

1                               BEFORE THE  
2                               MISSISSIPPI STATE BOARD OF DENTAL EXAMINERS

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5       IN RE:

6                               MSBDE BOARD MEETING, OCTOBER 27, 2023

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11                               BOARD MEETING

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15                               Held before the  
16                               Mississippi State Board of Dental Examiners  
17                               600 East Amite Street, Suite 100,  
18                               Jackson, Mississippi,  
19                               on Friday, October 27, 2023,  
20                               beginning at 8:30 a.m.

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30       REPORTED BY:   KELLYE S. SHOWS, CSR #1290

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<p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 BOARD OF DENTAL EXAMINERS:</p> <p>4 Robert L. Smith, Jr., DDS, President/Chair</p> <p>5 Marion Lewis Grubbs, DMD</p> <p>6 David K. Curtis, DMD</p> <p>7 Mark D. Williams</p> <p>8 Alexia Le'Kia Lampkin, DMD</p> <p>9 John B. Carlton, DMD</p> <p>10 Wade D. Bishop, DMD</p> <p>11 Haley Harrison Birmingham, RDH</p> <p>12</p> <p>13 BOARD ATTORNEYS:</p> <p>14 Westley Mutziger,</p> <p>15 Senior Attorney, In-House Counsel</p> <p>16</p> <p>17 D. Drew Malone,</p> <p>18 Special Assistant, Attorney General</p> <p>19</p> <p>20 DENTAL EXAMINERS STAFF MEMBERS:</p> <p>21 Denny Hydrick, Executive Director</p> <p>22 Tiffany Vaughn, Deputy Director</p> <p>23 Lou Sims, Licensing Representative</p> <p>24 Nick Hardwick, Senior Investigator</p> <p>25 Sherese Redmond, Investigator</p>	<p>1 I N D E X</p> <p>2</p> <p>3 PAGE</p> <p>4 Style 1</p> <p>5 Appearances 2-3</p> <p>6 Index 3</p> <p>7 Certificate of Reporter 204</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 3	Page 5
<p>1 A P P E A R A N C E S</p> <p>2 (continued)</p> <p>3</p> <p>4 ALSO PRESENT:</p> <p>5 Kelly M. Trout, DMD</p> <p>6 President, MDA</p> <p>7 Wahnee Sherman</p> <p>8 Executive Director, MDA</p> <p>9</p> <p>10 Mark Edwards (Via Zoom)</p> <p>11 CDTs, Director of Dental Examination</p> <p>12 Richael Cobler, Executive Director, (Via Zoom)</p> <p>13 Central Regional Dental Treating Services</p> <p>14</p> <p>15 Carrie Fowler, (Via Zoom)</p> <p>16</p> <p>17 Frank Conaway, DMD, MAGD</p> <p>18</p> <p>19 Denise DeRossette</p> <p>20 President, Cornerstone Consulting Group, Inc.</p> <p>21 Kristen N. Love, AG Office</p> <p>22 Hearing Officer</p> <p>23</p> <p>24 Tommie G. Williams, Jr.</p> <p>25 Counsel for Gary Lee, DMD</p> <p>Gary Lee, DMD</p>	<p>1 (WHEREUPON, THE PROCEEDINGS WERE HELD AS FOLLOWS:)</p> <p>2 BOARD PRESIDENT SMITH: Good morning,</p> <p>3 everyone. I'd like to call the meeting of the</p> <p>4 Mississippi State Board of Dental Examiners into</p> <p>5 session. I'm Dr. Robert Smith, president; and I would</p> <p>6 like to welcome and have our guests introduce</p> <p>7 themselves starting in the back, I guess.</p> <p>8 MS. TROUT: I'm Dr. Kelly Trout, and I'm</p> <p>9 here representing the Mississippi Dental Association.</p> <p>10 MS. SHERMAN: I'm Wahnee Sherman. I'm</p> <p>11 representing the Mississippi Dental Association.</p> <p>12 BOARD PRESIDENT SMITH: That's everybody.</p> <p>13 And then welcome everybody on the internet, and we do</p> <p>14 have a quorum here, and we have a new member. We'll</p> <p>15 talk about Dr. Wade Bishop in just a minute.</p> <p>16 I'm going to start with a little bible</p> <p>17 scripture here, and my prerogative. This was</p> <p>18 appropriate today. Boast not thyself of tomorrow</p> <p>19 for though knowest what a day bringeth forth. So I</p> <p>20 think a lot of us get caught up in a situation of</p> <p>21 helter-skelter, go and go, go, go, go, and, you know,</p> <p>22 every now and then somebody just falls over dead.</p> <p>23 So, you know, have everything ready. And as I get</p> <p>24 in -- in my senior years, I'll be with Dr. Grubbs</p> <p>25 pretty soon, you know, I'll catch him, and as our</p>

<p style="text-align: right;">Page 6</p> <p>1 senior years I've had health issues, and I'm going 2 to share this with all of the men over 55 because 3 they don't know about this. Sometimes you have to 4 have new techniques and things tried on you, and so 5 I had a swollen prostate. And so this is not dental, 6 but I got a procedure done called a PAE. So if any 7 men, you know, 55 or older, have one, you tell them 8 to investigate that, PAE, because it has changed 9 everything in a matter of two months. It's fixed. 10 So, you know, a word -- as my ninth grade English 11 teacher would say, a word to the wise is sufficient. 12 Okay. Now, let's start the meeting. We've 13 got our quorum, so now the first thing is the oath 14 of office for Dr. Wade C. Bishop. Have I got that? 15 EXECUTIVE DIRECTOR HYDRICK: You do, yes, 16 sir. 17 BOARD PRESIDENT SMITH: Oh, boy, if I can 18 find it. Here it is. Dr. Bishop, why don't you tell 19 us something about yourself, how long you've been 20 practicing and where you went to school, and everything 21 that you can do in two minutes. 22 BOARD MEMBER BISHOP: See, I even need help 23 turning on the mic. So I did undergraduate at 24 Mississippi State University. I got my DMD degree 25 here in Jackson at the Medical Center in 1983. I've</p>	<p style="text-align: right;">Page 8</p> <p>1 not? Were y'all at State together? 2 BOARD MEMBER GRUBBS: No. 3 BOARD MEMBER BISHOP: Oh, no. 4 BOARD PRESIDENT SMITH: He's a lot older 5 than you. Right? 6 BOARD MEMBER: BISHOP: As an aside, one of 7 my fondest memories growing up was my dad who played 8 football at Mississippi State back in the '30s, back 9 in the heyday -- 10 BOARD PRESIDENT SMITH: Uh-huh. 11 BOARD MEMBER BISHOP: -- brought me to 12 Jackson in 1969 to see Mississippi State and the 13 University of Florida play, and that was my 14 introduction to Dr. Grubbs. 15 BOARD PRESIDENT SMITH: Uh-huh. 16 BOARD MEMBER GRUBBS: I don't know anybody 17 old enough to remember something like that. 18 BOARD MEMBER BISHOP: I don't remember what 19 I had for breakfast earlier, but that I do remember. 20 BOARD PRESIDENT SMITH: Well, that's a good 21 memory I think. So I appreciate that. 22 Okay. Here's your oath. I'm going to 23 read it and then you'll have to sign this, and then 24 y'all will got it notarized. 25 EXECUTIVE DIRECTOR HYDRICK: Well, we have</p>
<p style="text-align: right;">Page 7</p> <p>1 practiced on the Gulf Coast since 1983. I'm 2 semi-retired. I sold my practice about ten years ago 3 and I've been spent most of the last ten years 4 working locum tenens in local offices and sometimes 5 working more than when I was actually working which 6 is how it goes. I don't plan well. And here I am. 7 BOARD MEMBER CURTIS: Welcome. 8 BOARD PRESIDENT SMITH: Yes, we're happy 9 to have you on the Board. We appreciate the governor 10 selecting you, and it's a learning -- it's a learning 11 curve the first six or seven months. You're going 12 to be learning a lot of stuff that you didn't know 13 actually went on behind the scenes, and after my 12 14 years I'm still learning. It happens -- it changes 15 daily in this. 16 But were you a classmate of Dr. Lewis 17 Grubbs? 18 BOARD MEMBER BISHOP: Did I forget to 19 mention that? 20 BOARD PRESIDENT SMITH: Yes. 21 BOARD MEMBER GRUBBS: What is this thing 22 on Dr. Grubbs thing? 23 BOARD PRESIDENT SMITH: How that escaped 24 the governor I don't know, but anyway, so does that 25 put y'all at State together at the same time or</p>	<p style="text-align: right;">Page 9</p> <p>1 a better copy that's going to be notarized. 2 BOARD PRESIDENT SMITH: All right. Does 3 he have to repeat after me? Okay. 4 (OATH GIVEN.) 5 BOARD PRESIDENT SMITH: Let's welcome 6 Dr. Bishop. All right. Pass that down to him and 7 sign that and we'll get it notarized. 8 On this first -- first agenda item is about 9 our Board meeting minutes. Of course, Dr. Bishop 10 was not privileged to be in on some of them, so he 11 will not be voting on the ones that he did not attend. 12 Okay? 13 All right. Let's tackle them one by one. 14 On the July 14th Board meeting, do I have a motion 15 to approve those minutes? 16 EXECUTIVE DIRECTOR HYDRICK: Dr. Smith, 17 now, we do need to have the wording changed to those 18 minutes. Mr. Malone is going to send me the wording. 19 It's how we do our business going into executive 20 session. We just need some wording, so I would ask 21 that you approve the contents of the minutes with 22 those wording changes that I will -- we'll do after 23 this meeting. 24 BOARD PRESIDENT SMITH: Okay. 25 MR. MALONE: Yes, they'll just reflect the</p>

<p style="text-align: right;">Page 10</p> <p>1 procedure that we did follow voting to go into 2 executive session and actually entering into executive 3 session. So it's a procedure that y'all remember 4 that we did. 5 BOARD PRESIDENT SMITH: We did that, yes. 6 MR. MALONE: And we just -- we're just 7 going to go ahead and let the minutes reflect that. 8 BOARD PRESIDENT SMITH: Yes. 9 BOARD MEMBER CURTIS: So moved. 10 BOARD PRESIDENT SMITH: All right. Is 11 there a second to that? 12 BOARD MEMBER WILLIAMS: Second. 13 BOARD PRESIDENT SMITH: Second, Dr. 14 Williams. All in favor, say "aye." 15 DENTAL BOARD: "Aye." 16 BOARD PRESIDENT SMITH: All right. That 17 motion carries. 18 Now can we discuss the Board meetings. 19 Okay. We're going to do that. July the 14th, I'm 20 going to entertain a motion to approve those. 21 BOARD MEMBER CARLTON: So moved. 22 BOARD PRESIDENT SMITH: So moved. Is 23 there a second? 24 BOARD MEMBER CURTIS: Second. 25 BOARD PRESIDENT SMITH: All in favor, aye.</p>	<p style="text-align: right;">Page 12</p> <p>1 BOARD PRESIDENT SMITH: Any opposed? 2 (No response.) 3 BOARD PRESIDENT SMITH: Thank you. That 4 carries. 5 October 3rd Board meeting. We had a lot of 6 Board meetings, didn't we? Okay. October 3rd Board 7 meeting, is there a motion to accept them? 8 BOARD MEMBER CARLTON: So moved. 9 BOARD PRESIDENT SMITH: So moved. Thank 10 you. Is there a second? 11 BOARD MEMBER LAMPKIN: Second. 12 BOARD PRESIDENT SMITH: Second. Thank you. 13 All in favor, say "aye." 14 DENTAL BOARD: "Aye." 15 BOARD PRESIDENT SMITH: Any opposed? 16 (No response.) 17 BOARD PRESIDENT SMITH: Motion carries. 18 Okay. Those were the meeting minutes. 19 Now approval of 2024 In-Person Board Meetings, 20 minutes. 21 EXECUTIVE DIRECTOR HYDRICK: Dr. Smith, 22 we had one change since this agenda was put on or was 23 sent. January the 12th is a district meeting in 24 District 5, I believe. And then if that matters to 25 the Board, I just wanted to mention that. I do have</p>
<p style="text-align: right;">Page 11</p> <p>1 DENTAL BOARD: "Aye." 2 BOARD PRESIDENT SMITH: Any opposed? 3 (No response.) 4 BOARD PRESIDENT SMITH: All right. July 5 27th, 2023, Board meeting. Motion for that? 6 BOARD MEMBER CARLTON: So moved. 7 BOARD PRESIDENT SMITH: Okay. Thank you. 8 Second? 9 BOARD MEMBER LAMPKIN: Second. 10 BOARD PRESIDENT SMITH: Second, Dr. Lampkin. 11 All right. All in favor, say "aye." 12 DENTAL BOARD: "Aye." 13 BOARD PRESIDENT SMITH: Any opposed? 14 (No response.) 15 BOARD PRESIDENT SMITH: No. Motion 16 carries. 17 August 31st, 2023, Board meeting. Motion 18 to approve? 19 BOARD MEMBER WILLIAMS: So moved. 20 BOARD PRESIDENT SMITH: So moved. Dr. 21 Williams. Second? 22 BOARD MEMBER BIRMINGHAM: Second. 23 BOARD PRESIDENT SMITH: Thank you, Haley. 24 All right. All in favor, say "aye." 25 DENTAL BOARD: "Aye."</p>	<p style="text-align: right;">Page 13</p> <p>1 the dates of all of the district meetings as well now. 2 BOARD MEMBER CURTIS: Do we have the 3 schedule of the in-person Board meetings for next year? 4 EXECUTIVE DIRECTOR HYDRICK: Well, that's 5 what we're voting on. We need to set these dates. 6 BOARD PRESIDENT SMITH: Oh, I got you. 7 That's what we're doing. We're going to approve -- 8 oh, I got you. 9 EXECUTIVE DIRECTOR HYDRICK: January the 10 19th, just so that everybody will know the complication 11 we're having in January, the 19th is the Southern Dean 12 and Examiners Conference, and then the next week I 13 think there was a conflict on the 26th. 14 Dr. Smith, is that right? 15 BOARD PRESIDENT SMITH: Uh-huh. 16 EXECUTIVE DIRECTOR HYDRICK: And so I had 17 moved it up to January the 12th. The afternoon of 18 January the 12th is the CDCA rep, see the business 19 session by Zoom. So I think the examiners will have 20 to be a part of that beginning a 2 o'clock Central 21 Standard time. So Dr. Smith and I discussed well, 22 we'll just end the Board meeting early that day; but 23 I had overlooked that the 12th is also District 5's 24 meeting in Gulfport, which, you know, most of 25 January and three or two -- three Fridays in</p>

<p style="text-align: right;">Page 14</p> <p>1 February are going to be district meetings.  2 BOARD MEMBER CURTIS: Okay. But these  3 dates do stand?  4 BOARD PRESIDENT SMITH: Well, if the Board  5 will accept them. Yes, if we accept these, yeah.  6 What does everybody else feel about that? Okay. All  7 right. Then do I have a motion to approve these dates  8 as presented?  9 BOARD MEMBER CARLTON: So moved.  10 BOARD PRESIDENT SMITH: All right. Thank  11 you. Is there a second?  12 BOARD MEMBER WILLIAMS: Second.  13 BOARD PRESIDENT SMITH: Second. Thank  14 you. All in favor, say "aye."  15 DENTAL BOARD: "Aye."  16 BOARD PRESIDENT SMITH: Any opposed?  17 (No response.)  18 BOARD PRESIDENT SMITH: All right. Those  19 -- those dates carry.  20 BOARD MEMBER CURTIS: And those are on a  21 Friday?  22 BOARD PRESIDENT SMITH: They're all Fridays,  23 that's right.  24 Okay. That gets us to Subcommittee  25 Reports and Updates, Subcommittee Reports and Updates.</p>	<p style="text-align: right;">Page 16</p> <p>1 so that these Board-approved radiology seminars will  2 provide training not only on the traditional old-school  3 X rays but also on electronic X rays, digital equipment,  4 just modernizing, making sure that these persons have  5 training on traditional and modern equipment.  6 The other changes that are proposed  7 within Regulation 25 are really housekeeping and  8 formatting, really trying to achieve the more readable,  9 easy to understand regulation. It was -- it was quite  10 redundant before. I know it may be a little difficult  11 to parse out and to strike through the underlining,  12 but I think that the committee has done a nice job of  13 really embracing the simplicity of the regulation.  14 So essentially the committee has brought  15 forth the Board's consideration and approval. And  16 in this Regulation 25, specifically is those two  17 requirements I spoke of regarding radiology seminars  18 and what amounts to essentially formatting changes  19 with perhaps some other minor substantive alterations.  20 If you have questions, I would say that  21 myself, Dr. Carlton, or other members of the committee  22 would be happy to take those and answer those if you  23 have any.  24 BOARD PRESIDENT SMITH: Okay. Do you want  25 to get -- that's a motion from the committee to approve</p>
<p style="text-align: right;">Page 15</p> <p>1 Board Regulation 25, proposal for Board approval.  2 BOARD MEMBER CARLTON: Motion.  3 BOARD PRESIDENT SMITH: Dr. Carlton.  4 MR. MUTZIGER: I'll be happy to provide  5 that report on behalf of Dr. Carlton. One moment as  6 I get that pulled up. The Rules and Regulation  7 Subcommittee has been working on various regulations,  8 including Board Regulation 25 which deals with  9 radiology permits. This really began with the Board  10 when they evaluated radiology seminars that offer these  11 trainings for unlicensed persons to obtain a radiology  12 permit. It became clear to the Board that our  13 regulations for the radiology seminars were somewhat  14 lacking and at least one requirement that the Board,  15 or the committee rather, could agree on and really all  16 get on board with was the requirement that each  17 radiology seminar to be a Board-approved radiology  18 seminar shall utilize a full-mouth series of X rays  19 in its training.  20 Furthermore -- one moment while I pull up  21 this language. Furthermore, there is also the addition  22 of evaluation of each participant's ability to --  23 excuse me. That was the previous. Instruction on  24 the use of traditional and digital X ray technology  25 and equipment. The inclusion of that language is just</p>	<p style="text-align: right;">Page 17</p> <p>1 them? Is that what you're saying?  2 MR. MUTZIGER: Correct. It's asking the  3 Board for approval of these changes.  4 BOARD PRESIDENT SMITH: Yes.  5 MR. MUTZIGER: If approved, these changes  6 would then be submitted to the ORLC secretary of  7 state and follow the process of the Administrative  8 Procedures Act.  9 BOARD PRESIDENT SMITH: Okay. If we get  10 a second, we'll have a discussion. Okay. Is there  11 a second to the motion?  12 BOARD MEMBER CURTIS: Second.  13 BOARD PRESIDENT SMITH: Second. Okay.  14 We've got a second. What do y'all think?  15 BOARD MEMBER WILLIAMS: And so I appreciate  16 the striking through lots of verbiage that's  17 unnecessary, first of all, but I didn't see anything  18 in here that talked about providing the series of  19 radiographs that are made back to the patient. And  20 rather than us get to some issue down the road where  21 a patient calls and complains or an office has called  22 and complained that they cannot get the images from  23 a place, I think that there should be something in here  24 that says that the person who makes these images at  25 the school or whomever is going to possess these images</p>

<p style="text-align: right;">Page 18</p> <p>1 will within a certain time period make those available 2 through email or copy or whatever, even if there's a 3 fee, to the patient or to a subsequent treating office. 4 MR. MUTZIGER: That's interesting, Dr. 5 Williams. To be -- to fully disclose the breadth of 6 the discussion of the committee, the committee took 7 into consideration a portion of what you're talking 8 about concerning live patients. I want to be clear, 9 this regulation as it currently stands in terms of 10 the proposed form from the committee does not require 11 the full-mouth series of X rays be utilized on a live 12 patient. It actually would also permit the use of 13 mannequins. 14 Now, it's not that the committee felt 15 that it was inappropriate to utilize a live patient, 16 rather it was that this is a step in the right 17 direction, something that we could agree on, and that 18 we would entertain further consideration of utilizing 19 live patients going forward. 20 Now, with regard specifically to your 21 suggestion, I don't know that we contemplated that. 22 I would say that I would offer perhaps this is 23 something that is already by virtue of the ownership 24 of medical records, there's already a patient's right 25 to those records. But by all means, if the Board</p>	<p style="text-align: right;">Page 20</p> <p>1 committee. 2 BOARD MEMBER CURTIS: Yes. 3 BOARD MEMBER WILLIAMS: I yield to the 4 committee's wisdom, and I just want to make sure 5 that we don't have to chase down something later -- 6 BOARD MEMBER CURTIS: Yeah. 7 BOARD MEMBER WILLIAMS: -- for patients 8 who are potential live patients who show up in an 9 office that cannot procure the images that have been 10 made and then we have to provide more radiation for 11 the patients. 12 BOARD MEMBER CURTIS: Yeah, got you. 13 MR. MUTZIGER: Thank you for the 14 contribution. I think that's something that the 15 committee would be wise to keep in mind potentially 16 as it moves forward considering the use of live 17 patients in that training. 18 BOARD MEMBER CURTIS: Yes. 19 BOARD PRESIDENT SMITH: Well, Dr. Grubbs, 20 do you want to add anything to that? I know that in 21 the past we had wanted live patients because we felt 22 like the dental assistants were not being -- that 23 the radiology permit holders were not being trained 24 up well enough to even take one in a mouth, and they 25 weren't learning the teeth numbers and stuff like that.</p>
<p style="text-align: right;">Page 19</p> <p>1 feels that it's necessary to include such language, 2 it may be a worthy addition. 3 So that's what I can report in terms of 4 our consideration and would yield again to any further 5 discussion on that topic. 6 BOARD MEMBER BIRMINGHAM: I believe these 7 students right now are just taking X rays on each 8 other or either it's the mannequin. I'm not real 9 sure that they're having to bring in a patient and 10 take the X rays. I mean, I think that's a great idea. 11 BOARD MEMBER WILLIAMS: Well, I just 12 assumed that there would be some live patient imaging 13 done. 14 BOARD MEMBER BIRMINGHAM: Well, we could 15 talk all day about that. 16 BOARD MEMBER WILLIAMS: I understand that, 17 and I just assumed. I didn't see anywhere in here 18 where it was said all would be done on a mannequin. 19 BOARD MEMBER CURTIS: Well, I can tell 20 you that the committee spent a considerable amount 21 of time talking about that very issue, probably more 22 than an hour; and I think we're moving in that 23 direction, but this was sort of a baby step towards 24 that. 25 BOARD MEMBER WILLIAMS: I wasn't on the</p>	<p style="text-align: right;">Page 21</p> <p>1 Do you remember that, Lewis? 2 BOARD MEMBER GRUBBS: Yes, sir. And I 3 have no comment about it. 4 BOARD PRESIDENT SMITH: Okay. Is there 5 any more discussion on this? We've got a motion on 6 the floor with a second. So we will vote unless 7 there's any more discussion. 8 BOARD MEMBER LAMPKIN: I have a question. 9 So if this is not passed today that means it will 10 have to go back to the committee until it is 11 something that we all can agree on. Correct? 12 MR. MUTZIGER: That's correct, yes, ma'am. 13 BOARD PRESIDENT SMITH: Okay. Do you want 14 to add anything, Haley? 15 BOARD MEMBER BIRMINGHAM: (Shook head 16 negatively.) 17 BOARD PRESIDENT SMITH: Okay. All right. 18 Let's just see how the vote goes on this one. All 19 in favor, say "aye." 20 DENTAL BOARD: "Aye." 21 BOARD PRESIDENT SMITH: Any opposed? 22 (No response.) 23 BOARD PRESIDENT SMITH: No. The "ayes" have 24 it. Okay. Motion carries. 25 Next on the agenda, Board Regulation 41,</p>

