023-11-03
By:	Westley Mutziger (westley@dentalboard.ms.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAABw_aVOaAal6qNO13BXh8GLUcwlwsFT2j

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-  Document created by Westley Mutziger (westley@dentalboard.ms.gov)
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-  Document e-signed by Westley Mutziger (westley@dentalboard.ms.gov)
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-  Document emailed to Stan Ingram (singram@bpislaw.com) for signature
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-  Document e-signed by Stan Ingram (singram@bpislaw.com)
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2023-11-06 - 3:29:44 PM GMT
-  Email viewed by Tommie Williams Jr. (twilliamsjr@upshawwilliams.com)
2023-11-06 - 3:36:27 PM GMT
-  Signer Tommie Williams Jr. (twilliamsjr@upshawwilliams.com) entered name at signing as Tommie G.Williams Jr.
2023-11-06 - 3:41:58 PM GMT
-  Document e-signed by Tommie G.Williams Jr. (twilliamsjr@upshawwilliams.com)
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 Document emailed to Dr. Lee Gary (drleegary@yahoo.com) for signature

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 Document e-signed by Dr. Lee Gary (drleegary@yahoo.com)

Signature Date: 2023-11-06 - 6:14:47 PM GMT - Time Source: server

 Agreement completed.

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Gary Lee Davis - Consent Order - FINAL Proposed 11-03-2023 - for Execution

Final Audit Report

2023-11-07

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-  Email viewed by Robert Smith (rsmi410@aol.com)
2023-11-07 - 9:17:41 PM GMT
-  Signer Robert Smith (rsmi410@aol.com) entered name at signing as Robert L Smith Jr
2023-11-07 - 9:23:03 PM GMT
-  Document e-signed by Robert L Smith Jr (rsmi410@aol.com)
Signature Date: 2023-11-07 - 9:23:05 PM GMT - Time Source: server
-  Agreement completed.
2023-11-07 - 9:23:05 PM GMT