<p style="text-align: right;">Page 22</p> <p>1 proposal for Board approval.</p> <p>2 MR. MUTZIGER: This is perhaps more</p> <p>3 substantive in changes. This is, I would dare say</p> <p>4 exciting, as exciting as rules and regulations can be.</p> <p>5 In attempting to follow the same trend of simplification</p> <p>6 of the Board regulations, there's been a great deal</p> <p>7 of work to simplify, make easier to understand, and</p> <p>8 streamline the regulations regarding continuing</p> <p>9 educational requirements for dentists and dental</p> <p>10 hygienists. So this represents quite a large shift.</p> <p>11 Now, currently in force we have what I</p> <p>12 classify as a very complicated formula for calculating</p> <p>13 continuing education. We have prohibitions on the</p> <p>14 amount of virtual continuing education and we have a</p> <p>15 minimum requirement and then a clinical continuing</p> <p>16 education. We define what clinical continuing</p> <p>17 education is. We provide exceptions for what in-person</p> <p>18 is. The list goes on.</p> <p>19 I fancy myself a math guy, and I struggle</p> <p>20 with it. In examining what we have, we have proposed</p> <p>21 pretty straightforward requirements which allows the</p> <p>22 licensee greater liberty in how to obtain their</p> <p>23 continuing educational requirements while still</p> <p>24 maintaining the same quantity and the same</p> <p>25 Board-approved providers.</p>	<p style="text-align: right;">Page 24</p> <p>1 would only audit dentists, and that way dentists,</p> <p>2 dental hygienists aren't subject to an audit every</p> <p>3 year, but they know that once they renew an audit is</p> <p>4 possible.</p> <p>5 So, of course, alternatively, hygiene</p> <p>6 would be the next year, and it's convenient for the</p> <p>7 staff. It allows us to separate those licensees.</p> <p>8 Overall, I just think it's a good process and equally</p> <p>9 effective at ensuring that people are meeting the</p> <p>10 requirements.</p> <p>11 We've also tried to include various</p> <p>12 requirements that have been mentioned in Board</p> <p>13 minutes over previous years that the Board has really</p> <p>14 operated with a working knowledge of maybe this</p> <p>15 qualifies for CDE credit, this qualifies but weren't</p> <p>16 actually contained in Board regulation. An example</p> <p>17 of that would be calibration of the ADEX. That's</p> <p>18 something that we've now included in this proposed</p> <p>19 rule. I wish I could think off the top of my head</p> <p>20 another example, but these are things that were</p> <p>21 previously voted on by the Board and we're just now</p> <p>22 trying to put everything in one place and have it</p> <p>23 easy to find and easy to use.</p> <p>24 So this does represent quite a departure</p> <p>25 from current practice. I just want to make the Board</p>
<p style="text-align: right;">Page 23</p> <p>1 Essentially, breaking it down, the proposal</p> <p>2 is no longer to require 40 hours with -- what is it?</p> <p>3 -- 50 percent be clinical and these other prohibitions.</p> <p>4 The proposal is straightforward: A dentist must have</p> <p>5 40 hours. Dental hygienists must have 20 hours.</p> <p>6 That's per biannual renewal period, January 1 through</p> <p>7 December 31 of your renewal years.</p> <p>8 And on top of simplifying this, we also,</p> <p>9 I've already alluded to it, we're allowing the</p> <p>10 opportunity for licensees really kind of keeping in</p> <p>11 mind the other licensees, I suppose, the opportunity</p> <p>12 to complete virtual even those virtual interactive</p> <p>13 CE offerings and have those not be limited as to what</p> <p>14 they can submit for meeting this requirement.</p> <p>15 Another change that we are seeking in this</p> <p>16 proposal is how the Board staff conducts business</p> <p>17 regarding CE audits. Presently, every year the Board</p> <p>18 engages in a CE audit of both dentists and dental</p> <p>19 hygienists. It is already a -- it requires time</p> <p>20 organization management. It's not impossible, but</p> <p>21 we believe that it would be simple, streamlined, to</p> <p>22 have upon every renewal an audit of that particular</p> <p>23 practitioner. For example, dentists are renewing now.</p> <p>24 So next March when it comes time to audit licensees</p> <p>25 to see if they comply with their CE requirements we</p>	<p style="text-align: right;">Page 25</p> <p>1 aware of that, but to me it's exciting because I like</p> <p>2 readability. I like for regulations to be easy to</p> <p>3 understand. And it's twofold: It's easy to understand</p> <p>4 for licensees, but your staff has to enforce them as</p> <p>5 well. So I think it serves the staff also.</p> <p>6 BOARD PRESIDENT SMITH: Thank you, Westley.</p> <p>7 Does anybody have a question or do we want to go on</p> <p>8 and get a motion first?</p> <p>9 BOARD MEMBER CURTIS: I move that we pass</p> <p>10 the changes.</p> <p>11 BOARD PRESIDENT SMITH: Dr. Curtis makes</p> <p>12 a motion. Is there a second?</p> <p>13 BOARD MEMBER BIRMINGHAM: Second.</p> <p>14 BOARD PRESIDENT SMITH: Second. Okay.</p> <p>15 Now discussion. The CPR, I noticed the CPR has gone</p> <p>16 from four hours up to eight in there, and there's not</p> <p>17 a live mannequin requirement.</p> <p>18 MR. MUTZIGER: To be clear, Dr. Smith,</p> <p>19 forgive me for interrupting. Do keep in mind that</p> <p>20 the actual CPR requirements are contained in Board</p> <p>21 Regulation 45. Here, where you see CPR referenced</p> <p>22 in Board Regulation 41, that is simply a reference to</p> <p>23 the CPR that you do obtain. Here's what you can apply</p> <p>24 towards your requirement for continuing education,</p> <p>25 and these are the same numbers that are presently</p>

<p style="text-align: right;">Page 26</p> <p>1 utilized by the Board.</p> <p>2 BOARD PRESIDENT SMITH: Okay. I just saw</p> <p>3 a line going through the four and then it said eight,</p> <p>4 you know, at the end of that.</p> <p>5 MR. MUTZIGER: And that could be my fault.</p> <p>6 Going from version to version and tracking changes,</p> <p>7 I try to be an expert but it's -- I blame Microsoft.</p> <p>8 BOARD PRESIDENT SMITH: Okay.</p> <p>9 BOARD MEMBER GRUBBS: So it's 40 hours</p> <p>10 still every two years of Board approved --</p> <p>11 MR. MUTZIGER: That's correct, yes, sir.</p> <p>12 BOARD MEMBER GRUBBS: We can get it any way</p> <p>13 we can.</p> <p>14 MR. MUTZIGER: Yes, sir.</p> <p>15 BOARD MEMBER GRUBBS: So for the CPR, we</p> <p>16 just have to do it in-person?</p> <p>17 MR. MUTZIGER: Correct.</p> <p>18 BOARD MEMBER GRUBBS: I'm for that. I</p> <p>19 just soon do away with all of it except CPR, but I'll</p> <p>20 go with what you've got.</p> <p>21 MR. MUTZIGER: Very good.</p> <p>22 BOARD PRESIDENT SMITH: What is that? You</p> <p>23 don't want to learn anything new?</p> <p>24 BOARD MEMBER GRUBBS: I learn something</p> <p>25 every day. You ought to try that.</p>	<p style="text-align: right;">Page 28</p> <p>1 desk.</p> <p>2 BOARD MEMBER WILLIAMS: No, no, it's not</p> <p>3 -- I don't mean this in an arrogant way, but have you</p> <p>4 ever heard the term "PACE" or "CERP"?</p> <p>5 MR. MUTZIGER: I have.</p> <p>6 BOARD MEMBER WILLIAMS: Okay. Those two</p> <p>7 terms aren't mentioned in here --</p> <p>8 MR. MUTZIGER: They are not.</p> <p>9 BOARD MEMBER WILLIAMS: -- and they are such</p> <p>10 globally recognized that it could probably supercede</p> <p>11 a lot of these individual -- individually listed</p> <p>12 organizations.</p> <p>13 MR. MUTZIGER: And I believe there is maybe</p> <p>14 one more term I forget.</p> <p>15 BOARD MEMBER WILLIAMS: Yes, it is.</p> <p>16 MR. MUTZIGER: Maybe, Denny, you might</p> <p>17 recall. There's a term actually that AADB utilizes --</p> <p>18 BOARD MEMBER LAMPKIN: It's ACE.</p> <p>19 MR. MUTZIGER: AADB is ACE?</p> <p>20 BOARD MEMBER WILLIAMS: ACE, yes.</p> <p>21 MR. MUTZIGER: So ACE PACE is one and then</p> <p>22 also CERP.</p> <p>23 BOARD MEMBER WILLIAMS: Right.</p> <p>24 MR. MUTZIGER: So it's covered by these,</p> <p>25 but I agree that those readily recognizable terms</p>
<p style="text-align: right;">Page 27</p> <p>1 BOARD MEMBER WILLIAMS: Are we discussing</p> <p>2 it?</p> <p>3 BOARD PRESIDENT SMITH: Yes.</p> <p>4 BOARD MEMBER WILLIAMS: So I do have a</p> <p>5 question for the committee. Under 4A, it says,</p> <p>6 Dental or dental hygiene education courses approved</p> <p>7 by the following, and there's a list of places here,</p> <p>8 and Number 10 is blank.</p> <p>9 MR. MUTZIGER: Number 10, it's -- I</p> <p>10 apologize for the confusing nature. If you dig into</p> <p>11 that paragraph you'll find a few words that aren't</p> <p>12 stricken through, and that's the Mississippi Board</p> <p>13 of Medical Licensure.</p> <p>14 BOARD MEMBER WILLIAMS: Okay.</p> <p>15 MR. MUTZIGER: So that's actually Number</p> <p>16 10, and that is something that would be new, but</p> <p>17 really stands to reason that if the Mississippi Board</p> <p>18 of Medical Licensure has recognized an educational</p> <p>19 -- continuing education opportunity as something it</p> <p>20 will approve then I believe that we should keep it for</p> <p>21 our dentists and dental hygienists.</p> <p>22 BOARD MEMBER WILLIAMS: Okay. I want to</p> <p>23 ask a question that is not accusatory in nature, okay,</p> <p>24 but --</p> <p>25 MR. MUTZIGER: I'm going to duck under the</p>	<p style="text-align: right;">Page 29</p> <p>1 aren't used. That would be an easy addition perhaps</p> <p>2 in parentheses or a qualifier that we could add if you</p> <p>3 think that would be beneficial.</p> <p>4 BOARD MEMBER CURTIS: Well, and we did talk</p> <p>5 about that. Certainly, a CERP-approved course would</p> <p>6 be approved, but we also took into consideration</p> <p>7 that if somebody proposed putting on a CE course and</p> <p>8 we reviewed it and it looked valid, it did not</p> <p>9 necessarily have to be a CERP-approved course. In</p> <p>10 fact, we've got one under consideration that's being</p> <p>11 held on the Coast right away. I can't remember the</p> <p>12 subject matter, Westley, what the subject matter of</p> <p>13 that course was. It looked valid, and we looked at</p> <p>14 it and we said well, yes, we have the authority to</p> <p>15 approve that as a valid course even though it's not</p> <p>16 a CERP-approved course. And so I think it's wise of</p> <p>17 us to keep that open. If this Board approves a course</p> <p>18 and if we look at it and we think it's valid, it</p> <p>19 looks good, then it doesn't necessarily have to be</p> <p>20 CERP approved.</p> <p>21 MR. MUTZIGER: And Dr. Curtis, thank you</p> <p>22 for bringing that up. I failed to mention also as a</p> <p>23 proposed change in the regulation onto that very point,</p> <p>24 in 5, we've included a bit of a framework or process</p> <p>25 for the request for Board approval of continuing</p>

<p style="text-align: right;">Page 30</p> <p>1 education courses which we don't currently have. 2 BOARD MEMBER CURTIS: Yes. 3 MR. MUTZIGER: So that is also 4 advantageous for the staff to take it and for the 5 Board members. 6 BOARD MEMBER WILLIAMS: And I was getting 7 to that Number 5 as well, because I appreciate that, 8 this trying to go back and approve a course 9 retroactively, but I personally was kind of hoping 10 that the Board would get out of having to approve a 11 course and let courses go through a certification 12 process from a different organization, and then we 13 could say if it was PACE approved it's automatically 14 approved by this Board rather than the Board itself 15 having to have a committee that does the work of 16 reviewing courses and giving approval for continuing 17 education. Now, I just throw that out there -- 18 MR. MUTZIGER: I would ask that you do 19 this, Dr. Williams, if you have in mind particular 20 courses that you find -- well, hear me out if you 21 would, sir. 22 BOARD MEMBER WILLIAMS: Go ahead. 23 MR. MUTZIGER: Particular courses that 24 you believe are for whatever reason inappropriate for 25 consideration by the Board for approval and better</p>	<p style="text-align: right;">Page 32</p> <p>1 are automatically approved, and you get approval 2 from those accreditation companies then they don't 3 have to come before the Board because you've already 4 done that. So instead of putting the burden on y'all, 5 just put the burden on the course provider. That's 6 my only comment. 7 BOARD MEMBER WILLIAMS: That was exactly 8 where I was headed to with that is that -- I'm fine 9 with this and I appreciate the work that's gone into 10 it. I just think that approving courses is something 11 that we already have agencies that have been created 12 to do that, and I'm not above it, but it seems a little 13 bit like busy work for Board members. Okay. Thank 14 you. 15 BOARD PRESIDENT SMITH: You know, this 16 could -- but the good thing about having this in 17 there is it's kind of a catchall, that if a dentist 18 wants to give a course on practice management and he's 19 not -- doesn't want to get it approved by somebody 20 else, we can approve it because there's a lot of that 21 that goes on at study clubs and meetings, and we do 22 approve that CE. 23 BOARD MEMBER WILLIAMS: Well, I'd like to 24 mention with the Mississippi Dental Association if 25 they do so and they've registered through the MDA, the</p>
<p style="text-align: right;">Page 31</p> <p>1 served approval elsewhere, the challenge is identifying 2 what that category of course is, and that might be 3 something that we could include in a regulation in the 4 future to really carve out here's things the Board 5 will consider and here's things that the Board won't. 6 I don't know what the answer to that is, but I would 7 say that if we could come up with an answer to that we 8 could consider including that also in the regulation. 9 BOARD MEMBER WILLIAMS: So I wasn't 10 necessarily trying to exclude a particular type of 11 course. I was trying to streamline the work of the 12 Board. 13 MR. MUTZIGER: I see. 14 BOARD MEMBER WILLIAMS: And I feel like 15 we've got some people up here that stay pretty busy 16 doing some other things, and getting submissions 17 about approving continuing education.... 18 MR. MUTZIGER: Yes. Mr. Malone is making 19 the point of just the ease of allowing these other 20 entities to grant that approval as opposed to the Board. 21 MR. MALONE: We put the burden on the 22 course provider -- 23 BOARD MEMBER WILLIAMS: That's correct. 24 Instead of the Board itself to approve a course. 25 MR. MALONE: You have these areas that</p>	<p style="text-align: right;">Page 33</p> <p>1 MDA can grant them approval under their MDA license 2 for a study club. 3 Now, if the three of us want to get 4 together one afternoon and study or review some 5 course -- some practice management techniques and/or 6 clinical cases in our office, technically speaking 7 we could say we formed a study club. We meet once a 8 month and we've discussed cases. We need about three 9 hours of CE for that and submit it, and I'm not -- 10 I'm fine with that. I support all forms of continuing 11 education. I just think that -- I -- I'll just stand 12 on what I said. 13 MR. MUTZIGER: I'd offer -- I'd offer -- 14 excuse me. I'd offer this advice: If you're so 15 inclined, and it maybe provide a good service to the 16 Board, when we have things like this to come up for 17 discussion, my only hesitancy really lies in the, 18 and oh, it's a terrible one, it almost falls in a 19 category of we've always done it that way. Right? 20 But there is some tradition of the Board having that 21 avenue for approval. 22 I cannot articulate because I don't have 23 the knowledge as to the justification for that, but 24 one avenue you might explore, if so inclined, is taking 25 a look at what courses the Board has specifically</p>

<p style="text-align: right;">Page 34</p> <p>1 approved over the last few years and kind of taking 2 a look to determine if these courses are so unique 3 that perhaps they could not obtain approval otherwise, 4 or are they not and we're absolutely capable of 5 obtaining approval, and that might provide a good gold 6 star for eliminating this requirement. 7 BOARD MEMBER WILLIAMS: I would submit 8 that all the courses that we've approved would have 9 met the approval for PACE and/or CERP, but there's a 10 fee and there's a -- there is a process that a course 11 provider has to go through to obtain that certification 12 and that's all it is. I mean, they can do that as 13 easily with that organization as they could do with, 14 you know, the Board of Dental Examiners, and it would 15 seem like it would help standardize the work of the 16 auditing process and making it more -- simplify 17 potentially what a dentist or dental hygienist would 18 say is this course going to be approved for my CE stuff. 19 Okay? 20 And that's -- I know you guys on the 21 committee have done great work. I appreciate it. I 22 just -- that's my only comment. Thank you. 23 BOARD PRESIDENT SMITH: Okay. Is there 24 any more discussion on the motion before we get a vote? 25 All right. The motion has been made and seconded. All</p>	<p style="text-align: right;">Page 36</p> <p>1 BOARD PRESIDENT SMITH: Okay. All right. 2 Is there a motion to approve the Regulation 47? 3 BOARD MEMBER WILLIAMS: Is he bringing it 4 as a motion? 5 BOARD PRESIDENT SMITH: Is it a motion 6 from any of the committees or just -- 7 MR. MUTZIGER: It would be from any member 8 of the Board. 9 BOARD MEMBER WILLIAMS: It's not from the 10 Rules and Reg Committee? 11 MR. MUTZIGER: No, it's not. 12 BOARD MEMBER WILLIAMS: So moved. 13 BOARD PRESIDENT SMITH: All right. There's 14 a motion. Is there a second? 15 BOARD MEMBER BIRMINGHAM: Second. 16 BOARD PRESIDENT SMITH: Second. Thank 17 you. Now discussion. This is the UROLA law that the 18 legislature passed, so why are we having to do this? 19 MR. MUTZIGER: Because the law actually 20 requires that agencies develop regulations to 21 implement it. It's largely a recitation of the law 22 that exists, but, hey, we're doing what we're told. 23 MR. MALONE: For housekeeping. 24 BOARD PRESIDENT SMITH: Oh, okay. All 25 right. All in favor of the motion, say "aye."</p>
<p style="text-align: right;">Page 35</p> <p>1 in favor, say "aye." 2 DENTAL BOARD: "Aye." 3 BOARD PRESIDENT SMITH: Any opposed? 4 (No response.) 5 BOARD PRESIDENT SMITH: No. Motion carries. 6 Next on the agenda, Board Regulation 47. 7 MR. MUTZIGER: This is merely a notification. 8 The Board received no public comments regarding its 9 filing for licensure by reciprocity. These are the 10 provisions that address specifically UROLA, 11 Universal Recognition of Licensure, as well as the 12 Military Family Freedom Act. So barring any debate 13 or direction otherwise, I will proceed with the next 14 step which is to, in fact, submit this at the OLRC 15 as a proposed final rule. I would just be continuing 16 in that process, once again, if the Board has no 17 objection. 18 The purpose of me making that report is 19 we've gone through a public comment period though we 20 received no public comments. So there essentially is 21 nothing from the public to discuss on that particular 22 filing. 23 BOARD PRESIDENT SMITH: Okay. Do we need 24 to -- do we need to vote on this? 25 MR. MUTZIGER: Yes.</p>	<p style="text-align: right;">Page 37</p> <p>1 DENTAL BOARD: "Aye." 2 BOARD PRESIDENT SMITH: Any opposed? 3 (No response.) 4 BOARD PRESIDENT SMITH: No. It carries. 5 Thank you. 6 All right. Credentialing. Dr. Curtis, 7 do you have a -- 8 BOARD MEMBER CURTIS: Nothing to report. 9 BOARD PRESIDENT SMITH: Nothing. All right. 10 Dr. Lampkin, legislative. Have you got 11 any -- 12 BOARD MEMBER LAMPKIN: Nothing to report. 13 BOARD PRESIDENT SMITH: Licensure exam. 14 Dr. Williams. 15 BOARD MEMBER WILLIAMS: So I had hoped to 16 get to speak to Dr. Carr this morning about the hygiene 17 exam, the CDCA exam on anesthesia, and so I'm not 18 prepared to make a recommendation, but she asked last 19 time about whether or not we would require the hygiene 20 candidates to take the CDC exam on anesthesia for a 21 clinical portion and a didactic portion. And I'm not 22 prepared to make a recommendation on that today, but I 23 do think that we need to give that serious 24 consideration. 25 MR. MUTZIGER: And I apologize. I don't</p>

<p style="text-align: right;">Page 38</p> <p>1 know that I was aware that you were engaged in that 2 communication or maybe I did not recognize that in 3 your position as that chair the need to communicate 4 to you, but I do want to let you know the staff has 5 looked at that issue. And according to the reading of 6 our regulation, I would advise that our staff really 7 is currently adopting the position. Of course, if 8 the Board wanted to change that we could, but I would 9 advise that the clinical portion is not, in fact, 10 required. By wording of the regulation, merely the 11 -- I guess you would classify it as didactic or the 12 test-taking portion is all that's required for the 13 local anesthesia exam. 14 BOARD MEMBER WILLIAMS: And that's been 15 communicated to the licensees as they will -- 16 MR. MUTZIGER: It is. I can't speak to 17 communications to licensees, but it's clear amongst 18 our staff evident on the application materials of 19 what's required. 20 BOARD MEMBER WILLIAMS: Okay. So should 21 the Board -- is it necessary to even pursue this any 22 further? 23 MR. MUTZIGER: I see no need. 24 BOARD MEMBER WILLIAMS: Very good. Thank 25 you.</p>	<p style="text-align: right;">Page 40</p> <p>1 again. 2 BOARD PRESIDENT SMITH: Really? 3 BOARD MEMBER BIRMINGHAM: It was pretty 4 tough, yeah. My nose was down in the books for eight 5 weeks straight. I didn't see my husband. So the book 6 was written by Demetria (unintelligible), and I'm 7 sorry if I'm pronouncing that wrong. So she put that 8 together and wrote the book. It's got about 18 9 chapters. We went through each chapter, took a test 10 after each chapter, and then at the end we took an exam, 11 a big exam. And then went and actually gave the 12 injections on each other and then took a CDCA exam. 13 So it's pretty thorough. Very thorough. It's very 14 thorough, yes. 15 BOARD PRESIDENT SMITH: So when you read 16 it and took the exam, was it online? Is that how you 17 do it? 18 BOARD MEMBER BIRMINGHAM: Yes. It's 19 online. 20 BOARD PRESIDENT SMITH: Okay. 21 BOARD MEMBER GRUBBS: Well, congratulations. 22 BOARD MEMBER BIRMINGHAM: Well, thank you, 23 Dr. Grubbs. 24 BOARD MEMBER GRUBBS: I am so proud of that. 25 BOARD MEMBER BIRMINGHAM: And you signed</p>
<p style="text-align: right;">Page 39</p> <p>1 BOARD PRESIDENT SMITH: What's our status 2 on the application? Are we going to cover that? 3 MR. MUTZIGER: I'll defer to Denny to 4 answer that question. 5 EXECUTIVE DIRECTOR HYDRICK: The status on 6 the application for -- so we have issued eight permits, 7 I believe, to date. The application is available and 8 we are receiving and issuing applications. 9 BOARD MEMBER GRUBBS: I think, Ms. 10 Birmingham, haven't you been approved for that? 11 BOARD MEMBER BIRMINGHAM: I have. 12 EXECUTIVE DIRECTOR HYDRICK: She has. 13 BOARD MEMBER GRUBBS: Maybe she was the 14 first one. 15 EXECUTIVE DIRECTOR HYDRICK: She was the 16 first permit issued in the state of Mississippi. 17 BOARD PRESIDENT SMITH: So did you take 18 the didactic part or whatever -- 19 BOARD MEMBER BIRMINGHAM: I took it all. 20 BOARD PRESIDENT SMITH: Was it a tough area? 21 BOARD MEMBER BIRMINGHAM: It's very 22 difficult. 23 BOARD PRESIDENT SMITH: Difficult. 24 BOARD MEMBER BIRMINGHAM: Yes. The class 25 was very -- having to relearn neurophysiology all over</p>	<p style="text-align: right;">Page 41</p> <p>1 it. Your name is on it and it's in a frame. 2 BOARD MEMBER GRUBBS: Just remember I can 3 revoke it, too. 4 BOARD MEMBER BIRMINGHAM: Good luck. 5 MR. MUTZIGER: That was warmly received 6 at AADP as well. 7 BOARD MEMBER BIRMINGHAM: Yes. 8 MR. MUTZIGER: The State is proud of you. 9 BOARD PRESIDENT SMITH: How many states 10 are still not -- 11 BOARD MEMBER LAMPKIN: I think just one. 12 They just got a lawyer. We're like one of the last. 13 BOARD MEMBER BIRMINGHAM: We beat Texas, 14 though. 15 MR. MUTZIGER: We beat somebody. 16 BOARD MEMBER BIRMINGHAM: We beat somebody. 17 BOARD PRESIDENT SMITH: Okay. All right. 18 The next committee, Practice Act Review, Ms. 19 Birmingham, Anything on that? 20 BOARD MEMBER BIRMINGHAM: I have nothing 21 to report. 22 BOARD PRESIDENT SMITH: Okay. Budget and 23 finance. Dr. Grubbs. 24 BOARD MEMBER GRUBBS: Well, let's see. 25 Denny, do we have anything to report?</p>

<p style="text-align: right;">Page 42</p> <p>1 EXECUTIVE DIRECTOR HYDRICK: So you and I 2 met late July or early August to review the fiscal 3 year '25 budget. And at the request of the Board at 4 our last meeting, that's it. Denise will be here in 5 a few minutes to present the first quarter financials 6 to the Board. 7 BOARD MEMBER GRUBBS: I thought we did 8 something. 9 BOARD PRESIDENT SMITH: Okay. All right. 10 Next on the agenda is the anesthesia application for 11 Dr. Kathryn Boyd. Ms. Lou, are you going -- 12 MS. SIMS: Yes. 13 BOARD PRESIDENT SMITH: -- to tell us 14 anything? Is everything okay or.... 15 MS. SIMS: As far as to for Kathryn Boyd, 16 she just graduated from pediatric residency. She 17 got her specialty in July and now she was applying 18 for her Class II anesthesia permit. As you see, 19 everything is attached. Everything has been primary 20 source verified and approved by the A. 21 BOARD PRESIDENT SMITH: Has your committee 22 got it approved? They approved it to Dr. Crawford? 23 MS. SIMS: Yes. 24 BOARD PRESIDENT SMITH: Okay. All right. 25 MS. SIMS: But it's Dr. Green because the</p>	<p style="text-align: right;">Page 44</p> <p>1 BOARD PRESIDENT SMITH: All right. Dr. 2 Lampkin. Is there a second? 3 BOARD MEMBER BIRMINGHAM: Second. 4 BOARD MEMBER WILLIAMS: Second. 5 BOARD PRESIDENT SMITH: Okay. Dr. Williams. 6 Thank you. All in favor, say "aye." 7 DENTAL BOARD: "Aye." 8 BOARD PRESIDENT SMITH: Any opposed? 9 (No response.) 10 BOARD PRESIDENT SMITH: No. Motion carries. 11 All right. The second. 12 DEPUTY DIRECTOR VAUGHN: Okay. The second 13 request is from a Dr. Mai Lat, issued a license in '22 14 requesting the name Hidden Gem Dental Care. The 15 location is going to be 1508 West 10th Street in 16 Laurel, Mississippi. They do not have approval yet 17 from the secretary of state either. They're requesting 18 Hidden Gym Dental Care. 19 BOARD PRESIDENT SMITH: Okay. 20 BOARD MEMBER CARLTON: I thought it had 21 to say General Family. 22 DEPUTY DIRECTOR VAUGHN: It just cannot 23 be misleading. 24 BOARD PRESIDENT SMITH: I think Hidden Gem 25 is the name of a street, isn't it, in Gulfport? I</p>
<p style="text-align: right;">Page 43</p> <p>1 email is attached. 2 BOARD PRESIDENT SMITH: Okay. All right. 3 Is there a motion then to approve Dr. Boyd for 4 anesthesia, Class II? 5 BOARD MEMBER CARLTON: So moved. 6 BOARD PRESIDENT SMITH: So moved. Is there 7 a second? 8 BOARD MEMBER LAMPKIN: Second. 9 BOARD PRESIDENT SMITH: Second, Dr. Lampkin. 10 All in favor, say "aye." 11 DENTAL BOARD: "Aye." 12 BOARD PRESIDENT SMITH: Any opposed? 13 (No response.) 14 BOARD PRESIDENT SMITH: No. Motion carries. 15 All right. Corporate trade names, 16 applications. Ms. Tiffany Vaughn. 17 DEPUTY DIRECTOR VAUGHN: The first one 18 that you will see in front of you is by Dr. Taylor 19 Campbell was issued a license in '21. They are 20 requesting the name of Campbell Family Dental. The 21 location is going to be 331 West Gallatin Street in 22 Hazlehurst, Mississippi. 23 BOARD PRESIDENT SMITH: Okay. Is there a 24 motion to approve the name Campbell Family Dental? 25 BOARD MEMBER LAMPKIN: So moved.</p>	<p style="text-align: right;">Page 45</p> <p>1 saw that in one of the other applications. Okay. I 2 didn't know that was a street name, but this is in 3 Laurel? 4 DEPUTY DIRECTOR VAUGHN: Yes, sir. 5 BOARD MEMBER GRUBBS: Are you serious? 6 BOARD PRESIDENT SMITH: Yes. There is a 7 street named Hidden Gem. 8 BOARD MEMBER GRUBBS: In Laurel? 9 BOARD PRESIDENT SMITH: No, no, in Gulfport. 10 I think it's in Gulfport. 11 BOARD MEMBER GRUBBS: I thought you had a -- 12 BOARD PRESIDENT SMITH: No, no. I mean, 13 it's almost a misleading name, you know, but if it 14 was a street then it would be perfectly okay. All 15 right. Is there a motion to approve the name "Hidden 16 Gem"? 17 BOARD MEMBER WILLIAMS: I'll make a motion. 18 BOARD PRESIDENT SMITH: Okay. All right. 19 Thank you. Is there a second? 20 BOARD MEMBER CARLTON: I'll second that. 21 BOARD PRESIDENT SMITH: All right. Dr. 22 Carlton. Any discussion on that? Do you want to 23 say anything about that? 24 BOARD MEMBER GRUBBS: I'll vote. 25 BOARD PRESIDENT SMITH: Okay. All in favor,</p>

<p style="text-align: right;">Page 46</p> <p>1 say "aye."  2 DENTAL BOARD: "Aye."  3 BOARD PRESIDENT SMITH: Any opposed? No?  4 BOARD MEMBER GRUBBS: No.  5 BOARD PRESIDENT SMITH: One no. The motion  6 carries.  7 All right. All right. Next on the agenda,  8 UROLOA applications. This will get everybody going,  9 I bet. Dr. Camille Tabor Cobb is applying -- she's  10 from Memphis, I think.  11 BOARD MEMBER LAMPKIN: Yes, Tennessee.  12 BOARD PRESIDENT SMITH: And she's applying  13 for a UROLA -- a dental license through the UROLA.  14 Who wants to --  15 EXECUTIVE DIRECTOR HYDRICK: I just think  16 we need to get some additional information.  17 BOARD PRESIDENT SMITH: Yes, yes, because  18 we've -- I went crazy on this one.  19 EXECUTIVE DIRECTOR HYDRICK: So this request,  20 this dentist works for a group called 360 Care. So  21 this applicant works for a group called 360 Care, and  22 they offer various services to nursing homes, and one  23 of those services being dentistry. And so they are  24 seeking to get a licensed provider in the state of  25 Mississippi and then will make application for a</p>	<p style="text-align: right;">Page 48</p> <p>1 documentation, but would meet the qualifications to be  2 licensed in Mississippi under credentialing. So, you  3 know, I don't think there's a barrier to eventually  4 getting her licensed. It's just this specific pathway  5 what makes this issue a little cloudy is that though  6 she's employed, the agency itself yet does not have  7 any actual contracts in the state of Mississippi.  8 Does that make sense?  9 BOARD MEMBER GRUBBS: You said two things  10 that bothered me.  11 EXECUTIVE DIRECTOR HYDRICK: Okay.  12 BOARD MEMBER GRUBBS: We need some  13 additional confirmation and the word "cloudy."  14 EXECUTIVE DIRECTOR HYDRICK: Well, it's  15 cloudy under the UROLA pathway. The UROLA pathway,  16 Universal Recognition of Occupational Licensing Act,  17 requires residency in Mississippi or proof of  18 employment in the state of Mississippi. So what  19 clouds this application pathway is that that's not  20 established clearly. There's the intent to be employed  21 in Mississippi, but there's yet to be a contract for  22 employment in the state of Mississippi. So it's  23 cloudy under the pathway for licensure is what I meant.  24 BOARD MEMBER WILLIAMS: And she's a  25 resident of Tennessee. Correct?</p>
<p style="text-align: right;">Page 47</p> <p>1 mobile unit to come in to Mississippi and serve  2 nursing home residents.  3 BOARD MEMBER GRUBBS: And who owns this?  4 EXECUTIVE DIRECTOR HYDRICK: So this  5 company is owned by I think it's actually Dr. Phelps.  6 It started out as a Vision and that's why it says  7 Phelps Vision Center, LLC. It started as a service  8 just to do optometry for nursing homes, and so  9 they've added multiple different types of services.  10 So I spoke with Michael Sams who is the  11 vice president of provider relations for 360 Care, and  12 he confirmed that they are not providing any services  13 in the state of Mississippi at this time. They have  14 -- they are seeking to get a licensed dentist and  15 then they will make application and begin seeking  16 contracts with nursing homes in the state.  17 I think it's -- where it's a little gray  18 -- and I will just defer to Westley, where it's gray  19 is the intent behind UROLA. Pathway is residency or  20 employment in the state of Mississippi. In this  21 particular case, there's -- they can't say that there's  22 employment in Mississippi because there's no contracts  23 with any nursing homes in Mississippi.  24 Now, this dentist would meet the -- well,  25 by my estimation, we would need some additional</p>	<p style="text-align: right;">Page 49</p> <p>1 EXECUTIVE DIRECTOR HYDRICK: Correct.  2 BOARD MEMBER WILLIAMS: And intends to  3 continue to live --  4 EXECUTIVE DIRECTOR HYDRICK: Under UROLA,  5 yes, they can as long as they work -- Westley --  6 MR. MUTZIGER: What was the question?  7 EXECUTIVE DIRECTOR HYDRICK: -- you can  8 interject if I'm wrong. Can she continue to live in  9 Tennessee. And yes, that's true, under UROLA, a  10 licensee can still live in another state, but if  11 they have employment in the state of Mississippi  12 they can still be licensed under....  13 MR. MUTZIGER: I would tend to agree. I  14 mean, there's no enforcement mechanism identified by  15 the UROLA statute. It really appears to be a mechanism  16 to get people in and licensed and get people to work,  17 and we don't have recourse even if we suspect they're  18 not a resident.  19 As Drew and I are sitting here talking,  20 you know, a couple of things just stand out. It is  21 interesting that she's not a United States citizen,  22 so it would be to our benefit to at least verify her  23 legal authority to work in the United States. I  24 presume that that's going to be present given that she  25 has a license in Tennessee and a DEA, but as we talk</p>

<p style="text-align: right;">Page 50</p> <p>1 about the requirement, as Denny is stating, it doesn't 2 sound like this qualifies as a letter of either current 3 or prospective employment. You know, you would say 4 that -- I'm going to speak for you now. We would say 5 that by virtue of that company not having an existing 6 contract, what we have is really a job offer with the 7 stated intent that we're going to try to work in 8 Mississippi, and so an offer that doesn't meet the 9 requirements for UROLA. 10 MR. MALONE: It seems premature at this 11 point because, you know, I've got two requirements 12 and neither one of them are being met. 13 EXECUTIVE DIRECTOR HYDRICK: I think it's 14 just the wrong application type. I think she should 15 apply through credentialing. 16 BOARD MEMBER GRUBBS: Where did she go to 17 dental school? Is it a he or she? 18 EXECUTIVE DIRECTOR HYDRICK: She. 19 DEPUTY DIRECTOR VAUGHN: Tennessee. 20 BOARD MEMBER GRUBBS: Where did she go to 21 dental school? 22 BOARD MEMBER LAMPKIN: University of 23 Tennessee. 24 BOARD PRESIDENT SMITH: It's Tennessee, 25 UT.</p>	<p style="text-align: right;">Page 52</p> <p>1 EXECUTIVE DIRECTOR HYDRICK: Okay. 2 BOARD MEMBER GRUBBS: Motion. 3 BOARD PRESIDENT SMITH: A motion to reject? 4 All right. 5 BOARD MEMBER LAMPKIN: Second. 6 BOARD PRESIDENT SMITH: All right. Thank 7 you. All in favor, say "aye." 8 DENTAL BOARD: "Aye." 9 BOARD PRESIDENT SMITH: Any opposed? 10 (No response.) 11 BOARD PRESIDENT SMITH: Okay. 12 BOARD MEMBER WILLIAMS: I do have a 13 question. If we reject the application, do we refund 14 her money? 15 BOARD PRESIDENT SMITH: Well, that's what 16 we were talking about. 17 BOARD MEMBER WILLIAMS: I understand. But 18 if we've rejected the application, I would say we don't 19 refund the money. If we've tabled it, we have said you 20 can reapply to a different category or something. 21 BOARD PRESIDENT SMITH: Leave that up to 22 the finance people. 23 EXECUTIVE DIRECTOR HYDRICK: So by our 24 regulations, all application fees are nonrefundable. 25 MR. MUTZIGER: That's right.</p>
<p style="text-align: right;">Page 51</p> <p>1 EXECUTIVE DIRECTOR HYDRICK: University 2 of Tennessee, right. 3 BOARD PRESIDENT SMITH: So can we refund 4 the money? Do we refund the money? 5 EXECUTIVE DIRECTOR HYDRICK: Well, it's 6 the same application amount, and really UROLA, it 7 falls under the credentialing statute. So I think 8 we could just do an internal change and just ask her 9 to apply under credentialing. It's just going to 10 mean that she's got to apply -- or send in additional 11 documentation that she doesn't have to under UROLA, 12 and so as soon as we get that documentation then we 13 would license her under credentialing if she meets 14 the requirement. 15 Lou, am I saying anything incorrectly? 16 MS. SIMS: That's right. 17 EXECUTIVE DIRECTOR HYDRICK: Okay. Well, 18 let's table it. 19 BOARD PRESIDENT SMITH: No, I'm going to 20 go ahead and vote on it. We're going to vote because 21 this -- this shouldn't even be brought up here, you 22 know. They don't have a corporation in Mississippi. 23 She's not employed in Mississippi, and this promise 24 junk is just junk. So it's black and white. We 25 shouldn't even be voting on this, you know.</p>	<p style="text-align: right;">Page 53</p> <p>1 EXECUTIVE DIRECTOR HYDRICK: And so we'll 2 work it out internally. 3 BOARD PRESIDENT SMITH: Thank you. 4 EXECUTIVE DIRECTOR HYDRICK: And the 5 practice is we do not refund application fees. 6 BOARD MEMBER GRUBBS: How much was it? 7 BOARD PRESIDENT SMITH: 2500. And did 8 y'all check on the Phelps Vision Center Dental in 9 Madison, Mississippi? Did y'all pull -- did y'all 10 check that 11 out? 12 EXECUTIVE DIRECTOR HYDRICK: I called the 13 number which is a Kentucky number, and it just sent 14 me to this 360 group, and, you know, I don't know -- 15 I started to get in my car and just ride out there and 16 see. I think it's just a -- 17 BOARD MEMBER GRUBBS: It may be a post 18 office box. 19 EXECUTIVE DIRECTOR HYDRICK: -- an office 20 for an optometrist. I think it is, but I can't verify 21 that. But we did verify that this organization is 22 registered with the state -- secretary of state. 23 BOARD MEMBER GRUBBS: I think if you start 24 dropping \$2500 a clip you'll get your ducks in a row 25 and we'll do it right.</p>

<p style="text-align: right;">Page 54</p> <p>1 BOARD PRESIDENT SMITH: All right. Next 2 on the agenda is dental hygienist Carla Rowell. 3 Does she meet all of the requirements to be UROLA'd? 4 MS. SIMS: She does have a license in 5 another state, and she did send in a Sparklight 6 invoice with her name and address on it to prove, 7 supposedly, residency. 8 EXECUTIVE DIRECTOR HYDRICK: I believe 9 Sparklight is an internet service, and then you bill. 10 MS. SIMS: A driver's license is attached. 11 BOARD PRESIDENT SMITH: Is the driver's 12 license in Mississippi? 13 MS. SIMS: Yes. 14 BOARD PRESIDENT SMITH: Oh, okay. Okay. 15 I haven't gotten down to that yet, I guess. Oh, yeah. 16 Okay. Then is there a motion to approve Ms. Carla 17 Rowell? 18 BOARD MEMBER BIRMINGHAM: I'll motion to 19 approve. 20 BOARD PRESIDENT SMITH: All right. There's 21 a motion. A second? 22 BOARD MEMBER LAMPKIN: Second. 23 BOARD PRESIDENT SMITH: Second, Dr. Lampkin. 24 Thank you. All in favor, say "aye." 25 DENTAL BOARD: "Aye."</p>	<p style="text-align: right;">Page 56</p> <p>1 So I can see pros and cons to the exam 2 versus what we do here. They were very nice and very 3 welcoming. They did have some students to fail but 4 that was here nor there. But overall, I do see that 5 it is a good exam. I just fear that with them having 6 the same -- detect like the same caries lesion in 7 the same area is not going to really test our students 8 on like clinical knowledge, knowing when to continue 9 going or what exactly is caries because they don't 10 really have modifications. Students don't have to 11 ask for modifications when it comes to the restorative 12 part because it's at the ideal level, and their goal 13 is to not test how well the student knows where it 14 is but to know how to do it. So that's what I 15 attained from the exam. 16 BOARD PRESIDENT SMITH: How about testing 17 time? Do they shorten the time? 18 BOARD MEMBER LAMPKIN: It is -- I think 19 they are going to shorten -- 20 EXECUTIVE DIRECTOR HYDRICK: We have 21 Dr. Edwards and Sheli from CRDTS online, and they 22 can also speak. If you have questions, I wanted you 23 to know they were on the line. 24 BOARD MEMBER LAMPKIN: Yes. I think they 25 are going to make some modifications to the time as</p>
<p style="text-align: right;">Page 55</p> <p>1 BOARD PRESIDENT SMITH: Any opposed? 2 (No response.) 3 BOARD PRESIDENT SMITH: No. Okay. 4 EXECUTIVE DIRECTOR HYDRICK: Okay. Dr. 5 Smith, the next one will be tabled. 6 BOARD PRESIDENT SMITH: Tabled. 7 DEPUTY DIRECTOR HYDRICK: Yes. 8 BOARD PRESIDENT SMITH: All right. That's 9 Ashlee Victor. We're going to table that. 10 Number 10 (sic) on the agenda is the 11 Report to the Board of the CRDTS observation with 12 Dr. Lampkin. 13 BOARD MEMBER LAMPKIN: Okay. It was a 14 great trip. I will say that. CRDTS is very 15 standardized, so I feel like that is a limitation 16 with their exam, and meaning that, like, where the 17 caries may be, it's the exact same on each tooth. 18 As far as for pros, they provide the 19 putty matrices for checking clearance and things like 20 that. That's already made for the students. And one 21 positive that I will say about the pros exam, it's 22 more up-to-date. They do, like, full contour 23 zirconium. They do porcelain crowns. As far as like 24 PFM and gold, they do not do anymore. They do an 25 Emax for Number 8. Of course, endo is still the same.</p>	<p style="text-align: right;">Page 57</p> <p>1 well. So if you wanted to jump in at any time, please. 2 DR. EDWARDS: All right. This is Dr. 3 Edwards. If y'all can hear me, good morning. And 4 I'm sorry I'm bouncing in between checking patients 5 and things, so I've got a good window here. I think 6 I'd just like to kind of expound a little bit on 7 what Dr. Lampkin said. And first of all, Dr. Lampkin, 8 it was awesome having her there. This is her first 9 exam to ever observe, so she really got to see -- it 10 was only an endo pros exam, but she really got to 11 see how things work both in calibration with the 12 examiners but also out on the floor with the students 13 working with the clinic floor examiners. So I think 14 -- you know, I think it was a really good experience. 15 The point I think on standardization that 16 I'd like to say is that -- and I don't know on the 17 Board of Dental Examiners in Mississippi how many of 18 you all being -- I don't need names, but how many of 19 you all have examined in the past? Is it one, two, 20 three? About how many? 21 BOARD MEMBER WILLIAMS: Why does that 22 matter? 23 BOARD PRESIDENT SMITH: Yeah, I don't 24 know that that matters. Probably six of us have 25 examined.</p>

<p style="text-align: right;">Page 58</p> <p>1 DR. EDWARDS: Okay, okay. I just wanted 2 to know so I kind of would know how deep to go into 3 this explanation, but those of you that have examined, 4 you know -- you know, on the endo part of the exam 5 there's no caries. And I'm talking about any agency's 6 exam be it a CWC or CRDTS or SRTA, they're all really 7 the same teeth. And, I mean, recently SRTA has gone 8 to Kilgore teeth but essentially it's the same number 9 tooth. There's no -- you know, it's unlike clinical 10 practice in that there's no -- there's no caries. 11 There's no broken down tooth structure. 12 The same on the pros part. You know, 13 you're working on what we would call a virgin tooth, 14 a tooth that has no caries, no previous restoration, 15 not really congruent to what we do in clinical practice. 16 And on a perio exam, you know, it depends 17 on the agency, but certainly with -- if you're familiar 18 with the CWC exam, the candidate is given 12 surfaces 19 of calculus. They're told where the calculus is, and 20 then they remove the calculus. It's a scaling-only 21 exam. 22 So there is a -- you know, the target 23 audience is the entry level, what a psychometrician 24 is going to call a minimal competency candidate. We 25 don't necessarily -- a lot of us don't like that word</p>	<p style="text-align: right;">Page 60</p> <p>1 in a simulated world, and that would be having everyone 2 on a level playing field. So independent judgment 3 is really evaluated rather than a random assignment 4 of variable teeth, and that's I think our -- I think 5 some of what we're talking about when we say 6 standardization or variability in caries where I 7 don't want to -- I don't want to confuse those words, 8 that standardization is we want everyone kind of 9 being measured equally, and I equate it to -- I 10 mean, I come from a track family. So a time trial 11 -- say an Olympic time trial in hurdles, we want all 12 the contestants to have -- you know, they're going 13 to start at the same time. They've got the same 14 number of hurdles to clear. What would happen in 15 Lane 1 if we put three hurdles up, Lane 2 we put five, 16 Lane 3 we put seven, Lane 4 we put ten. We have 17 people that are almost the same speed but at the end 18 they're not going to -- they're not going to finish 19 the same. Those hurdles are variable caries. Okay? 20 And in a psychometric world, we have to measure people. 21 To have that exam be valid, it has to correctly 22 identify those individuals that are not safe for 23 independent practice. We have to accurately be able 24 to do that. 25 But on the other hand, you know, we really</p>
<p style="text-align: right;">Page 59</p> <p>1 "minimal competency," but that's the word that's used 2 in psychometrics. 3 And I was with you all. I mean, I've 4 examined for 26 years and taught for 35. It took me 5 a long time. In fact, it took me until I took this 6 position at CRDTS in this current role to really 7 understand what's the difference between a 8 psychometrically valid exam versus what my personal 9 opinion is and what I want to see. 10 And all I'd say on the dental caries part 11 is that the other parts of the exam don't do anything 12 addressing dental caries or broken down tooth 13 structure. It's essentially a hand skill assessment, 14 how well can you prepare a tooth or a crown prep to 15 these standards. And the thought as we moved from 16 patient-based where there was variety and some would 17 say, you know, as I'm sure you all as examiners would 18 see that, you know, sometimes a candidate would fail 19 because of the difficulty of a lesion that was brought 20 in. You know, but at least on a patient-based exam 21 they knew that. 22 In the stimulated world and when COVID 23 hit and now we've flipped and we're doing simulation, 24 that, you know, CRDTS felt like we should take -- we 25 should embrace the strong point of what could happen</p>	<p style="text-align: right;">Page 61</p> <p>1 can't exclude those that are, and there's no way to 2 know within -- when you do randomly assign teeth of 3 different difficulties. And so that's our point: 4 There is variety in the CRDTS tooth but it's going to 5 keep the candidate within the ideal prep which is 6 consistent with all agencies' exams and all the other 7 parts of the exam. So consistency is really important. 8 And I know we -- you know, like I said, 9 we're battling clinical -- our clinical opinion versus 10 the psychometric result, and at the end of the day 11 it's the validity of the exam that we're really 12 counting on to identify those people and protect the 13 safety -- health, safety, and welfare of the people 14 of Mississippi. 15 So that's where we're coming from, and I'm 16 sorry it took me a way to kind of explain that, but 17 that's the reasoning behind that. 18 MS. COBLER: If I might add to Dr. Edwards, 19 if you don't mind, I think the question before the 20 Board today is whether the CRDTS exam is a valid exam 21 for minimal competency for licensure, and I think 22 that we've proven -- you know, you've seen our exam, 23 that that small difference that you are -- that some 24 Boards are noting in the, quote, variability, is that 25 enough to determine that the CRDTS exam is not valid</p>

<p style="text-align: right;">Page 62</p> <p>1 for licensure, and I don't think it is.</p> <p>2 And we have to also think about restriction</p> <p>3 of trade. You know, there are -- there are great laws</p> <p>4 in this country that don't allow for people to restrict</p> <p>5 trade, and because the CRDTS exam is a valid exam I</p> <p>6 would just ask the Board to consider whether, you know,</p> <p>7 and a clinical opinion, which many people agree with,</p> <p>8 is enough to keep that exam from being accepted in</p> <p>9 Mississippi as it is in 40 other states, and all of</p> <p>10 the surrounding states of Mississippi, your bordering</p> <p>11 states, other than Louisiana.</p> <p>12 So I think it's really a question of</p> <p>13 validity and does this exam meet your requirements,</p> <p>14 and I think the answer is yes. So I hope that the</p> <p>15 Board will see fit to accept the exam for initial</p> <p>16 licensure as it does for credentialing.</p> <p>17 BOARD PRESIDENT SMITH: Does anyone have</p> <p>18 a question for Dr. Edwards while he's there or her?</p> <p>19 BOARD MEMBER WILLIAMS: Did Louisiana</p> <p>20 accept the exam?</p> <p>21 BOARD PRESIDENT SMITH: He said Louisiana</p> <p>22 did not.</p> <p>23 MS. COBLER: They're looking at it. They</p> <p>24 have not yet, but they are looking at it.</p> <p>25 MR. MUTZIGER: You mentioned that -- this</p>	<p style="text-align: right;">Page 64</p> <p>1 MS. COBLER: Oh, well, I don't know. I</p> <p>2 don't know what the other states' concerns are</p> <p>3 specifically. They've -- we've not addressed that</p> <p>4 with them yet, but I know that Louisiana and you and</p> <p>5 Virginia have mentioned that as a difference in the</p> <p>6 exam. Now, they have not noted it as a problem</p> <p>7 necessarily, but they are noting it as a difference</p> <p>8 and it is a difference and it's intentional; and</p> <p>9 it's because it, as Dr. Edwards said, in an exam, a</p> <p>10 high-stakes exam, it has to be valid. And if you</p> <p>11 are giving candidates different exams, which it is</p> <p>12 effectively if you're giving them variable caries,</p> <p>13 they are not on a level playing field.</p> <p>14 So I guess I would just ask that if you</p> <p>15 -- if the CRDTS exam is going to be scrutinized to</p> <p>16 the degree that whether or not the standardized cari</p> <p>17 is enough to eliminate it as an acceptable exam, I</p> <p>18 just would ask that our -- or wonder if the ADEX exam</p> <p>19 has been assessed in the same manner or the SRTA exam</p> <p>20 has been assessed in the same manner.</p> <p>21 DR. EDWARDS: And I would just add in just</p> <p>22 to kind of piggyback on that, is you asked on other</p> <p>23 states. Well, Nebraska over the last couple of years,</p> <p>24 it's in the statute in Nebraska that the comparable</p> <p>25 exam is CRDTS. So really every year Nebraska looks</p>
<p style="text-align: right;">Page 63</p> <p>1 is Westley Mutziger, attorney for the Board. You</p> <p>2 mentioned other states are also noting this</p> <p>3 distinction within your exam. How many other states</p> <p>4 specifically have noted this distinction as something</p> <p>5 worth considering?</p> <p>6 MS. COBLER: Two: You and Virginia.</p> <p>7 MR. MUTZIGER: So when you said other</p> <p>8 states, you meant one other state?</p> <p>9 MS. COBLER: Virginia.</p> <p>10 MR. MUTZIGER: Okay. And Louisiana is --</p> <p>11 MS. COBLER: As far as the states that I've</p> <p>12 spoken to, yes. Now --</p> <p>13 DR. EDWARDS: Louisiana is going --</p> <p>14 Louisiana is going to be doing the same thing that</p> <p>15 you all did with Dr. Lampkin.</p> <p>16 MS. COBLER: Observing.</p> <p>17 DR. EDWARDS: Yeah.</p> <p>18 MR. MUTZIGER: Okay. I was just confused</p> <p>19 by your statement. You seemed to --</p> <p>20 MS. COBLER: They'll be observing, and</p> <p>21 they are --</p> <p>22 MR. MUTZIGER: -- intimate that many or</p> <p>23 there were at least a handful of other states</p> <p>24 sharing that concern, but you say only Virginia. I</p> <p>25 just wanted to be clear on that.</p>	<p style="text-align: right;">Page 65</p> <p>1 into the exam and looks at SRTA and looks at CRDTS,</p> <p>2 looks at ADEX and makes sure all of the exams are</p> <p>3 comparable. Well, coming out of COVID kind of what</p> <p>4 happened is the perio part and the restorative part</p> <p>5 changed quite drastically, and any State Board that</p> <p>6 really hasn't kind of dug into those and looked into</p> <p>7 those two parts of the exam is maybe missing the mark</p> <p>8 a little bit.</p> <p>9 So Nebraska did. They went in and they --</p> <p>10 they -- they dug into all parts of the exam as they</p> <p>11 do every year, and what they found is that in three</p> <p>12 areas that the ADEX exam didn't compare to the</p> <p>13 statute of the CRDTS exam, and one of those areas was</p> <p>14 in the restorative area because they basically rule</p> <p>15 -- they felt that the exam because of the variable</p> <p>16 randomly dealt caries wasn't -- people weren't starting</p> <p>17 and finishing at a -- at really an accurately valid</p> <p>18 level, and that was their independent opinion.</p> <p>19 MS. COBLER: And I would just add that</p> <p>20 now that Nebraska has looked at that and made that</p> <p>21 determination, which it also had a couple of other</p> <p>22 issues with the ADEX exam that made it not</p> <p>23 substantially equivalent.</p> <p>24 Several other states are looking as well</p> <p>25 and starting to assess the exam separately and</p>

<p style="text-align: right;">Page 66</p> <p>1 comparatively because they have changed since we went 2 to mannequin and there are differences that are 3 important to note. 4 And to that point, you know, Dr. Mutziger 5 -- or Mr. Mutziger, while there are a few states who 6 have mentioned the standardization as an issue for 7 them, there are other states looking at it from the 8 other perspective and saying is this a valid -- is 9 this a valid exam if the candidates are not receiving 10 the same test. 11 DR. EDWARDS: I think -- I think the 12 thought process through the whole exam should be 13 consistent. If you have three parts of the exam 14 that are basically working on something in an ideal 15 type setting that provides that entry level minimal 16 competency that it should be consistent across the 17 exam, and that's -- that's where I think some people 18 maybe, you know, have lost track of exactly where -- 19 who we're identifying or what we're trying to 20 accomplish. 21 So our goal is not to -- we really don't 22 want to -- want to pick a fight or talk bad about 23 anybody else. I mean, it's a tough job, and everybody 24 I think is doing a really wonderful job, but, you know, 25 we always want to make the exam better. We always</p>	<p style="text-align: right;">Page 68</p> <p>1 eye-opening, and it would be -- it would be really, 2 I think, a great idea if someone would be willing to 3 do that. 4 MS. COBLER: And at the risk of 5 exhausting this conversation for you all, I just 6 want to say one last thing, and that is that we don't 7 -- we are not looking to -- we have no desire to be 8 a monopoly or to be the only exam in the United States. 9 We don't want that because we believe in competition. 10 We believe it keeps us stronger; and our members, 11 our 23 of the 50 state members, believe that as well. 12 So we are just asking that you, you know, 13 join the other 40 State Dental Boards that accept 14 CRDTS for initial licensure and recognize that it is 15 a valid exam and that it does meet the needs for 16 minimal competency. 17 BOARD PRESIDENT SMITH: Okay. Just for a 18 quick question, on your operative exam, how many hours 19 do you let the student have? 20 DR. EDWARDS: It's four hours. 21 BOARD PRESIDENT SMITH: Four. 22 DR. EDWARDS: It's what we call open 23 format because, again, they -- they -- they have no 24 modification requests, so they move -- they move 25 straight through the exam. The teeth they worked on</p>
<p style="text-align: right;">Page 67</p> <p>1 want to, you know, protect the health, safety, and 2 welfare of the public, and, again, that's all we're 3 trying to do. We're just -- we're trying to keep 4 things improving. 5 MS. COBLER: And to that point, the 6 competitive, you know, not having a monopoly is so 7 very important because we are keeping -- the exam 8 developers are keeping the exams to the highest 9 standards. You know, we check ours three times a 10 year. We go before our exam review committee, and 11 every one of our 23 Board members sits on that exam 12 review committee, has a representative, and they 13 look at it and they determine. So we have nearly 14 half of the United States saying that our exam is 15 valid and acceptable and up to the most current 16 standards per our occupational analysis. 17 DR. EDWARDS: I mean, if I could -- it's 18 a tough job. It takes -- it takes a fair amount of 19 time because I had to do it, but I would really 20 encourage you all to review the technical reports, 21 the most recent technical reports from CWC, from 22 CRDTS and if be from SRTA and really see is -- you 23 know, is what's being done is it reflective of what 24 you want for the citizens of Mississippi because 25 there are some things in there that's a little bit</p>	<p style="text-align: right;">Page 69</p> <p>1 that they restore are pre-prepped teeth. The teeth 2 they -- you know, that have caries are teeth that 3 they prep. And if they -- if they're retaking, they 4 have an hour and 15 minutes to do the preparation and 5 45 minutes to do the restoration. 6 BOARD PRESIDENT SMITH: Thank you. Does 7 anyone else have a question for Dr. Edwards? 8 MS. COBLER: May I ask a question of the 9 Board? 10 BOARD PRESIDENT SMITH: Yes, ma'am. 11 MS. COBLER: If the other three parts of 12 the exam have been standardized for the last 20 years 13 or however long, why would we not standardize this 14 portion of the exam? 15 BOARD PRESIDENT SMITH: That's an interesting 16 question. Thank you. 17 Okay. So what's the feeling of the Board? 18 Refer to the rules and reg? 19 BOARD MEMBER GRUBBS: Motion. 20 BOARD PRESIDENT SMITH: Okay. There's a 21 motion to refer this to rules and reg committee. Is 22 there a second? 23 BOARD MEMBER BIRMINGHAM: Second. 24 BOARD PRESIDENT SMITH: Second. All in 25 favor, say "aye."</p>

<p style="text-align: right;">Page 70</p> <p>1 DENTAL BOARD: "Aye." 2 BOARD PRESIDENT SMITH: Any opposed? 3 (No response.) 4 BOARD PRESIDENT SMITH: Okay. We're going 5 to study on it. Thank you. 6 All right. What's next? 7 MS. COBLER: Thank you very much for 8 letting us be here. 9 BOARD PRESIDENT SMITH: Uh-huh. What do 10 you got, Denny? Number 12, Request for post -- 11 EXECUTIVE DIRECTOR HYDRICK: Yes, sir. 12 So this was a request, I believe, at the October 3rd 13 Zoom meeting. We approved for dentists to get -- 14 receive two hours of credit for the dental hygienist 15 conference that they had on October the 5th. I may 16 have my dates mixed up. It's in this email chain. 17 But afterwards Carrie Fowler emailed wanting to make 18 a request of the Board that dentists who are employed 19 by the hygiene schools if they could receive credit 20 for all of the courses and, you know, in the spirit 21 of being able -- they're attending the entire meeting, 22 be able to collaborate and communicate with students 23 and faculty if they could receive full credit for both 24 days. 25 BOARD PRESIDENT SMITH: Okay. So as I</p>	<p style="text-align: right;">Page 72</p> <p>1 collaboration. So he come and spoke how you can -- 2 you know, how things on our -- on campus, and so he 3 spoke. So that was one thing that we have to show 4 CODA to be approved that we had so much in the stuff 5 we teach. And so if the dentists don't get hours for 6 that and they can't even show the CE for that, so 7 I'm not sure that they're going to be able to show 8 CODA that they attended that and it's going to count 9 for it if -- it's just a little different for the 10 dentists at the schools as far as other dentists. 11 BOARD PRESIDENT SMITH: Okay. 12 MS. FOWLER: And they're not actually 13 practicing. They are educators, you know. 14 BOARD MEMBER BIRMINGHAM: Has the Board 15 approved this in the past for dentists as 16 educators? 17 MS. FOWLER: Yes. 18 BOARD PRESIDENT SMITH: Okay. Is there 19 any other questions -- 20 MS. FOWLER: I mean, I've been on the 21 phone call the whole morning, and I saw that -- I 22 heard awhile ago that y'all are just doing the 20. 23 Usually we go for the -- before the Board to get the 24 dentists approved because it specifically said -- says 25 in that one reg that y'all were referring to this</p>
<p style="text-align: right;">Page 71</p> <p>1 understand it, we approved two hours, but they're 2 asking for a total for the dentists who are on staff 3 at hygiene schools? 4 EXECUTIVE DIRECTOR HYDRICK: Only, yes, 5 to receive the same number of hours that the 6 hygienists receive. 7 BOARD MEMBER BIRMINGHAM: Denny, is there 8 anybody here to speak on that? 9 EXECUTIVE DIRECTOR HYDRICK: Is Carrie -- 10 I think Carrie is on here. Carrie, if you want to 11 speak you can unmute. 12 MS. FOWLER: Hey. Yes, I included on 13 that email that our dentist as well as our faculty 14 -- I'm at school -- have to show to CODA that we have 15 so much specific things as far as we teach. Local 16 anesthesia, we had the author of the book that -- 17 I've been on the call the whole time. Haley told you 18 that Demetria wrote that book. We had her as our 19 guest speaker, so she came and taught us how to teach 20 it. Since we're all going to be incorporating that 21 into our programs, we have to show to CODA before we 22 can start a program on our bio sketch that we had so 23 much teaching methodology. 24 The HPV, we're incorporating that into 25 our program because there's a new standard, inner</p>	<p style="text-align: right;">Page 73</p> <p>1 morning, it does not list MDHA under the dentist 2 approval. It lists MDA and the Board and certain 3 other things, but we go through MDHA to get ours 4 approved. So that is why we go to the Board to ask 5 for approval. 6 So the -- what y'all referred to this 7 morning, just 40 and 20, like maybe that's going to 8 do away with that, or do you -- are you accepting 9 dentists' CE that is approved by MDHA? I guess that's 10 the main question, because that's who we went through 11 to get our approval. 12 BOARD PRESIDENT SMITH: That's a good 13 question. 14 EXECUTIVE DIRECTOR HYDRICK: As the 15 regulation is now, no. MDHA can only approve CEs 16 for hygienists, I believe. 17 MR. MUTZIGER: I think we need to look at 18 that. My recollection is that dentists can obtain 19 CE credit by virtue of those courses also approved 20 by MHDA. I'll have to take a look at it because, 21 unfortunately, the status of the current regulation 22 is awfully muddy, and so it's very difficult to 23 decipher. So allow me to pull that up and see if I 24 can't get some immediate clarity. 25 EXECUTIVE DIRECTOR HYDRICK: I can pull</p>

<p style="text-align: right;">Page 74</p> <p>1 it up here. I've got it. I was going to share on 2 the screen. 3 MR. MUTZIGER: All right. That's what 4 I'm talking about. 5 EXECUTIVE DIRECTOR HYDRICK: All right. 6 So you should be able to see it on the screen. So 7 you're licensed in this, and it lists the 8 organizations for licensed dentists, and then Number 9 3 for hygienists. 10 MR. MUTZIGER: It may be a separate 11 section, Denny. I'll look for it as well because I 12 recall working on the regs that there might be a 13 separate section that always provides -- 14 EXECUTIVE DIRECTOR HYDRICK: The question, 15 I think, as I understood from Carrie is, you know, 16 does the regulation allow for dentists to receive 17 continuing education if it's approved by MDHA. And 18 so if you look in this list here, MDHA is not listed 19 under dentists. Number 3, for hygienists, it's listed 20 MDHA right here. So it is a separate listing. What 21 other section -- 22 MS. FOWLER: That's why we try to go to 23 the Board every year to get the dentists' approval 24 because of that statement right there. 25 BOARD PRESIDENT SMITH: Carrie, how many</p>	<p style="text-align: right;">Page 76</p> <p>1 from UMMC. 2 BOARD PRESIDENT SMITH: What's the feeling 3 of the Board? Approve it or table it? 4 BOARD MEMBER GRUBBS: Westley, is it 5 muddy? Do we need to do table it? We're going to 6 say yes. 7 BOARD MEMBER BIRMINGHAM: Carrie, how 8 many hours are we talking about? How many hours? 9 MS. FOWLER: It was 12 total and they only 10 approved 2 for dentists. 11 MR. MUTZIGER: Okay. So if you look at 12 Number 2 at the very bottom, Finally, dentists may 13 attend courses offered and approved by any of the 14 additional organizations listed in Section 3 of this 15 regulation and use such attendance as a means of 16 fulfilling continuing educational requirements. 17 BOARD MEMBER BIRMINGHAM: Okay. I make a 18 motion. 19 EXECUTIVE DIRECTOR HYDRICK: And you 20 pointed to where? Where did you say? I'm sorry. 21 MR. MUTZIGER: In 2 at the bottom -- at 22 the very bottom, it talks about dentists can attend 23 essentially MDHA and get credit for it. 24 BOARD MEMBER BIRMINGHAM: I make a motion 25 to approve.</p>
<p style="text-align: right;">Page 75</p> <p>1 dentists are we talking about that were actually 2 there? Is it four or five or more? 3 MS. FOWLER: There was five that were 4 dental with -- associated with the dental school and 5 then we had two others that attended, but we did call 6 those and tell them that y'all only approved two to 7 them -- for them. And one of them, Dr. Andrews, his 8 daughter just graduated hygiene school, so he came 9 with her. So she received her -- you know, but he 10 has made the statement he contacted Katherine and I 11 and said that he learned way more about local 12 anesthesia than he has at any other kind of meeting 13 that he went to or MDA meeting or anything that he's 14 went to because she went really in-depth about -- 15 basically about the dental school probably at the 16 beginning of it because we had to teach it to that 17 level. 18 BOARD PRESIDENT SMITH: Okay. Thank you. 19 MS. FOWLER: There's five schools in the, 20 you know, the state, so each of them only have one, 21 except UMC, some of them, but only one dentist usually 22 comes from that school. 23 UNIDENTIFIED SPEAKER ON ZOOM: Dr. Saddler 24 was there. 25 MS. FOWLER: Yes, Dr. Saddler attended</p>	<p style="text-align: right;">Page 77</p> <p>1 BOARD PRESIDENT SMITH: Okay. There's a 2 motion on the floor to approve -- how many hours? 3 Twelve? 4 BOARD MEMBER BIRMINGHAM: Twelve. 5 BOARD PRESIDENT SMITH: -- 12 hours for 6 those dentists that attended. Is there a second? 7 BOARD MEMBER LAMPKIN: Second. 8 BOARD PRESIDENT SMITH: Second. Dr. Lampkin. 9 Okay. Any discussion more on that? 10 BOARD MEMBER WILLIAMS: Yes. I would 11 submit that this should have been requested up front 12 to rules and reg or the continuing education. 13 MS. FOWLER: We did. 14 MR. MUTZIGER: You've approved this for 2 15 hours, and here we are taking time out of a Board 16 meeting to go back and retroactively apply something 17 which is kind of what I was referring to earlier about 18 this whole deal of a full Board trying to micromanage 19 CE hours. 20 BOARD MEMBER BIRMINGHAM: Carrie, make 21 sure next time y'all just come to the Board before -- 22 BOARD MEMBER WILLIAMS: Well, it was 23 submitted before and it was approved for 2. 24 UNIDENTIFIED SPEAKER ON ZOOM: We're just 25 asking.</p>

<p style="text-align: right;">Page 78</p> <p>1 MS. FOWLER: We asked for clarification 2 on the dentists versus educators just so that the 3 educators, and there wasn't -- the committee wasn't 4 meeting again and y'all wasn't meeting again forever, 5 and so Denny said that we would discuss it at the 6 meeting. 7 BOARD PRESIDENT SMITH: Okay. All right. 8 Well, we've got a motion on the floor to approve it 9 and a second. So all in favor, say "aye." 10 DENTAL BOARD: "Aye." 11 BOARD PRESIDENT SMITH: Any opposed? 12 BOARD MEMBER WILLIAMS: No. 13 BOARD PRESIDENT SMITH: There's one no. 14 Motion carries. We approved it. 15 MS. FOWLER: Hey, just a minute. Just 16 for clarification for in the future, so what he just 17 read -- was that Westley that -- 18 MR. MUTZIGER: Yes. Yes, ma'am. 19 MS. FOWLER: So in the future we -- so 20 the dentists are going to get all the credits now, 21 any dentist, because it sounded like y'all accept 22 anything from MDHA. Right? So we don't have to go 23 through the Board anymore? 24 MR. MUTZIGER: I'm not intimately familiar 25 with the entire filing for approval, but the regulation</p>	<p style="text-align: right;">Page 80</p> <p>1 you have in your bank account and how much money you're 2 going to collect. It all is based on that 3 appropriation, and the appropriation process is ongoing 4 right now. We have just submitted your budget for 5 FY25. And then in January you have a chance to defend 6 that budget, and that budget is, like I said, for FY25. 7 So currently we're in FY24, and I'll talk about these 8 as go through about where our spending was and what 9 we're requesting. 10 So in FY23, which ended technically June 11 30, but we had spending authority until August 31st. 12 I had told you in the last Board meeting that we 13 would probably leave about \$100,000 in authority, 14 and that -- we did end up doing that at the end of 15 the year. We actually left more than that. We left 16 about \$160,000 in authority on the table. The 17 majority of that was in salaries, about 91,000 of it. 18 And the reason that we couldn't spend that 19 money in salaries is the legislature changed the rules 20 a year ago. It used to be that they'd say, Okay, 21 here's your budget. Your budget is 1.1 million. You 22 can spend that in any category as you see fit during 23 the year, but now they say here's how much you have 24 in salaries, and you cannot move money into or out 25 of salaries during the current year. So last year you</p>
<p style="text-align: right;">Page 79</p> <p>1 I just read essentially states that if MDHA approves 2 the course offering, dentists may obtain CE credit 3 for attending that offering. I don't see anything 4 that would put a limit on that. 5 MS. FOWLER: Okay. It just read sort of 6 weird, but thanks for the clarification. 7 MR. MUTZIGER: It all reads weird. 8 MS. FOWLER: We will no longer have to go 9 through the Board in the future. Thank you. 10 BOARD MEMBER BIRMINGHAM: Thank you. 11 BOARD PRESIDENT SMITH: Okay. Financial 12 report, Denise and Denny. 13 MS. DeROSSETTE: Good morning. I timed 14 that perfectly, didn't I? So I'm just going to just 15 spend a little bit of time talking about your budget 16 and where you are financially right now. And Denny, 17 chime in at any point. There are a few new Board 18 members, and so what I thought I would spend a little 19 bit of time at the very beginning is to talk about 20 the difference between budget and authority. I think 21 a lot of y'all understand that, but I'm not sure 22 everybody does. 23 So the legislature gives you the authority 24 to spend money. You cannot spend any more than the 25 authorized amount. It doesn't matter how much cash</p>	<p style="text-align: right;">Page 81</p> <p>1 left a lot on the table because you had some vacancies 2 and things like that. 3 And then just as we -- as we go through 4 how we're spending this year, I'll talk about some 5 of the excess authority in addition, but the other 6 major category where you had excess authority was in 7 your travel. You only spent about 56,000 of what we 8 had originally budgeted for travel. Now, again, we 9 could have moved that money to other areas as we 10 needed, but we didn't need to. 11 Your revenue collections last year were 12 right at \$900,000 and you ended the year with right 13 at a million dollars in cash. 14 Right now we're reporting on the first 15 quarter of FY24. Even though October is almost over 16 your reports are through the end of September. You 17 would think if we were a quarter of the way through 18 the year that we would have spent 25 percent, but 19 budgets don't work like that. A lot of our bills only 20 come in quarterly. Some of the things that you pay 21 you only pay annually, like your health network where 22 you pay, I forget who, NHA or -- 23 EXECUTIVE DIRECTOR HYDRICK: NHN. 24 MS. DeROSSETTE: Yes. You only pay that 25 once a year at the very -- usually at the very end</p>

<p style="text-align: right;">Page 82</p> <p>1 of the third quarter or the very first of the fourth 2 quarter. The same as with the payment that you make 3 to the pharmacy board for the PMP usage. So you 4 can't really say where are we at this point in the 5 year. Are we at the 25 percent of our expenditures. 6 However, one of your good indicators is salary, and 7 right now you have spent right at 24 percent. So 8 that's a good indicator that you're on target in your 9 salaries, and we don't think that you will last as 10 much nearly as you did last year. You will use the 11 majority of your salary line. 12 I do want to point out in the salary line 13 item that in FY24 we will have an increase in health 14 insurance. That increase goes into effect in January, 15 so it actually hits in December's payroll. So instead 16 of just being six months, I'm projecting an increase 17 for seven months, and it's \$22 per employee. And so 18 your projections for that is \$1,250 added to your 19 budget in FY24 that was not known when we submitted 20 that budget. When we submit your FY25 budget or when 21 we go to defend it, we will ask for that increase to 22 be added to what we've already asked for. 23 I also want to tell you that yesterday we 24 learned that there's an increase in travel. It's an 25 increase in the daily meal rate. It was about \$56,</p>	<p style="text-align: right;">Page 84</p> <p>1 put in how much you can spend by breakfast, lunch, 2 and dinner, and somebody said the DFA is going to 3 implement that, but I haven't seen that on the website. 4 Your travel manual is down, so we can't even see. 5 They've taken it off. I really don't think they're 6 going to do that, but there is some question, so I 7 just want to put that out there for y'all. 8 The other thing about travel is the mileage 9 rate, you know, went up last year to .655, so 66 10 cents a mile. And so we'll have that projected for 11 the entire year instead of just half a year, and it 12 could also go up in January because that's usually 13 when the mileage rate goes up. 14 I also wanted to let you know that there's 15 some changes coming and how travel is going to be 16 processed, and that will have an impact on your 17 employees and also on you. The state is implementing 18 a new payroll system, and we're not sure if they say 19 it's going live in January, but they haven't done any 20 training on it, so I really kind of am anticipating 21 that date is going to get pushed back. 22 But how it impacts you and your employees 23 is that travel will now be considered an accounts 24 payable instead of a salary expense. So we'll have to 25 pay for the travel in our accounts payable system, and</p>
<p style="text-align: right;">Page 83</p> <p>1 except in a couple of high-cost areas. It's now gone 2 to \$59 a day. There's still some indications of how 3 that's going to play out. It doesn't cover actual 4 anyways. And I will point out, too, that there's 5 two high-cost areas in the state, and they used to be 6 where the casinos were, so the Coast and Tunica were 7 our high-cost areas. Now it's where our big 8 universities are. So Oxford and Starkville have a 9 \$64 rate if you're traveling there. 10 I don't anticipate these increases to have 11 a major impact on your budget in FY24 if you don't 12 have a whole lot of meal costs when you're traveling. 13 Now, some of your investigators are charging their 14 meals, but when y'all come here you're not getting 15 reimbursed for meals most of the time unless you're 16 spending the night. So I don't really anticipate 17 having a huge cost, especially when it's only \$3 a 18 day and you only meet, you know, four times a year. 19 EXECUTIVE DIRECTOR HYDRICK: When did that 20 go into effect? 21 MS. DeROSSETTE: It went into effect 22 October 1st. DFA did not put the information out 23 until yesterday. And there is some indication it 24 follows the Federal guidelines. And so, of course, 25 the Federal budget is October 1. The Feds actually</p>	<p style="text-align: right;">Page 85</p> <p>1 if you have taxable meals then we have to catch that 2 up in the payroll system on the next paycheck. And 3 y'all's per diem is actually still a salary and not a 4 travel, so you'll be -- and if you're putting in 5 mileage, we'll have to pay your mileage in one system 6 and then your per diem in another. So that's going 7 to have some impact. There's just lots of issues with 8 that new system. 9 And I already told you that in FY23 you 10 only spent about 56 percent of your travel budget. 11 I anticipate by what I see so far that that may be 12 the case again this year, but again, I have no way 13 of projecting because the majority of the Board expense 14 comes when you go to the end-of-the-year conferences, 15 and I have no idea where that is this year and if 16 that will increase your cost, but I would like to 17 think that we would be close to where we were last 18 year and that we might end up having between a 20,000 19 and a \$25,000 leeway in that travel budget that we 20 might could move to another category if the need 21 arises. I'm just going -- 22 EXECUTIVE DIRECTOR HYDRICK: There will 23 be significant travel expenses for October. 24 MS. DeROSSETTE: That have already been 25 submitted?</p>

<p style="text-align: right;">Page 86</p> <p>1 EXECUTIVE DIRECTOR HYDRICK: That will be 2 submitted, yes. 3 MS. DeROSSETTE: Okay. So then we may 4 not have as much savings. Again, I can't project 5 that because I don't know where y'all are going. 6 And that -- this is an aside, but y'all 7 have a budget committee that kind of says here's how 8 you're going to spend your money in each category. 9 If we end up with some savings and need to move it, 10 does that need to come back to the whole Board or to 11 the budget category budget committee to move money 12 between categories? 13 BOARD PRESIDENT SMITH: The budget committee 14 has always done it as far as I know. I don't think 15 we've ever brought it back to the Board. 16 MS. DeROSSETTE: Okay. Good. Thank you. 17 Contractual expense, that's your services. And this 18 is usually the hardest to predict and where most of 19 your money is expended. Last year we spent almost 20 90 percent of what we had budgeted, and there was only 21 34,000 remaining in that category at the end of the 22 year. This year we have a higher budget in this 23 category based on what we asked for the legislature. 24 So we have almost 13,000 more in our services budget. 25 I do have a question. I know that there's</p>	<p style="text-align: right;">Page 88</p> <p>1 We spent last year right at \$4000, but, again, that 2 doesn't hit your travel budget. That hits your 3 commodity budget. And the other major expense was 4 for office supplies, and that was less than 6000. So 5 you don't spend a whole lot of money in commodities, 6 and so last year I think we saved about \$8000 from 7 what we had budgeted, and we're on track to do that 8 again. We've spent about 10 percent of our commodity 9 budget so far this year. 10 Equipment, last year you spent 30,000. 11 We ended up adding money into that equipment category. 12 This year you have budgeted 11,000. I don't know if 13 you'll have need for that. So that may be another 14 area that you can have some savings. 15 And finally is your what we call 16 subsidies, loans, and grants, and that's money that's 17 actually a pass-through money to other entities, and 18 so that's where you spend to the health network and 19 also to the PMP. And as I said before, all of those 20 expenses generally hit at the end of the year; 21 although, I have been told that pharmacy may bill you 22 early this year. And so last year we didn't spend 23 about \$4000 that we had budgeted for that category 24 because the health network did not collect as much 25 collected.</p>
<p style="text-align: right;">Page 87</p> <p>1 the building that y'all may -- your lease may expire. 2 Does that expire in June? 3 EXECUTIVE DIRECTOR HYDRICK: June 30th. 4 MS. DeROSSETTE: So we have put in money 5 for relocation into the next fiscal year but not in 6 this year, and I think your equipment lease cost is 7 going to decrease in the current year because of some 8 work that Denny has done to change out the copier and 9 the postage. 10 EXECUTIVE DIRECTOR HYDRICK: The postage 11 machine. It will go -- it will decrease by \$200 a 12 month starting November. 13 MS. DeROSSETTE: So there's a little bit 14 more savings that could be used in other areas just 15 from what he has done on that. 16 In the current year, we did budget 26,000 17 for facility inspections, and I think those are 18 started, and we offset that increase with some other 19 deductions in a few other areas. But I think our 20 biggest unknown category in services is going to be 21 the IT expenses, all your technology expenses, and 22 I'm going to defer that for just a minute and come 23 back to that. 24 Commodities or supplies, most of that 25 expense is for business meeting, catering and food.</p>	<p style="text-align: right;">Page 89</p> <p>1 So just from what I've said so far, we've 2 identified about \$49,000 that might be in savings that 3 you could use for some of the other things that are 4 upcoming. 5 BOARD MEMBER GRUBBS: How much was that? 6 MS. DeROSSETTE: Right at 49,000. Your 7 revenue right now is higher than it was last year. 8 You've collected \$415,000 in revenue. I will tell you, 9 too, that the legislative budget office is looking 10 at that revenue right now, and they're looking at how 11 much each agency collects in interest. Apparently, 12 interest rates are really high, and in the first 13 quarter of the year collection has been almost equal 14 to what the entire revenue interest collections were. 15 Not every Board can retain interest, but this Board 16 does, and so far this year you've collected right at 17 \$7000 in interest. And so I have a feeling that while 18 the legislature may not sweep our cash balances, they 19 may take away our authority to earn interest and give 20 that to the -- so I just wanted to point that out. 21 I learned that this week, and they're asking questions 22 about that now. 23 Okay. So that's basically what I was going 24 to report to y'all. I don't know if y'all have any 25 specific questions, and then if we want to talk about</p>

<p style="text-align: right;">Page 90</p> <p>1 your IT costs.</p> <p>2 BOARD MEMBER WILLIAMS: I do have a specific</p> <p>3 question. You said \$26,000 was appropriated for the</p> <p>4 site visits.</p> <p>5 MS. DeROSSETTE: That's what we budgeted.</p> <p>6 BOARD MEMBER WILLIAMS: Where does that</p> <p>7 show up on here?</p> <p>8 MS. DeROSSETTE: It's just part of your</p> <p>9 contractual costs, and so --</p> <p>10 BOARD MEMBER WILLIAMS: Inside of which</p> <p>11 group?</p> <p>12 MS. DeROSSETTE: I'm sorry. We call it</p> <p>13 contractual and you may call it services. So it's</p> <p>14 within your services line item. And so that --</p> <p>15 BOARD MEMBER WILLIAMS: And so out of</p> <p>16 that \$300,000, about 10 percent of that is for the</p> <p>17 site visits?</p> <p>18 MS. DeROSSETTE: Yes, that's right. And</p> <p>19 again, I don't know that you'll need that much. That</p> <p>20 was just kind of what we stuck in there when we put</p> <p>21 the budget together. I think it was estimated that it</p> <p>22 would be about 50,000 a year, and that's what we</p> <p>23 budgeted or what we requested for '25, but we didn't</p> <p>24 have that much because we didn't know about it when</p> <p>25 we were building the budget last year.</p>	<p style="text-align: right;">Page 92</p> <p>1 And then y'all checked choose to put it in these nine</p> <p>2 major categories that you're not really budgeting on</p> <p>3 your sheets at these minor copies. I'm looking at</p> <p>4 your detailed budget. We can actually give you a</p> <p>5 budget at a detail level, but it would just be an</p> <p>6 estimate anyway.</p> <p>7 BOARD MEMBER WILLIAMS: Well, I'm okay</p> <p>8 with that. I'm just saying that it's not even a line</p> <p>9 item on that left side.</p> <p>10 MS. DeROSSETTE: Oh, it's under</p> <p>11 professional fees and services is where it hits. And</p> <p>12 so that's a 6169 number. That's where we put it.</p> <p>13 BOARD MEMBER WILLIAMS: Thank you.</p> <p>14 MS. DeROSSETTE: And like Cornerstone</p> <p>15 comes under there and different things like that.</p> <p>16 Did that answer your question, Dr. Williams?</p> <p>17 BOARD MEMBER WILLIAMS: It does. Thank</p> <p>18 you.</p> <p>19 MS. DeROSSETTE: Do y'all have any more?</p> <p>20 BOARD PRESIDENT SMITH: Any other questions?</p> <p>21 Okay. Thank you for that.</p> <p>22 MS. DeROSSETTE: Do you want me to stay</p> <p>23 up here as we talk about IT or are we done?</p> <p>24 EXECUTIVE DIRECTOR HYDRICK: Well, no.</p> <p>25 What specifically -- oh, the -- I think what you're</p>
<p style="text-align: right;">Page 91</p> <p>1 BOARD MEMBER WILLIAMS: So Denny, is there</p> <p>2 just not a line item for that?</p> <p>3 EXECUTIVE DIRECTOR HYDRICK: No, because</p> <p>4 it's -- it's new, so there's not, no, sir.</p> <p>5 BOARD MEMBER WILLIAMS: So going --</p> <p>6 EXECUTIVE DIRECTOR HYDRICK: It's just</p> <p>7 kind of in that larger -- I'm sorry. I didn't mean</p> <p>8 to cut you off.</p> <p>9 BOARD MEMBER WILLIAMS: No, just going</p> <p>10 forward, we'll have that on the left side of the page</p> <p>11 will be the....</p> <p>12 EXECUTIVE DIRECTOR HYDRICK: We could add</p> <p>13 a specific line item.</p> <p>14 BOARD MEMBER WILLIAMS: Well, I was just</p> <p>15 curious. She mentioned -- she specifically mentioned</p> <p>16 \$26,000. It seemed like a -- if it's going to be 10</p> <p>17 percent of our services it would be something that</p> <p>18 would be significant.</p> <p>19 EXECUTIVE DIRECTOR HYDRICK: And at the</p> <p>20 current amount, that only allows for 100 facility</p> <p>21 visits at \$3300 per -- and so -- but yeah, we can --</p> <p>22 I mean, we can add account numbers. Correct?</p> <p>23 MS. DeROSSETTE: Sure. One of the things</p> <p>24 that -- the way the legislature gives you your money</p> <p>25 is in what we call a lump sum. You get the whole 1.1.</p>	<p style="text-align: right;">Page 93</p> <p>1 referencing is just the need for us to switch to a</p> <p>2 new database system, you know, and so most of that</p> <p>3 I'll cover in my report.</p> <p>4 MS. DeROSSETTE: Okay. I just didn't know</p> <p>5 if we needed to talk about the legislative</p> <p>6 (unintelligible) --</p> <p>7 EXECUTIVE DIRECTOR HYDRICK: So we can --</p> <p>8 we can just go ahead and do that right quick in case</p> <p>9 you have a specific question. But, you know, where</p> <p>10 we are on that, we're going to have to change. We</p> <p>11 continue to have problems with our licensing management</p> <p>12 system. Things that shouldn't in my opinion be a</p> <p>13 problem are.</p> <p>14 And so we're going to have to move. I had</p> <p>15 had some meetings previously earlier, you know, this</p> <p>16 year. I thought we had a plan in place, but the</p> <p>17 bottom line when it comes to down to it, we have, you</p> <p>18 know, \$1.3 million in our account. You know, it still</p> <p>19 has to be legislatively approved or the authority</p> <p>20 given for the Board to spend non-budgeted dollars.</p> <p>21 And so being that this is an election</p> <p>22 year, that kind of ever pushes different timelines</p> <p>23 further down the road. So at the last report, the</p> <p>24 legislative budget office said we might know if the</p> <p>25 legislature would approve that authority early in</p>

<p>Page 94</p> <p>1 May. And so at this point we're just going to keep 2 pushing forward with what we have. I'll meet with 3 the committees in January, the appropriation 4 committees, to request the funds; whereas, in previous 5 years, non-election years or gubernatorial election 6 years specifically, you know, we usually would know 7 around March, maybe the first of April. This pushed 8 this meeting -- I don't understand it all, but it 9 pushes things down the road, and so it's going to 10 probably be May before the legislature approves 11 requests from municipal agencies for additional 12 spending authority. 13 BOARD PRESIDENT SMITH: Can we not do 14 bids before? 15 MS. DeROSSETTE: Actually, the system 16 that Denny has looked at has already been purchased 17 by other state agencies, and so they've given you 18 the authority to piggyback onto that bid, so you won't 19 need to do a bid. You can just go with that vendor, 20 and it's the vendor that the other Boards like you, 21 pharmacy uses it, nursing uses it, and medical 22 licensure use that system, so you could just piggyback 23 off that bid and not have to worry about that. It 24 is a costly project. 25 EXECUTIVE DIRECTOR HYDRICK: Very expensive,</p>	<p>Page 96</p> <p>1 call deficit appropriations. A deficit just means 2 they're giving you more authority in the current year. 3 The deficit bills sometimes come out before the 4 appropriation bills, so there is a potential, but, 5 again, a deficit bill is considered an appropriation, 6 and appropriations are the last bills that they take 7 up. 8 EXECUTIVE DIRECTOR HYDRICK: Now, I could 9 -- I could -- and maybe this is just a little more 10 information but it's needed. There is the possibility 11 that March 1st, you know, I could look at the budget 12 and see, oh, we're going to have -- you know, Denise 13 had projected 49,000 in extra funds, but you know 14 what, we haven't spent travel. We might have 69,000 15 projected excess funds. I mean, I could take the risk 16 and execute an agreement with them in -- then in March 17 because those are budgeted dollars and start the 18 process and hope that they, you know, the legislature 19 approves the rest of the expenditure. I don't know 20 if I'll do that or not. It just depends on what it 21 looks like in March. 22 MS. DeROSSETTE: We did put 179,000 into 23 that category for FY25 already. 24 EXECUTIVE DIRECTOR HYDRICK: Yeah, so that's 25 the backup.</p>
<p>Page 95</p> <p>1 you know, and, you know, we're looking at the first 2 fiscal year, whenever that -- the actual initiation 3 of the system, spending around 230,000. Afterwards it 4 will be around 79,000 a year for the system. There's 5 just -- the initial licensing fees are 200,000 that's 6 required at the time of execution of the agreement. 7 BOARD PRESIDENT SMITH: So if in May they 8 approve it, are we going to have to wait to July 1 to 9 implement it? 10 EXECUTIVE DIRECTOR HYDRICK: So no, because 11 they will actually give me authority in fiscal year '24 12 to spend the money in this fiscal year, and I would 13 prefer that even though it's at the last minute, I 14 would prefer that because what's going to happen is 15 if we wait until July 1st we're going to be moving, 16 we're going to be implementing a new licensing system. 17 September the 1st we're starting the renewal cycle 18 all within, you know, three months. And so I really 19 wanted to start it in March because that's when I 20 thought we would get the approval from the legislature, 21 but I'm told now, you know, May 1st or early May. So 22 it really messes the timeline up. 23 MS. DeROSSETTE: There's a potential you 24 might get it a month early. It depends on how -- which 25 way you go. They don't usually like to do what they</p>	<p>Page 97</p> <p>1 MS. DeROSSETTE: Uh-huh. 2 EXECUTIVE DIRECTOR HYDRICK: There is 3 funds in -- if the legislature approves fiscal year 4 '25 budget, there are -- there is \$180,000 in there 5 to make a change, but it really needs to occur before 6 fiscal year '25 mainly because their renewal cycle 7 doesn't start until September 1st and we can't change 8 in the middle of renewal cycle. 9 MS. DeROSSETTE: And Denny's already laid 10 all the ground work with the legislative budget. So 11 they're very well aware of that. 12 BOARD PRESIDENT SMITH: How long is your 13 report going to take, Denny? We may need a break. We 14 can just do a break. 15 MR. MUTZIGER: Break. 16 BOARD PRESIDENT SMITH: Okay. Let's take 17 a ten-minute break. 18 (OFF RECORD 10:26 A.M. TO 10:46 A.M.) 19 BOARD PRESIDENT SMITH: Our executive 20 director, Mr. Hydrick, is prepared to give his report. 21 So have at it, Denny. 22 EXECUTIVE DIRECTOR HYDRICK: Good morning 23 still. So I think I -- well, I submitted my report 24 to you all, and so I won't read it. Obviously, I 25 have some highlights I wanted to mention as well as</p>

<p style="text-align: right;">Page 98</p> <p>1 a few extra things that I'd like to report. I just 2 want to highlight under personnel that we did have a 3 -- do have a vacancy in one of our positions here 4 with the Board staff, a licensing position. That 5 vacancy -- that position has posted. It closes today, 6 I believe, and so after today I should start receiving 7 the applications to begin the process of looking. 8 If you look on the second page, just overall 9 just as of last week I mentioned the number of licenses 10 that are active currently in the state as well as 11 specialties. If you will note -- just to also mention, 12 at the end of my report I had posted a list of all 13 license -- new licensees who have been licensed the 14 first quarter of this year, and I'm going to start 15 doing that at every -- every Board meeting. So I 16 think it's important that you all know who -- who -- 17 excuse me. Sorry. We were on mute. Sorry about that 18 -- who, you know, we're licensing, and how many 19 licenses and permits we issued per quarter. So if you 20 like that, I do plan to continue that. If you don't 21 like it, we'll have a discussion about that as well. 22 Just some miscellaneous reports. You 23 know, we are about to close the 2023 dental renewal 24 season. It ends October 31st. As of yesterday, we 25 have had 1,433 renewals filed since September the 1st</p>	<p style="text-align: right;">Page 100</p> <p>1 when this lease ends, June 30th. I do think whether 2 I'm excited about that or not, I'm not excited but I 3 do think it's necessary. I think we've reached the 4 life expectancy I guess, if you will, of this space. 5 It's just not friendly to the public for their 6 accessibility, and it's just in need of significant 7 repair. So I have submitted a lease proposal to the 8 state. It's been approved by whatever department of 9 DFA that approves those, and I have been assigned a 10 number which, apparently, is pretty important, and 11 so that lease will go out. A proposal will be made 12 public January of 2024, and with responses having to 13 be received by the end of January, and at that point 14 there's a very specific process as to how we will 15 review those proposals and make the decision on office 16 space moving forward. 17 I've already mentioned the database system 18 or the status of where we are with that. I also just 19 wanted to mention, and it's not in the report, but 20 that Dr. Bishop -- I think Dr. Bishop, Dr. Lampkin, 21 Ms. Birmingham, Westley, Nick, and I attended the 22 AADB meeting last week in California. I also went out 23 a couple of days before to attend the AADA meeting, 24 and I thought it was a really good networking 25 opportunity, and it certainly was a lot of good</p>
<p style="text-align: right;">Page 99</p> <p>1 up until yesterday. There is still around 300 -- 2 actually, I think it's 301 yesterday which have not 3 renewed. I don't know, I don't have a lot of 4 historical knowledge to know if that's normal, but 5 after Tuesday the licensees have an additional 60 6 days to renew but that's with penalties. 7 We have collected -- I know, Denise 8 mentioned the revenue. That was at the end of 9 September, but as of yesterday, according to our 10 database, we collected \$786,000 to date in this 11 current fiscal year. So that's pretty significant. 12 You know, we'll still have another 300 or so to maybe 13 to renew, and so that should put our revenue just for 14 the licensing period around \$1 million. 15 I have received notification from 16 current 16 licensed dentists who do not plan to renew their 17 license in Mississippi. About half of those are older 18 and they're just retiring, and then the other half -- 19 let's see, one, two, three, four, five, six, so six 20 of them, not half, but six have been licensed since 21 2019, so that tells me they're in other states and 22 they're just not planning to return to Mississippi. 23 Just an update on our request for a lease 24 proposal. You know, we had talked in previous Board 25 meetings about considering moving our office space</p>	<p style="text-align: right;">Page 101</p> <p>1 information that I learned as to what not only we deal 2 with here in the state of Mississippi and what other 3 states are from the regulatory side of things. 4 However, the topic of conversation for 5 the three days of conference was around the Dental 6 Compact. As you know, the CSG, Council of State 7 Governments, has -- which has formulated a Dental 8 Compact that I think has been presented to the ADA. 9 I'm not sure if that's been formally accepted by the 10 ADA. I think there was some recent discussions about 11 that. So you have that proposal. 12 And so the AADB, the American Association 13 of Dental Boards, has come up with an alternative 14 version of a Compact. So I think you will always hear 15 pros and cons depending on who you're talking to which 16 one of those two they support. I think for for me 17 take-away has been a couple of things. One, personally 18 in the state of Mississippi, I don't see the need for 19 a Compact. We have Pathway by credentialing for 20 licensure. We have a Pathway now under UROLA and 21 Military Family Freedom Act for licensure; however, 22 it's coming. So whether we need it or not, I think 23 we -- it will be one of these, if not both at some 24 point in the future, be presented to our legislature; 25 and I have copies of both of the Compacts in their</p>

<p style="text-align: right;">Page 102</p> <p>1 entirety, but have not had the opportunity to sit 2 down -- Westley and I to sit down and kind of go 3 through those word for word. 4 The AADB's presentation, you know, I 5 highlighted certain aspects of the CSG's version that 6 are very concerning, but, again, all that's taken out 7 of context. I'd rather comment when I understand it 8 myself in the context in which it's written; however, 9 I do think some of the major things that are not in 10 dispute between the two, one is on the cost. The CSG 11 plan can levy assessments against participating states 12 to cover the cost of the Compact, and that amount is 13 not given. So, I mean, no one knows what that would 14 be. So if Mississippi legislature voted that Compact 15 in today, depending on how many states are also 16 participating, it would be divided by that number of 17 states and cost share. So who knows what it could be. 18 But the AADB does not -- there is no cost 19 to each state under their Compact. The cost is borne 20 by the licensee who's applying through the Compact. 21 So that's one. You know, there's some differences 22 on reporting I think disciplinary issues, and then 23 certainly some of the larger issues are around 24 authority by each state and their boards, so you're 25 going to get different opinions and highlights</p>	<p style="text-align: right;">Page 104</p> <p>1 the Council of State Government's Compact had language 2 indicating, you know, that you can file suit and the 3 suit would have to occur in Washington, D.C. 4 The AADB Compact provided that in the 5 event of noncompliance by a jurisdiction they would 6 essentially send a letter saying hey, we want you to 7 get in compliance and also conduct a training -- or 8 training I guess to people that work at the Board to 9 make sure they understand the Compact. 10 EXECUTIVE DIRECTOR HYDRICK: And that if 11 it did elevate to some sort of legal action it would 12 be done in the states -- 13 MR. MUTZIGER: That's right, that's right. 14 EXECUTIVE DIRECTOR HYDRICK: -- of -- and 15 not in D.C. 16 MR. MUTZIGER: Washington, D.C. 17 EXECUTIVE DIRECTOR HYDRICK: So if the 18 Compact under the AADB if there was a dispute with 19 the state of Mississippi it would be heard in the 20 state of Mississippi not in a different state. So I 21 don't -- I don't know that I can answer detailed 22 questions, but I'll certainly be glad to entertain 23 any just Board -- you know, any of the Board members 24 who have some knowledge of this as well might be able 25 to respond. Any questions that....</p>
<p style="text-align: right;">Page 103</p> <p>1 between the two Compacts on those; but it does seem, 2 just a cursory review of CSG, that there would be 3 some limitations on the Board's authority under that 4 Compact. You know, I think just specifically 5 language under the CSG's plan that the force of law 6 comes from the voting members of participating states. 7 You can have a majority of seven states, or seven 8 participating states will say four can make the 9 decision that would force all seven to accept. And 10 so, you know, I think there's -- and that's not a 11 concern under the AADB's compact. There's a commission 12 that's formed and each state has a representative, 13 but it doesn't carry, as I understand it -- if I'm 14 using these terms wrong, Westley, speak up, but 15 there's not a force of law behind those decisions with 16 the AADB's Compact. 17 MR. MUTZIGER: Yes, it's interesting, you 18 know, they touch briefly on how it is that they would 19 address noncompliance. I think in order to be a 20 Compact, even though I think that's how it was kind 21 of -- how it was phrased, I think it's still going 22 to require the force of law, but I think the difference 23 it comes in their approach. They're suggesting that 24 they're going to have a lighter touch, if you will, 25 for those jurisdictions out of compliance; whereas,</p>	<p style="text-align: right;">Page 105</p> <p>1 BOARD MEMBER WILLIAMS: Can you send us 2 copies of those two -- 3 EXECUTIVE DIRECTOR HYDRICK: I sure will. 4 BOARD MEMBER WILLIAMS: -- Compacts just 5 for -- 6 EXECUTIVE DIRECTOR HYDRICK: I'll send 7 those out. 8 BOARD MEMBER WILLIAMS: -- information. 9 Thank you. 10 BOARD PRESIDENT SMITH: Any other questions 11 for Denny? 12 EXECUTIVE DIRECTOR HYDRICK: And I didn't 13 -- I said earlier, I failed to mentioned on licensing, 14 we have issued eight local anesthesia permits in the 15 state so far for hygienists. I just wanted that 16 recorded also in the report. Thank you. 17 BOARD PRESIDENT SMITH: Okay. All right. 18 That's your report. Can we go into -- talk about 19 this now? 20 EXECUTIVE DIRECTOR HYDRICK: We can. 21 BOARD PRESIDENT SMITH: Okay. 22 EXECUTIVE DIRECTOR HYDRICK: So this is 23 an item that's not on the agenda because it just came 24 to our attention yesterday or maybe the night before. 25 And I can send a copy of it to everyone. There was</p>

<p style="text-align: right;">Page 106</p> <p>1 an article that was sent to me from The Daily 2 Journal out of Tupelo or somewhere, and on a week 3 from today there's going to be a charitable event in 4 West Point, Mississippi, from a -- sponsored by a 5 nonprofit group out of Kansas City called TeamSmile. 6 This group typically works with professional sports 7 teams, and they go into states or usually larger cities 8 to provide dental services to children in underserved 9 areas and who, you know, may not -- do not have a 10 provider. 11 And so the question just came, you know, 12 in reading the article, you know, the two main things 13 jumped out at me is I think it's a great event. I 14 mean, I'm not here to say it's not. But one, you know, 15 was that the article stated -- and I'll just read it. 16 It says, They're based in Kansas City. This is the 17 group. And they travel with, among other things, 600- 18 to \$700,000 worth of dental equipment and supplies 19 and bring some oral healthcare professionals with them 20 and recruiting many others locally. 21 So it jumped out to me that we potentially 22 would have practitioners coming into Mississippi, even 23 for one day practicing, without a Mississippi license, 24 which, you know, our statute doesn't allow. 25 And then the second concern being the</p>	<p style="text-align: right;">Page 108</p> <p>1 lists all the services that will be offered, you know, 2 there. And they are expecting around 250 kids. They're 3 going to be busing them from the local school and 4 doing different procedures or, you know, mostly 5 cleanings and that kind of thing. So that's where 6 we are. 7 You know, our regulations even around 8 volunteer and temporary licenses require a 30-day 9 notification to the Board to be able to properly vet, 10 but I'm willing, certainly, if it's only one person, 11 you know, trying to help expedite that for Dr. Bush 12 if he's willing. But as far as everyone else, I 13 believe there -- there will be licensed physicians 14 or faculty and students from UMC. Dr. Lampkin. 15 BOARD MEMBER LAMPKIN: So this has been 16 brought forth to the dental school months ago, and 17 so they have tasked D3 and D4 students, so there will 18 be over 70 students there, including some residents 19 as well, three faulty from dental and then about four 20 or five from dental hygiene. So they will have the 21 manpower and they will have the supervision of the 22 faculty. This is just -- maybe like I told Denny, 23 this is like one day during mission week or half a day 24 during mission week for our students. 25 So I know that the license of the dentist</p>
<p style="text-align: right;">Page 107</p> <p>1 mobile unit that will be brought in which even under 2 a volunteer mission-type project still requires under 3 our current regulations to be inspected by the Board. 4 So I put in a phone call to Dr. Thomas 5 who is I think the director of operations or something 6 like with this group. She was very helpful, very 7 knowledgable, you know, and we kind of talked through 8 some of these things. She -- I asked her, you know, 9 if there would be anyone coming from another state 10 who did not have a Mississippi license, and she said 11 only the founder, Dr. Bush, who is a dentist would be 12 coming. And so I told her that without a license, 13 you know, you can't practice, you know, even in -- on 14 this day unless -- you know, it's best to volunteer 15 license which we do have in our regulations. 16 So we kind of talked through that. And she 17 said well, he'll probably just observe. And I said 18 well, I would be willing to expedite a license for him, 19 you know, if he wants to participate. And so the last 20 correspondence we had about that was she was just 21 going to talk to Dr. Bush and she would let me know. 22 As far as the equipment, they do bring in 23 a 54 truck -- foot truck. There is 12 treatment units 24 and 14 hygienist units that are on this truck, and, 25 you know, I have a separate email from her where she</p>	<p style="text-align: right;">Page 109</p> <p>1 that was coming from another state was an issue, but 2 I was assuring Denny that, you know, he will not have 3 any hands on with the student patients that may be 4 there. This is strictly just a mission, a service 5 thing for the students because our students have had 6 a lack of pediatric patient experiences, and so this 7 was brought to Dr. (unintelligible) lap, and he tried 8 to do what he could to help out the community. 9 BOARD MEMBER GRUBBS: So you're strictly 10 an arm of the school? 11 BOARD MEMBER LAMPKIN: Huh? 12 BOARD MEMBER GRUBBS: You're strictly an 13 arm of the school in going out there and doing this? 14 BOARD MEMBER LAMPKIN: Correct. 15 BOARD MEMBER GRUBBS: You're still under 16 the school? 17 BOARD MEMBER LAMPKIN: Correct. They're 18 under the faculty that are going to be there. Correct. 19 BOARD PRESIDENT SMITH: And then there 20 were some dentists from West point I guess and the 21 Tupelo area that are going to volunteer? Do you know? 22 BOARD MEMBER CURTIS: I have not been 23 contacted about this subject. 24 BOARD MEMBER LAMPKIN: Yeah, I don't think 25 there are any outside --</p>

<p style="text-align: right;">Page 110</p> <p>1 EXECUTIVE DIRECTOR HYDRICK: There are two, 2 a Dr. Steven Sullivan of Batesville and Dr. Summer 3 Lowery of Columbus are both listed in the article as 4 local sponsors, dentist sponsors -- dental sponsors. 5 It said they'll be on hand and will donate their time. 6 It says Sullivan is the lead dentist on the West Point 7 event. 8 BOARD PRESIDENT SMITH: Okay. So right 9 now it sounds like we're under control with that 10 situation. 11 EXECUTIVE DIRECTOR HYDRICK: Other than, 12 you know, the inspection of the mobile facility, 13 which, you know, she said they would be setting it 14 up on the 2nd, which is Thursday, that we were welcome 15 to come up there, and if the Board so sees fit, you 16 know, we can certainly arrange for that to -- 17 BOARD MEMBER GRUBBS: You said a mobile 18 facility from outside the state is coming in? 19 EXECUTIVE DIRECTOR HYDRICK: Yes. They 20 bring in their own -- 21 BOARD MEMBER GRUBBS: So it's not 22 something -- 23 EXECUTIVE DIRECTOR HYDRICK: -- based out 24 of Kansas City. 25 BOARD MEMBER GRUBBS: It's not something</p>	<p style="text-align: right;">Page 112</p> <p>1 so do you not do it? 2 BOARD MEMBER LAMPKIN: I mean, that's what 3 I'm saying. Are we -- 4 EXECUTIVE DIRECTOR HYDRICK: I think it's 5 more about awareness. I don't know if they knows 6 our previous practice, and I don't really know. You 7 know, I haven't been here -- if the Board was aware 8 of any previous ones or not. 9 BOARD PRESIDENT SMITH: Well, we know 10 Missions of Mercy because they've done two or three 11 of them here, I guess. Right? 12 EXECUTIVE DIRECTOR HYDRICK: So there is 13 an awareness and so I don't know what the practice 14 has been. 15 BOARD PRESIDENT SMITH: Okay. All right. 16 The only other thing before we go into executive 17 session is there any other business to come before the 18 Board? 19 BOARD MEMBER WILLIAMS: Yes. I had a 20 couple of questions about this. They're providing 21 insurance in the state of Mississippi. Is there no 22 temporary license? 23 BOARD PRESIDENT SMITH: They're all 24 Mississippi dentists. 25 BOARD MEMBER LAMPKIN: They're all</p>
<p style="text-align: right;">Page 111</p> <p>1 we have to go there and approve? 2 EXECUTIVE DIRECTOR HYDRICK: Well, it's 3 kind of unclear. 4 BOARD MEMBER LAMPKIN: I mean, it's 5 Missions of Mercy. 6 BOARD MEMBER WILLIAMS: We should. 7 EXECUTIVE DIRECTOR HYDRICK: They are 8 bringing an X-ray machine and they did contact the 9 Department of Health to have that certified. They 10 contacted them in August, so that's been taken care 11 of. It's just the.... 12 MR. MUTZIGER: According to our 13 regulations, it's supposed to be approved because it 14 qualifies as that mobile dental clinic. 15 BOARD MEMBER GRUBBS: Now, don't get me 16 wrong. I'm 100 percent for it, but, you know, I don't 17 think you need to start skipping around -- 18 BOARD MEMBER LAMPKIN: Well, I guess my 19 question is that like I had for Denny, has all of 20 the Missions of Mercy that come to north Mississippi 21 and south Mississippi have those -- that equipment 22 been -- had that been regulated, and there have been 23 multiple reviews prior to this. 24 BOARD MEMBER GRUBBS: I'm not aware of that. 25 I mean, I got what you're saying. I'm just saying,</p>	<p style="text-align: right;">Page 113</p> <p>1 students. 2 BOARD MEMBER WILLIAMS: But they are -- 3 BOARD MEMBER LAMPKIN: Supervised under 4 the practicing doctors at UMC that have a Mississippi 5 dental license, just as if this were -- 6 BOARD MEMBER WILLIAMS: If I went to that 7 -- if I went to that mission I would have to -- I 8 would have to submit something to the Board. 9 BOARD MEMBER LAMPKIN: I understand that, 10 but I guess, too, as if, like, we were doing our 11 mission week, we have students come from DHS and 12 everything else. 13 BOARD MEMBER WILLIAMS: But that's all 14 been in the dental school itself. 15 BOARD MEMBER LAMPKIN: I understand that. 16 And then there are some -- there are some students 17 that do go out to those preschools and communities 18 that do, like, little OHIs and all of that. 19 BOARD MEMBER WILLIAMS: They don't. 20 EXECUTIVE DIRECTOR HYDRICK: Actually, the 21 regulation does not require state agencies to follow 22 our regulations when it comes to licensing for the 23 mobile inspection. So if it were something sponsored 24 simply by UMC, they don't need the Board to be 25 involved. I don't know if that matters but that's --</p>

<p style="text-align: right;">Page 114</p> <p>1 BOARD MEMBER WILLIAMS: It does matter. 2 EXECUTIVE DIRECTOR HYDRICK: -- you know, 3 Westley, that's kind of how we looked at it. Right? 4 MR. MUTZIGER: That is. 5 EXECUTIVE DIRECTOR HYDRICK: There's an 6 exception -- there are two exceptions in one of those 7 state agencies -- 8 MR. MUTZIGER: Operating -- operating 9 that mobile -- 10 EXECUTIVE DIRECTOR HYDRICK: And I think 11 the other was something disasters or something like 12 that. 13 MR. MUTZIGER: Oh, I can't remember the 14 second one -- 15 EXECUTIVE DIRECTOR HYDRICK: There were 16 two exceptions. 17 MR. MUTZIGER: -- but I do recall that 18 one. 19 BOARD MEMBER GRUBBS: I think the mistake 20 that was made was even bringing it up and now you 21 know about it, so make sure you remember that. 22 BOARD PRESIDENT SMITH: I was going to 23 ask Westley about orientation for Dr. Bishop. You 24 know, usually the attorney at the first meeting gives 25 an orientation, refresher to a new guy, you know,</p>	<p style="text-align: right;">Page 116</p> <p>1 tasked to do. 2 BOARD PRESIDENT SMITH: Good. Anything 3 else? Any other new business? 4 BOARD MEMBER WILLIAMS: I don't think there 5 is any. 6 BOARD PRESIDENT SMITH: Okay. Well, let's 7 go -- let's entertain a motion to go into executive 8 session. 9 MR. MALONE: Entertain a motion to consider 10 the need to go into executive session. 11 BOARD PRESIDENT SMITH: Yes. Is there a 12 motion for that? 13 BOARD MEMBER WILLIAMS: So moved. 14 BOARD PRESIDENT SMITH: Okay. There's 15 one. Is there a second? 16 BOARD MEMBER BIRMINGHAM: Second. 17 BOARD PRESIDENT SMITH: Second. Thank 18 you. All in favor, "aye." 19 DENTAL BOARD: "Aye." 20 BOARD PRESIDENT SMITH: Any opposed? 21 (No response.) 22 BOARD PRESIDENT SMITH: No. Okay. 23 MR. MALONE: The Board is hereby closing 24 the meeting right now to consider the need to go into 25 executive session. Everyone please leave.</p>
<p style="text-align: right;">Page 115</p> <p>1 and tell him the -- about what he can do and what he 2 cannot do. 3 MR. MUTZIGER: So Denny actually has 4 taken it upon himself when we have new Board members 5 to provide an orientation, and when Denny did that I 6 did take some time and spend with Dr. Bishop to kind 7 of give a brief overview of legal processes and things, 8 but, of course, I'm always available, Dr. Bishop, if 9 you have additional questions. I'm usually tasked 10 or the expectation is that at least annually I'll 11 provide really an overview of all Board members a 12 training of sorts which is good just to remember the 13 certain laws and regulations that govern us as a 14 public body and how we have to do business. I can't 15 recall what month we did that in. Last time it was 16 quite fast, but that will be upcoming again, and the 17 entire Board will share that benefit. 18 EXECUTIVE DIRECTOR HYDRICK: I will say the 19 AADB did a great orientation for the Board members. 20 I was really impressed by that. 21 BOARD MEMBER BISHOP: Yes, it was excellent. 22 As a matter of fact, I asked Denny to circle back to 23 perhaps get a transcript because there was some really 24 valuable information that helped me put it in better 25 perspective what we're tasked to do and that we're</p>	<p style="text-align: right;">Page 117</p> <p>1 (OFF RECORD 11:09 A.M. TO 1:45 P.M.) 2 HEARING OFFICER LOVE: Good morning. I'm 3 sorry, good afternoon. I'll call the first matter 4 on the docket before the Mississippi State Board of 5 Dental Examiners in the matter of Mississippi Dental 6 License Number 3437-07, Docket Number 2022-068. 7 I am Kristen Love, and I will serve as 8 the hearing officer in this matter. My role during 9 the course of this proceeding will be to rule on 10 objections to questions or evidence raised by the 11 parties, to see to the orderly process of the 12 proceedings, and to ensure that these proceedings 13 are conducted in accordance with the applicable laws 14 and rules. 15 At this time I'll ask all Board members 16 to state their names for the record. 17 BOARD MEMBER GRUBBS: Lewis Grubbs. 18 BOARD MEMBER BIRMINGHAM: Haley Birmingham. 19 BOARD MEMBER CURTIS: David Curtis. 20 BOARD PRESIDENT SMITH: Robert Smith. 21 BOARD MEMBER WILLIAMS: Mark Williams. 22 BOARD MEMBER LAMPKIN: Alexa Lampkin. 23 BOARD MEMBER CARLTON: John Carlton. 24 BOARD MEMBER BISHOP: Wade Bishop. 25 HEARING OFFICER LOVE: And will the</p>

<p style="text-align: right;">Page 118</p> <p>1 attorney representing the Board state your name for 2 the record. 3 MR. MUTZIGER: Yes. My name is Westley 4 Mutziger. 5 HEARING OFFICER LOVE: And is the 6 respondent, Jeff Michael Zimmerman present? 7 MR. MUTZIGER: To my knowledge, he is not 8 present. And I have a preliminary matter to bring 9 before the Board in consideration of whether to proceed 10 in that case. 11 HEARING OFFICER LOVE: Okay. At this time 12 will you be able to speak to the Notice that Mr. 13 Zimmerman received regarding this hearing? 14 MR. MUTZIGER: Yes. And I think first I 15 would like call Nick Hardwick, so I'd like to have 16 him sworn in, please. 17 NICK HARDWICK, 18 having been first duly sworn, was 19 examined and testified as follows: 20 EXAMINATION 21 BY MR. MUTZIGER: 22 Q. Please state your name for the record. 23 A. It's Nick Hardwick. 24 Q. And what capacity are you here today? 25 A. I'm here as an investigator for the State</p>	<p style="text-align: right;">Page 120</p> <p>1 A. It's 1213 Broad Avenue, Suite 1, Gulfport, 2 Mississippi. 3 Q. Okay. And do you have a Washington Avenue 4 address as well? 5 A. I do. 6 Q. Okay. Please recite that for the record. 7 A. 6213 Washington Avenue, Ocean Springs, 8 Mississippi. 9 Q. Okay. Thank you. All right. Now I want to 10 point you to Exhibit B3. If you would, Mr. Hardwick, 11 just identify for the record Exhibit B3, please. 12 A. This is a Notice of Hearing to Mississippi 13 Dental License Number 3437-07 in regards to Docket 14 Number 2022-068. It is addressed to Dr. Zimmerman. 15 It's the body of a notice for a hearing for Friday, 16 October 27, 2003 (sic) at 11 o'clock. It is signed 17 by Executive Director Denny Hydrick. 18 Off to the right margin at the bottom of 19 this is initials of Dr. Zimmerman and a date. I 20 personally handed this to him and had him sign this 21 copy. 22 Q. Thank you. And can you also confirm the 23 location at which this hearing is to take place on 24 October 27th at 11 a.m. 25 A. It does state here in the Board office</p>
<p style="text-align: right;">Page 119</p> <p>1 Board of Dental. 2 Q. Okay. And are you familiar with the 3 matter of Docket Number 2022-068 regarding Dr. Jeff 4 Michael Zimmerman? 5 A. I am. 6 Q. Okay. I want to ask you some things 7 regarding the documents that have not yet been entered 8 into evidence. I would first point your attention 9 to Exhibit B2. And I apologize, but my computer is 10 not working, and I do not have exhibit stickers on 11 these. If I run a little foul, just let me know. I 12 think I know where everything starts and ends. 13 All right. Do you recognize the images on 14 this document? For example, does that look like the 15 Board's database information to you? 16 A. It does. 17 Q. Okay. Would you identify the dentist for 18 whose information is represented on that page? 19 A. Dr. Jeff Michael Zimmerman, DDS. 20 Q. Excellent. Anywhere on the page do you 21 find address information for Dr. Zimmerman? 22 A. Did he sign? Yes. 23 Q. Okay. Do you have a mailing address? 24 A. I do. 25 Q. What is that?</p>	<p style="text-align: right;">Page 121</p> <p>1 located at 600 East Amite Street, Suite 100, Jackson, 2 Mississippi. 3 Q. Thank you very much, Mr. Hardwick. Now 4 I'm going to take you to what is the final page of 5 Exhibit B3. Would you please identify that for the 6 record. 7 A. This is a UP -- a USPS tracking -- Tracking 8 Number RF380870103US. This is a tracking of a 9 document. 10 Q. Okay. Let me point your attention down 11 here in the bottom right corner. Do you see what is 12 entitled "Registered Number"? Would you please take 13 a look at this receipt for registered number and 14 confirm whether or not the number listed there matches 15 the number listed at the top of the document. 16 A. They are the same. 17 Q. Okay. Would you also please identify in 18 that registered mail receipt document at the bottom 19 right corner the address to which it was directed. 20 A. This is directed to Dr. Jeff Michael 21 Zimmerman, 6213 Washington Avenue, Ocean Springs, 22 Mississippi 39565. 23 Q. Thank you. And lastly, on this document 24 can you please identify the status of -- as identified 25 by USPS tracking.</p>

<p style="text-align: right;">Page 122</p> <p>1 A. It states under the heading "Delivered," 2 Delivered. Left with individual at Ocean Springs, 3 Mississippi, September the 19th, 2003, (sic) at 12:23. 4 MR. MUTZIGER: Thank you. At this time I 5 would now bring to the Board's attention that in 6 anticipation of this matter, I, as counsel for the 7 Board, attempted to reach out to Dr. Zimmerman via 8 email. Those email communications have been provided 9 to you. I believe that's going to be Exhibit B4. 10 Dr. Zimmerman essentially states -- I'll 11 read for the record his email on Wednesday, October 12 25th. Hey, Westley, I got your message and was 13 hoping to be able to get to Jackson on Friday. I'm 14 having to go to Jacksonville tomorrow afternoon for 15 a Navy and will be in clinic this weekend. I was 16 thinking they were going to cancel me since last month 17 was canceled due to the possibility of a government 18 shutdown. They were really limiting funds but now 19 they believe a new budget will be passed, and so 20 they are not letting me move my weekend. They had 21 me scheduled but they either approve or disapprove 22 it, and I was pushing the issue with them. 23 If it's complicated to move the hearing, 24 is it possible to do a consent with \$1000 fine and a 25 month to complete payment? I believe I passed the</p>	<p style="text-align: right;">Page 124</p> <p>1 Please let me know if you wish for the 2 Board to proceed in your absence. If you do not, the 3 Board will take into consideration any reasons you 4 may have submitted for your absence, including 5 supporting evidence, in determining whether to proceed 6 or continue the matter. As such, please provide a 7 copy of your orders ASAP if you would like the Board 8 to consider them at tomorrow's hearing. Unfortunately, 9 I'm unable to offer you a consent order at this time. 10 Please be advised that it was reported that you 11 unconditionally passed the program. Please check your 12 spam folder as the notification was also emailed to 13 you. Let me know if you have additional questions. 14 And finally, the email was sent Friday at 15 9:04 a.m. today, October 27th, from Dr. Jeff Zimmerman 16 that reads, Hey, definitely proceed to get things 17 done -- get things going and now that everything is 18 completed. The Probe class is more involved than 19 expected. And in the future, the Board needs to give 20 people more time to complete it. It's not a class 21 that you just watch on Zoom and attend. The way it 22 was presented was that you sign up and watch an 23 instructor and then write a narrative, but once the 24 class actually starts the instructor explains 25 everything involved.</p>
<p style="text-align: right;">Page 123</p> <p>1 Probe class because they haven't sent a letter 2 saying otherwise, and the makeup would be scheduled 3 by now. Did they send a letter to you? They 4 explained to us that not everyone passes the class 5 unless the instructors believe that you understand 6 the class. They will recommend further instruction. 7 I'm still dealing with closing a loan for 8 the buyout of my houses and finally today got the 9 paperwork from SBA with a timeline. So that's what 10 I need -- that's why I need a few weeks to send in 11 payment. I can send the paperwork from Navy and SBA, 12 but let me know what's best and will call tomorrow. 13 I'm still waiting on my captain to tell me it was 14 canceled. I was hoping to get answer earlier but 15 they don't care about people's time. Thanks again. 16 And I apologize for that longevity but 17 we're determining whether to proceed. 18 In response, on Thursday, October 26th, I 19 emailed Dr. Zimmerman, I'm sorry to hear that you 20 have a conflict tomorrow. Ultimately, the Board has 21 achieved service of process and used personal service 22 and registered mailing and delivery of the Notice of 23 Hearing and Complaint. Once service of process is 24 legally achieved, the Board may proceed automatically 25 with or without the respondent present.</p>	<p style="text-align: right;">Page 125</p> <p>1 I would have failed if I would have rushed 2 to take the earlier class during the allowed time 3 frame, and they had people in class that were retaking 4 it because they figured they could coast through it. 5 Also, I know the Board talked about a system or 6 guidance. That would help in the future. If the 7 Board is willing to adjust the fine and once I close 8 the SBA loan and I can complete through new business 9 name. As of now I'm still employed under my dad's 10 company -- clinic and will get documents. Since I'm 11 only Navy reserve dentist in Mississippi, I don't 12 have many options, and now they're wanting to tag me 13 for deployment which is the worst time. Big Navy 14 don't care. JZ. 15 So at this time the Board having 16 demonstrated that service of process has been 17 achieved as well as offering the email communications 18 from Dr. Zimmerman, which would appear to indicate 19 to move forward with the case, the State would offer 20 that it's ready to proceed in Dr. Zimmerman's absence. 21 HEARING OFFICER LOVE: At this time I'll 22 allow the Board to ask any questions they may have 23 of your witness. No questions? 24 BOARD MEMBER WILLIAMS: I thought this 25 was a consent order, Westley, that he had signed.</p>

<p style="text-align: right;">Page 126</p> <p>1 You said there was -- in your response to him, you 2 said something about -- 3 MR. MUTZIGER: Dr. Zimmerman was referring 4 to the possibility of executing a subsequent consent 5 order. 6 BOARD MEMBER WILLIAMS: An amended consent 7 order? 8 MR. MUTZIGER: That's right. 9 BOARD MEMBER WILLIAMS: Okay. So that's 10 when you said that can't be done? 11 MR. MUTZIGER: That's right. 12 BOARD MEMBER WILLIAMS: So this one has 13 been executed. It's completed? 14 MR. MUTZIGER: That's correct. Whether 15 he's complied with it is the reason we're here today. 16 BOARD MEMBER WILLIAMS: And what would it 17 take for him to complete this one? 18 MR. MUTZIGER: Well, we might want to 19 narrow -- I'm willing to talk about that, but I think 20 right now the determination is whether we want to 21 proceed in hearing the actual case. 22 BOARD MEMBER WILLIAMS: Okay. I'm sorry. 23 HEARING OFFICER LOVE: And then for me, my 24 question is, he's -- it sounds like he's in the Navy? 25 BOARD MEMBER WILLIAMS: Correct.</p>	<p style="text-align: right;">Page 128</p> <p>1 about doing, in order to expedite things, is go ahead 2 and we'll do this hearing and then do both, have the 3 Board deliberate on both cases at the same time. 4 That way we won't delay this next proceeding, if that's 5 okay with the hearing officer. 6 HEARING OFFICER LOVE: Okay. Well, how 7 do you expect the Board to make its decision on whether 8 or not to proceed with the hearing? In open session 9 here? 10 MR. MALONE: You're talking about proceeding 11 with Zimmerman's hearing? 12 HEARING OFFICER LOVE: Correct. 13 MR. MALONE: I think that the Board is 14 under the impression that, in essence, they just had 15 the hearing. So to be a factor of deciding how to 16 proceed as far as what would be the results of the 17 Board's decision on how to do another agreed order 18 or -- 19 MR. MUTZIGER: So we're not quite there 20 yet. So yes, we're still at the issue of just 21 determining whether to proceed, and so it's the State's 22 position that service of process was achieved and 23 would move to go forward, but by all means if the 24 Board feels it necessary to go into executive session 25 to discuss that, so be it.</p>
<p style="text-align: right;">Page 127</p> <p>1 HEARING OFFICER LOVE: Okay. And he asked 2 for a continuance based on some -- something related 3 to -- 4 MR. MUTZIGER: I think that you would have 5 to probably read into the email to declare that he 6 asked for a continuance. I don't see that he 7 explicitly did so. He does represent that he has a 8 conflict; however, the frank communication regarding 9 his conflict was following my phone call on 10/25, 10 this past Wednesday. So the Board has not been 11 noticed of this conflict until really last minute. 12 And furthermore, in the email he says 13 This morning definitely proceed to get things going. 14 So I don't know that I would interpret that as 15 meaning really asking for a continuance. It seems 16 to me that he wishes for us to make a ruling in his 17 absence, but that's just according to the email that 18 I've presented to the Board. 19 HEARING OFFICER LOVE: All right. At 20 this time I'll entertain a motion from the Board to go 21 into closed determination to determine whether grounds 22 exist to go into executive session to deliberate on 23 the question of whether or not to proceed with the 24 hearing in Dr. Zimmerman's absence. 25 MR. MALONE: I think what we were thinking</p>	<p style="text-align: right;">Page 129</p> <p>1 HEARING OFFICER LOVE: Is there a motion? 2 MR. MALONE: We do need a motion in 3 executive. 4 BOARD MEMBER WILLIAMS: To accept the 5 previously -- for the hearing -- to answer the 6 question is whether or not this previous CO's been 7 completed? 8 MR. MUTZIGER: I want to answer your 9 questions, Dr. Williams, but I think that it's 10 probably better that you direct your questions to 11 Ms. Love. 12 BOARD MEMBER WILLIAMS: Okay. 13 HEARING OFFICER LOVE: So right now we're 14 just going into closed determination and then executive 15 session solely on the question of whether or not the 16 Board will proceed with this hearing in the 17 respondent's absence. 18 BOARD MEMBER WILLIAMS: Okay. 19 HEARING OFFICER LOVE: So whether or not -- 20 BOARD MEMBER WILLIAMS: All right. Sorry, 21 gentlemen. 22 HEARING OFFICER LOVE: -- to accept -- 23 BOARD MEMBER WILLIAMS: I move that we 24 consider going into executive session so we can 25 determine whether or not this hearing should proceed</p>

<p style="text-align: right;">Page 130</p> <p>1 in the absence of that defendant.</p> <p>2 BOARD MEMBER BIRMINGHAM: I'll second.</p> <p>3 HEARING OFFICER LOVE: All in favor.</p> <p>4 DENTAL BOARD: "Aye."</p> <p>5 HEARING OFFICER LOVE: Okay. We're in</p> <p>6 closed determination.</p> <p>7 BOARD MEMBER WILLIAMS: I move that we go</p> <p>8 into executive session so we can determine that.</p> <p>9 HEARING OFFICER LOVE: Yes. Is there a</p> <p>10 second?</p> <p>11 BOARD MEMBER LAMPKIN: I second.</p> <p>12 HEARING OFFICER LOVE: All in favor?</p> <p>13 DENTAL BOARD: "Aye."</p> <p>14 HEARING OFFICER LOVE: All right. We're</p> <p>15 in executive session.</p> <p>16 (OFF RECORD 2:08 P.M. TO 2:20 P.M.)</p> <p>17 HEARING OFFICER LOVE: We are back on the</p> <p>18 record. At this time I will announce the Board's</p> <p>19 action taken while in executive session. First, Dr.</p> <p>20 Bishop recused himself and did not participate in and</p> <p>21 will not participate in any deliberation on this</p> <p>22 matter.</p> <p>23 Second, the Board voted to proceed with</p> <p>24 the hearing today in Dr. Zimmerman's absence.</p> <p>25 MR. MUTZIGER: Excellent. Thank you. At</p>	<p style="text-align: right;">Page 132</p> <p>1 approval of the consent order.</p> <p>2 Additionally, Dr. Zimmerman was tasked</p> <p>3 with completing the Probe Plus program within a</p> <p>4 specified time frame as well as the Board's juris</p> <p>5 prudence exam.</p> <p>6 The Board has specifically brought charges</p> <p>7 today against Dr. Zimmerman for violating that Board's</p> <p>8 order, for violating that consent order, specifically</p> <p>9 in that he did not timely complete the restrictions</p> <p>10 required of him. As outlined in Exhibit B3, the</p> <p>11 Complaint, Dr. Zimmerman was ordered to pay \$2000</p> <p>12 within 30 calendar days and complete the Probe Program</p> <p>13 within 90 calendar days. Payment of that fine,</p> <p>14 judging by the 30-day mark of approval of the consent</p> <p>15 order was due no later than May 1st, 2023, in the</p> <p>16 Board's office.</p> <p>17 Respondent, Dr. Zimmerman, failed to do</p> <p>18 that. The Board did receive payment; however, that</p> <p>19 fine was received approximately June 27th, 2023,</p> <p>20 nearly two months after the deadline.</p> <p>21 Furthermore, Dr. Zimmerman was tasked</p> <p>22 with completing the Probe Program no later than June</p> <p>23 29th, 2023; however he failed to timely complete that</p> <p>24 program as he only enrolled in the course after the</p> <p>25 deadline for completion. He participated in the</p>
<p style="text-align: right;">Page 131</p> <p>1 this time the State would move that Exhibits B1 through</p> <p>2 B9 -- that would include B3, A through C; B6, A to B;</p> <p>3 and B9, A through D -- all be admitted into evidence.</p> <p>4 HEARING OFFICER LOVE: Hearing no</p> <p>5 objections, those exhibits are admitted into the record.</p> <p>6 MR. MUTZIGER: Board Members, the case</p> <p>7 before you is relatively straightforward. I don't</p> <p>8 believe a witness is necessary. I'm going to give</p> <p>9 you an opening that I think will serve as the case</p> <p>10 in chief. Dr. Zimmerman entered into a consent order</p> <p>11 with this Board March 31st, 2023. That consent order</p> <p>12 was due to violations that he violated the ADA</p> <p>13 Principles of Ethics and Code of Professional Conduct</p> <p>14 and that he specifically engaged in unprofessional</p> <p>15 conduct by serving as treasurer for District 5 wherein</p> <p>16 he made authorized political contributions as well as,</p> <p>17 suffice it to say, mismanaged the bank account</p> <p>18 belonging to District 5 in hie role as treasurer.</p> <p>19 As a result of that consent order, Dr.</p> <p>20 Zimmerman agreed to complete certain penalties</p> <p>21 described in that consent order. Those penalties</p> <p>22 included paying a fine of \$2000, completing a Probe</p> <p>23 ethics in boundaries program within 90 calendar days</p> <p>24 from approval of the consent order, and, as you know,</p> <p>25 that the fine was due within 30 calendar days of</p>	<p style="text-align: right;">Page 133</p> <p>1 August 24th to 26th course and ultimately did pass</p> <p>2 the course.</p> <p>3 For these violations I put to you, the</p> <p>4 Board, that it's appropriate to impose additional</p> <p>5 disciplinary action. I would go so far as to provide</p> <p>6 a recommendation for this Board. That recommendation</p> <p>7 is based off of the gravity of the offense, it is</p> <p>8 based off of Dr. Zimmerman's continuing compliance</p> <p>9 with the order, and it's based off of his expressed</p> <p>10 desire in his email, even in his absence, to continue</p> <p>11 to comply with the order.</p> <p>12 I will put to this Board that you consider</p> <p>13 additional disciplinary sanctions in the form of at</p> <p>14 least a fine and whatever other measure you feel is</p> <p>15 appropriate to be imposed on top of his remaining</p> <p>16 requirements of his consent order.</p> <p>17 I would point the Board to the evidence</p> <p>18 already admitted, Exhibit B5, the consent order;</p> <p>19 Exhibit B6 showing a June 30th, 2023, enrollment in</p> <p>20 Probe; a deposit form indicating payment received in</p> <p>21 Exhibit B7; the juris prudence exam results in</p> <p>22 Exhibit B8; and documentation in Exhibit B9</p> <p>23 indicating his successful but untimely completion of</p> <p>24 the Probe program.</p> <p>25 For all of these reasons considered I'll</p>

<p style="text-align: right;">Page 134</p> <p>1 move that it's appropriate for the Board to impose 2 additional disciplinary action reasonably within 3 your discretion and that the evidence clearly supports 4 it. Thank you. 5 HEARING OFFICER LOVE: Any questions from 6 the Board at this time? 7 BOARD MEMBER WILLIAMS: So who do we ask 8 for what is a reasonable determination of a fine 9 and/or -- 10 BOARD MEMBER GRUBBS: You're talking about 11 Mr. Zimmerman? 12 BOARD MEMBER WILLIAMS: Yes. 13 MR. MALONE: I mean, it's really up to 14 the Board's discretion. I think -- I think even -- 15 I don't think -- I didn't hear if Westley made a 16 recommendation. Zimmerman is saying 1000. 17 BOARD MEMBER WILLIAMS: But he's paid the 18 2000 back in June from the original Complaint. Right? 19 MR. MUTZIGER: Your statutory maximum -- 20 in fact, I would direct you to that. The statute 21 actually defines a maximum fees for penalties. Because 22 the Board is looking to render a decision in this 23 matter as opposed to entering into an additional 24 agreement, I would put to the Board that you are bound 25 by that \$500 maximum per violation. As alleged today,</p>	<p style="text-align: right;">Page 136</p> <p>1 second consent order. I have no consent order to 2 offer today. 3 BOARD MEMBER GRUBBS: What was that? Say 4 that again. 5 MR. MUTZIGER: I have -- 6 BOARD MEMBER GRUBBS: What was your 7 question, Mark? 8 MR. MUTZIGER: There is no second consent 9 order. 10 MR. MALONE: Do we do another consent order 11 in addition to the one that he didn't comply with. 12 HEARING OFFICER LOVE: I do have a question 13 on it. What is outstanding, if anything, related to 14 the consent order that he -- that's already been 15 entered? 16 MR. MUTZIGER: Completion of the Probe Plus 17 Program. 18 HEARING OFFICER LOVE: Okay. I thought I 19 heard in your statement -- 20 MR. MUTZIGER: There are two programs. 21 There's a Probe program and a Probe Plus program. 22 He has completed successfully, although untimely, 23 the Probe program. The Probe Plus program is really 24 an extended requirement -- 25 HEARING OFFICER LOVE: But he was ordered</p>
<p style="text-align: right;">Page 135</p> <p>1 you have approximately two violations. That's going 2 to be the delinquent or rather the untimely payment 3 of the fine and untimely completion of the Probe course. 4 That would -- those two fines together would be a 5 maximum of \$1000. So it would be my recommendation 6 of this Board to impose that fine and any other 7 additional disciplinary action that you feel is 8 appropriate. 9 MR. MALONE: Now, is he saying he wanted 10 that in the form of a consent order or would it be in 11 the form of an imposition by the Board? 12 MR. MUTZIGER: Well, it's my position that 13 we're already before the Board, so it needs to be an 14 order of the Board. 15 BOARD MEMBER WILLIAMS: I thought that he 16 had already had a second CO -- 17 MR. MUTZIGER: I don't have -- I don't -- 18 BOARD MEMBER WILLIAMS: -- in like in August. 19 Didn't we -- 20 MR. MUTZIGER: Would it be appropriate for 21 me to continue this dialogue? Is that okay? 22 HEARING OFFICER LOVE: Yes. I mean, just 23 for your benefit you might want to speak through your 24 witness, but otherwise.... 25 MR. MUTZIGER: The record is devoid of any</p>	<p style="text-align: right;">Page 137</p> <p>1 to do it? 2 MR. MUTZIGER: -- and that remains. 3 HEARING OFFICER LOVE: Okay. 4 BOARD MEMBER GRUBBS: Now, Westley, tell 5 me about the timing on the -- was he within a year 6 from initiation of the consent order he had to do the 7 Probe Plus? 8 MR. MUTZIGER: So you can -- that's 9 correct. You can take a look at the consent order, 10 and it is a one year time frame, and that is based 11 off of the course offering. Ultimately, he also is 12 prescribed a 90-day window in which he is to enroll 13 in Probe Plus following successful completion of the 14 Probe program. He successfully completed it. I 15 believe it was around -- excuse me. I forget if it's 16 August or September. What's relevant is that he's 17 still within his 90-day window to enroll within the 18 Probe Plus program. 19 BOARD MEMBER GRUBBS: So that's not going 20 to change, that part of the consent order? The 21 original consent order will not change? 22 MR. MUTZIGER: It would be up to the Board 23 to determine. So ultimately because the consent 24 order has not been entered into, I'm bringing this 25 to you all to make a decision on what you all believe</p>

<p style="text-align: right;">Page 138</p> <p>1 is just for disciplinary action. It's up to you, the 2 Board. 3 BOARD MEMBER WILLIAMS: I'm not trying to 4 influence anybody on anything. I'm trying to get a 5 real good understanding of something. We knew back 6 in July that he was in violation of the 90-day window, 7 and I thought at that Board meeting we issued a second 8 CO. 9 MR. MUTZIGER: I have to remind you, 10 Dr. Williams, that in the process of attempting to 11 execute a consent order, that requires a voluntary 12 agreement by two parties. If one party chooses not 13 to agree to it, the consent order is moot. It does 14 not become effective. And when that occurs, the only 15 recourse for the Board is to file a formal Complaint 16 and set that back for a hearing. 17 BOARD MEMBER WILLIAMS: So that's what 18 this hearing is for because that CO that we initiated 19 at the July meeting has not been -- 20 BOARD MEMBER LAMPKIN: Accepted. 21 BOARD MEMBER WILLIAMS: -- has not been 22 accepted. Is that correct? 23 MR. MUTZIGER: That is correct. 24 BOARD MEMBER WILLIAMS: Okay. So at that 25 meeting we decided on a fine, an additional fine.</p>	<p style="text-align: right;">Page 140</p> <p>1 Zimmerman denied. Is that correct, Westley? 2 MR. MUTZIGER: That's correct. Dr. 3 Zimmerman chose not to enter into a consent order 4 within the time frame prescribed; therefore, I'm left 5 with the recourse of setting the matter for hearing. 6 BOARD MEMBER CURTIS: But you did have 7 that discussion with him? 8 MR. MUTZIGER: I did. 9 BOARD MEMBER CURTIS: Okay. That's what 10 I thought. 11 HEARING OFFICER LOVE: Any additional 12 questions? 13 BOARD MEMBER GRUBBS: So the maximum fine 14 could be \$1000. Correct? 15 MR. MUTZIGER: I would say direct your 16 question -- it's Ms. Love. Correct? 17 HEARING OFFICER LOVE: Uh-huh. 18 MR. MUTZIGER: To Ms. Love. That's my 19 understanding, but in this matter, in an adversarial 20 matter, Ms. Love is really serving really as the 21 Board's attorney to advise you all. So I can give 22 you information for the prosecutorial standpoint, but 23 I think Ms. Love should be in that position to advise 24 you. 25 BOARD MEMBER GRUBBS: But we still -- we</p>
<p style="text-align: right;">Page 139</p> <p>1 Right? Because there was some discussion about whether 2 or not there was going to be a suspension of.... 3 BOARD PRESIDENT SMITH: Somebody's going 4 to have to pull the minutes up. I don't remember. 5 BOARD MEMBER WILLIAMS: Well, I need to 6 see the second -- 7 HEARING OFFICER LOVE: Or we can go ahead 8 and -- 9 BOARD MEMBER WILLIAMS: So do we have a 10 copy of that second consent order that we presented 11 that -- 12 MR. MUTZIGER: It would be improper -- 13 BOARD MEMBER WILLIAMS -- was not signed? 14 MR. MUTZIGER: It would be improper because 15 it's a settlement negotiation. 16 BOARD MEMBER WILLIAMS: Okay. 17 MR. MUTZIGER: However -- 18 BOARD MEMBER WILLIAMS: And I want to 19 this get -- I'm saying for the record and to serve 20 the memory for the people who in July discussed the 21 noncompliance of the first CO, it would help our 22 memories. 23 BOARD MEMBER CURTIS: It was my memory 24 that Westley pulled Dr. Zimmerman aside and privately 25 tried to negotiate a second consent order, which Dr.</p>	<p style="text-align: right;">Page 141</p> <p>1 still have the ability to initiate other -- 2 HEARING OFFICER LOVE: And as far as what 3 the ultimate determination would be, that's what y'all 4 are going to decide in executive session. So if you 5 have any other questions related to -- I mean, 6 questions that will help you ultimately -- 7 BOARD MEMBER GRUBBS: Oh, okay. I see what 8 you're saying. Yes. 9 HEARING OFFICER LOVE: -- yes, then you can 10 ask those for right now. Any additional questions? 11 (No response.) 12 HEARING OFFICER LOVE: Hearing none, at 13 this time I'll entertain -- well, do you just want 14 to conclude or move to the next matter or do you want 15 them to go ahead and go on -- 16 MR. MUTZIGER: I'd say go ahead and it will 17 allow me time to confer with the other party. 18 HEARING OFFICER LOVE: All right. At this 19 time I'll entertain a motion from the Board to go 20 into closed determination to determine whether or 21 not grounds exist to go into executive session to 22 deliberate on Case Number 2022-068. Is there a motion? 23 BOARD MEMBER WILLIAMS: So moved. 24 BOARD PRESIDENT SMITH: Second. 25 HEARING OFFICER LOVE: Is there a second?</p>

<p style="text-align: right;">Page 142</p> <p>1 All in favor?</p> <p>2 DENTAL BOARD: "Aye."</p> <p>3 HEARING OFFICER LOVE: Any opposition?</p> <p>4 (No response.)</p> <p>5 HEARING OFFICER LOVE: Hearing none, at</p> <p>6 this time I'll entertain a motion from the Board to</p> <p>7 actually go into execute session to deliberate on</p> <p>8 Case Number 2022-068. Motion?</p> <p>9 BOARD MEMBER CURTIS: So moved.</p> <p>10 BOARD MEMBER BIRMINGHAM: Second.</p> <p>11 HEARING OFFICER LOVE: All in favor?</p> <p>12 DENTAL BOARD: "Aye."</p> <p>13 HEARING OFFICER LOVE: Any opposition?</p> <p>14 (No response.)</p> <p>15 HEARING OFFICER LOVE: Hearing none --</p> <p>16 MR. MALONE: Other than there is going to</p> <p>17 be an abstention --</p> <p>18 BOARD MEMBER WILLIAMS: Bishop is going --</p> <p>19 MR. MALONE: -- from our newest Board member</p> <p>20 who has a conflict, so he'll step out.</p> <p>21 HEARING OFFICER LOVE: Yeah, he's not here.</p> <p>22 I mean, he recused himself at the start of --</p> <p>23 MR. MALONE: Exactly. I just wanted to</p> <p>24 make sure the record is clear.</p> <p>25 HEARING OFFICER LOVE: Hearing no opposition,</p>	<p style="text-align: right;">Page 144</p> <p>1 and failure to comply with this order will result in</p> <p>2 a 30-day suspension.</p> <p>3 BOARD MEMBER WILLIAMS: Just for clarity,</p> <p>4 the fine had to be paid in 30 days.</p> <p>5 MR. MALONE: Yes, how long he has to pay</p> <p>6 the fine.</p> <p>7 BOARD MEMBER WILLIAMS: This is not until</p> <p>8 next March 31st.</p> <p>9 HEARING OFFICER LOVE: And for clarification</p> <p>10 purposes, the fine is due within 30 days, and the</p> <p>11 Probe Plus course must be completed --</p> <p>12 BOARD MEMBER WILLIAMS: By March 31st.</p> <p>13 MR. MUTZIGER: I believe that may be an</p> <p>14 impossibility or it may be near an impossibility. I</p> <p>15 believe the duration of the Probe Plus course is six</p> <p>16 months. Is that correct? Extended monitoring. And</p> <p>17 so completion -- what month are we in? Yeah, that</p> <p>18 would be an impossibility.</p> <p>19 BOARD MEMBER WILLIAMS: On October 31st.</p> <p>20 MR. MALONE: June 1.</p> <p>21 BOARD MEMBER GRUBBS: What?</p> <p>22 MR. MALONE: June 1.</p> <p>23 BOARD MEMBER GRUBBS: And why is it an</p> <p>24 impossibility?</p> <p>25 MR. MUTZIGER: Because it requires six</p>
<p style="text-align: right;">Page 143</p> <p>1 the Board is now in executive session.</p> <p>2 (OFF RECORD 2:34 P.M. TO 2:55 P.M.)</p> <p>3 HEARING OFFICER LOVE: We are back on the</p> <p>4 record. At this time I'll ask the Board to introduce</p> <p>5 themselves for the record or to state their names for</p> <p>6 the record.</p> <p>7 BOARD MEMBER WILLIAMS: Your name.</p> <p>8 BOARD MEMBER GRUBBS: I'm sorry?</p> <p>9 BOARD MEMBER WILLIAMS: Your name.</p> <p>10 BOARD MEMBER LAMPKIN: State your name.</p> <p>11 BOARD MEMBER GRUBBS: Lewis Grubbs. I'm</p> <p>12 so sorry. Excuse me.</p> <p>13 BOARD MEMBER BIRMINGHAM: Haley Birmingham.</p> <p>14 BOARD MEMBER CURTIS: David Curtis.</p> <p>15 BOARD PRESIDENT SMITH: Robert Smith.</p> <p>16 BOARD MEMBER WILLIAMS: Mark Williams.</p> <p>17 BOARD MEMBER LAMPKIN: Alexa Lampkin.</p> <p>18 BOARD MEMBER CARLTON: John Carlton.</p> <p>19 BOARD MEMBER BISHOP: Wade Bishop.</p> <p>20 HEARING OFFICER LOVE: We are back on the</p> <p>21 record. The Board rendered its decision in the Case</p> <p>22 Number 2022-068, and I will announce it at this time.</p> <p>23 The Board finds the respondent guilty of Charge 1.</p> <p>24 The disciplinary action is a \$1000 fine. The</p> <p>25 respondent must also complete the Probe Plus course,</p>	<p style="text-align: right;">Page 145</p> <p>1 months of participation. He's still technically within</p> <p>2 the time frame that the original consent order to</p> <p>3 enroll within it.</p> <p>4 BOARD MEMBER GRUBBS: Okay.</p> <p>5 MR. MUTZIGER: As soon as he enrolls,</p> <p>6 there's six months of which he has to maintain</p> <p>7 participation in it.</p> <p>8 BOARD MEMBER WILLIAMS: So he has to be</p> <p>9 enrolled by that -- in that course by March 31st.</p> <p>10 MR. MUTZIGER: Okay. I thought I heard</p> <p>11 completed.</p> <p>12 BOARD MEMBER WILLIAMS: Well, we did say</p> <p>13 that because we thought that was the original</p> <p>14 compliance -- I mean original CO.</p> <p>15 HEARING OFFICER LOVE: So just to clarify</p> <p>16 that error, the fine is due within 30 days and the</p> <p>17 respondent must register or enroll in the Probe Plus</p> <p>18 course before March 31st.</p> <p>19 BOARD MEMBER GRUBBS: Or by March 31st.</p> <p>20 HEARING OFFICER LOVE: By no later than</p> <p>21 March 31st.</p> <p>22 BOARD MEMBER GRUBBS: 2024. Right?</p> <p>23 HEARING OFFICER LOVE: 2024. And that</p> <p>24 concludes the Board's --</p> <p>25 MR. MUTZIGER: The 30-day suspension, is</p>

<p style="text-align: right;">Page 146</p> <p>1 there an automatic termination on the suspension? 2 Meaning, after 30 days the suspension is automatically 3 lifted or is he required to come back before the Board 4 to petition to have that suspension lifted? 5 BOARD MEMBER WILLIAMS: Automatically on 6 stay until five years, like we did before. 7 HEARING OFFICER LOVE: Before I announce, 8 do you want to go back into executive session? 9 BOARD MEMBER WILLIAMS: So we have a \$1000 10 fine. If not paid within 30 days, it will be a 30-day 11 suspension. 12 HEARING OFFICER LOVE: Correct. 13 BOARD PRESIDENT SMITH: And he's wanting 14 to know if he has to come back before the Board -- 15 BOARD MEMBER WILLIAMS: No. 16 BOARD PRESIDENT SMITH: -- before he can -- 17 MR. MUTZIGER: And I do have an 18 additional question as well. Is there any additional 19 action on behalf of the Board that's required to 20 submit the showing of failure of payment of the \$1000 21 fine for the Probe Plus course enrollment? Is that 22 simply left to the administrative -- administrative 23 personnel to determine or is that required to come 24 back before the Board for an offer of proof? 25 HEARING OFFICER LOVE: I would say that</p>	<p style="text-align: right;">Page 148</p> <p>1 but -- 2 HEARING OFFICER LOVE: Who is that? 3 DR. CONAWAY: -- you may want to clarify 4 the 30 days is based on the fine or 30 days is based 5 on the registration of the course or both? 6 BOARD PRESIDENT SMITH: Both. 7 BOARD MEMBER WILLIAMS: It is both. It is 8 either both or. 9 MR. MALONE: Failure to comply with either 10 of these terms would result in the 30-day suspension. 11 BOARD MEMBER WILLIAMS: So it could be both. 12 HEARING OFFICER LOVE: Well, one has a 13 later date, so I think -- 14 BOARD MEMBER WILLIAMS: That's correct. 15 No, no. What I'm saying that he could be -- he could 16 be in violation of the \$1000 fine and have a 30-day 17 suspension. He could be in violation of registering 18 for the course and have a 30-day suspension. Isn't 19 that right? Or is that the way y'all understand that? 20 BOARD MEMBER CURTIS: Yes. 21 BOARD PRESIDENT SMITH: Yes. 22 MR. MUTZIGER: So I understand, an order 23 will be produced to this effect? 24 HEARING OFFICER LOVE: Yes. I on behalf of 25 the Board will issue findings of fact and conclusions</p>
<p style="text-align: right;">Page 147</p> <p>1 Mr. -- the respondent has been ordered -- will be 2 ordered to provide the payment of the fine within 30 3 days, and to show that he has registered or enrolled in 4 the Probe Plus course within the time period provided. 5 MR. MUTZIGER: Okay. 6 BOARD MEMBER WILLIAMS: And that could be 7 done -- 8 MR. MALONE: Failure to do so would result 9 in Denny sending a letter suspending his license for 10 30 days is the question. 11 BOARD MEMBER WILLIAMS: Effective 12 immediately. 13 MR. MALONE: Yes. 14 BOARD MEMBER WILLIAMS: Right? 15 MR. MALONE: It would be effective on that 16 31st day that he doesn't pay, and then the suspension 17 would go into effect. 18 HEARING OFFICER LOVE: And it would only 19 last 30 days. 20 BOARD MEMBER WILLIAMS: And then it would -- 21 MR. MALONE: And then it would automatically 22 after 30 days be reinstated. 23 MR. MUTZIGER: Understood. Thank you. 24 BOARD MEMBER WILLIAMS: Can he talk? 25 DR. CONAWAY: Well, if it's inappropriate,</p>	<p style="text-align: right;">Page 149</p> <p>1 of law consistent with this announcement today. 2 MR. MUTZIGER: All right. Are we looking 3 to proceed with Dr. Gary? 4 HEARING OFFICER LOVE: Are we ready for 5 the next matter on the docket? 6 (OFF THE RECORD.) 7 (BOARD MEMBER BIRMINGHAM LEFT THE ROOM.) 8 (BACK ON RECORD AT 3:05 P.M.) 9 HEARING OFFICER LOVE: I'll call up the 10 next matter on the docket before the Mississippi State 11 Board of Dental Examiners in the matter of Mississippi 12 Dental License Number 3328-05, Docket Number 2022-081. 13 I am Kristin Love, and I will serve as the hearing 14 office in this matter today. My role during the course 15 of this proceeding will be to rule on objections to 16 questions or evidence raised by the parties to see to 17 the orderly process of the proceedings and to ensure 18 that these proceedings are conducted in accordance 19 with the applicable laws and rules. 20 At this time I'll ask the members of the 21 Board to state their names for the record. 22 BOARD MEMBER GRUBBS: Lewis Grubbs. 23 BOARD MEMBER CURTIS: David Curtis. 24 BOARD PRESIDENT SMITH: Robert Smith. 25 BOARD MEMBER WILLIAMS: Mark Williams.</p>

<p style="text-align: right;">Page 150</p> <p>1 BOARD MEMBER LAMPKIN: Alexa Lampkin.  2 BOARD MEMBER CARLTON: John Carlton.  3 BOARD MEMBER BISHOP: Wade Bishop.  4 HEARING OFFICER LOVE: And at this time  5 I'll announce that Board Member Ms. Haley Birmingham  6 recused herself from all participation in this matter  7 and any deliberations.  8 Will the attorney representing the Board  9 state your name for the record.  10 MR. MUTZIGER: Yes. My name is Westley  11 Mutziger.  12 HEARING OFFICER LOVE: And is the respondent  13 present?  14 MR. WILLIAMS: Yes, ma'am. Respondent  15 Dr. Lee Gary is here. He's represented by Tommie  16 Williams, Jr., of Upshaw Law Firm out of Greenwood.  17 Co-counsel is Mr. Stan Ingram. Unfortunately, he  18 could not be with us today due to prior family travel.  19 HEARING OFFICER LOVE: Thank you. At this  20 time I'll ask counsel are there any preliminary  21 matters?  22 MR. WILLIAMS: Yes, Your Honor, or yes,  23 ma'am. On behalf of Dr. Gary, we filed, I believe,  24 five motions that we feel are preliminary and may  25 streamline this process if the Board would hear those</p>	<p style="text-align: right;">Page 152</p> <p>1 that the defendant waives any claimed prejudice by  2 reviewing consideration of the settlement proposal.  3 MR. WILLIAMS: We waive claim to prejudice  4 with the stipulation that as the investigative dentist,  5 Dr. Grubbs, Mr. Mutziger, and Mr. Hardwick will not be  6 in executive session such as Ms. Birmingham.  7 HEARING OFFICER LOVE: All right. So at  8 this time I'll entertain a motion from the Board to  9 go into closed determination to deliberate on whether  10 grounds exist to consider the proposed consent order  11 offered in Case Number 2022-081. Is there a second?  12 I mean is there a motion?  13 BOARD MEMBER WILLIAMS: So moved.  14 HEARING OFFICER LOVE: Is there a second?  15 BOARD MEMBER CURTIS: Second.  16 HEARING OFFICER LOVE: All in favor.  17 DENTAL BOARD: "Aye."  18 HEARING OFFICER LOVE: Any opposition?  19 (No Response.)  20 HEARING OFFICER LOVE: Hearing none, at  21 this time I'll entertain a motion from the Board to  22 actually go into executive session to deliberate on  23 the proposed consent order offered in Case Number  24 2022-081.  25 BOARD MEMBER LAMPKIN: So moved.</p>
<p style="text-align: right;">Page 151</p> <p>1 first. We'd like for them to be heard, several  2 motions to dismiss and an objection to the expert  3 witness designated by the state of Mississippi. And  4 then another objection to reference or offering a  5 confidential document as an exhibit in open court.  6 HEARING OFFICER LOVE: All right. Any other  7 preliminary matters?  8 MR. WILLIAMS: And I will tell the Board it  9 is 3 o'clock on Friday afternoon. I planned to bring  10 this up in opening, but the Board may want to consider  11 it before we go or get into the matter. There is a  12 proposed consent order on the table that Dr. Gary has  13 offered trying to settle this matter without the  14 formality of a hearing, a mutual agreement. We can't  15 get any response from the investigative Board member,  16 Mr. Mutziger, to that consent order, but there is a  17 proposal on the table. I think the Board could  18 consider an executive session that may resolve this  19 matter.  20 HEARING OFFICER LOVE: All right. Board  21 counsel, is there any objection to --  22 MR. MUTZIGER: I have no objection to the  23 Board's consideration of the settlement proposal.  24 HEARING OFFICER LOVE: Okay.  25 MR. MUTZIGER: So long as the stipulation</p>	<p style="text-align: right;">Page 153</p> <p>1 HEARING OFFICER LOVE: Second.  2 BOARD MEMBER WILLIAMS: Second.  3 HEARING OFFICER LOVE: All in favor?  4 DENTAL BOARD: "Aye."  5 HEARING OFFICER LOVE: Any opposition?  6 (No response.)  7 HEARING OFFICER LOVE: Hearing none, the  8 Board is in executive session, and we need a copy of  9 the proposed consent order.  10 (OFF RECORD 3:07 P.M. TO 3:39 P.M.)  11 HEARING OFFICER LOVE: The Board is out  12 of executive session. I will announce the Board's  13 action taken while in executive session. The Board  14 voted to reject the proposed consent order.  15 At this time I'll ask the Board members  16 to state their names for the record.  17 BOARD MEMBER CURTIS: David Curtis.  18 BOARD PRESIDENT SMITH: Robert Smith.  19 BOARD MEMBER WILLIAMS: Mark Williams.  20 BOARD MEMBER LAMPKIN: Alexa Lampkin.  21 BOARD MEMBER CARLTON: John Carlton.  22 BOARD MEMBER BISHOP: Wade Bishop.  23 HEARING OFFICER LOVE: I understand the  24 Board went into executive session to make its decision  25 on the proposed consent order. I have announced</p>

<p style="text-align: right;">Page 154</p> <p>1 that decision, and then I recall there are other 2 preliminary matters to be heard at this time. 3 BOARD MEMBER WILLIAMS: Yes, ma'am. We've 4 got several motions and objections we would like heard 5 before we begin the trial or evidence in this matter. 6 HEARING OFFICER LOVE: All right. If the 7 parties are ready to proceed, you may. 8 MR. WILLIAMS: For the record, as I've 9 stated earlier, Tommie Williams, representing Dr. Lee 10 Gary in this matter. I've provided the hearing officer 11 with a copy of a motion to dismiss. 12 Did you receive that yesterday afternoon? 13 HEARING OFFICER LOVE: I did. 14 MR. WILLIAMS: We filed a motion to dismiss 15 the Complaint that was filed against Dr. Gary on 16 August 21, 2023. The Complaint was filed and served 17 in person by Mr. Hardwick. We don't contest service 18 of the Complaint, but we do contest the validity of 19 the Complaint. We feel the Complaint was filed 20 without reasonable cause or proper determination. 21 Mississippi Code Section 73-9-63 governs actions that 22 can be taken by this Board, the Mississippi Board of 23 Dental Examiners. 24 Section 79 -- or 73-9-63 reads -- and I'll 25 abbreviate for the Board in pertinent part that's</p>	<p style="text-align: right;">Page 156</p> <p>1 cause hearing. The Notice of Hearing and Complaint 2 is not valid. 3 The Mississippi Supreme Court has addressed 4 this issue in an old case originated out of Greenwood 5 before my time. Dr. Thomas Chester Boring versus 6 the Mississippi State Board of Dental Examiners. For 7 the record, 300 Southern 2nd, 135, a 1974 opinion of 8 the Mississippi Supreme Court. In this case, Dr. 9 Boring was found indicted for and ultimately found 10 guilty of possession, I believe, of 4 pounds of 11 marijuana. 12 Upon receipt of that, the Dental Board 13 sent him a copy of the indictment with a Notice of 14 Hearing. He appealed to the Chancery Court, which 15 is the first right of appeal. The Chancery Court 16 denied his appeal, and it made it all the way up to 17 the Supreme Court on two issues: With a change in 18 intervening law, the felony marijuana statute supported 19 his case. And 2, whether the Mississippi Dental 20 Board followed its regulatory or statutory provisions 21 for putting him on notice and providing him due 22 process. 23 In Footnote 4 of that opinion, page 138, 24 the court clearly states there is another reason why 25 this court is required to reverse the trial court and</p>
<p style="text-align: right;">Page 155</p> <p>1 contained within our motion. If upon review of the 2 Complaint the Board, that being the Dental Board, 3 determines that there's not substantial justification 4 to believe that the accused dentist or dental hygienist 5 has committed any of the offenses enumerated in the 6 preceding section, it may dismiss the Complaint. 7 Further, if the Board determines there is 8 reasonable cause to believe the accused has committed 9 the offenses and a hearing should be held to determine 10 the validity of the Complaint, the executive director 11 shall set a date for hearing and shall notify the 12 accused. 13 Section 73-9-63 clearly states that the 14 Mississippi Dental Board, the full Board, shall 15 determine there is reasonable cause to go forward 16 with a Complaint. There was -- there is no evidence. 17 Mr. Mutziger cannot present evidence that this 18 Complaint came before this Dental Board and a 19 reasonable cause determination was made. I do not 20 believe from hearing questions after executive session 21 that y'all were familiar with this Complaint before 22 we arrived here today. 23 There is a statutory requirement that the 24 Dental Board determine there is reasonable cause to 25 go forward before this hearing today. No reasonable</p>	<p style="text-align: right;">Page 157</p> <p>1 set aside the order of the Mississippi Board of Dental 2 Examiners in this case. Section 73-9-61 gives the 3 Board authority -- gives the Board authority to revoke 4 the license of a practicing dentist for unprofessional 5 conduct upon satisfactory proof and in accordance 6 with statutory provisions elsewhere set out for such 7 hearings and protecting the rights of the accused as 8 well as the public. 9 Mississippi Code Section 73-9-62 provides 10 the method and procedure required to be followed in 11 order to carry out the authority given the Board to 12 revoke the license of a dentist. The section requires 13 that a verified written accusation is filed with the 14 Board setting out which offense is enumerated in 15 73-9-61; moreover, a copy of the accusation is required 16 to be given to the respondent. 17 That was not done in Dr. Boring's case. 18 The court held -- the court has held the statutes 19 permitting revocation of licenses are penal in nature 20 and must be strictly construed against a governmental 21 body attempting to enforce such a penalty. The 22 Mississippi Dental Board is a governmental body. The 23 statute to revoke license is a penal statute. It has 24 to be strictly construed. That's the black letter 25 law. The authority to revoke is upon satisfactory</p>

<p style="text-align: right;">Page 158</p> <p>1 proof in accordance with the statutory provisions to 2 protect the accused as well as the public. This is 3 a due process issue. The statute clearly states that 4 the Board determined there is reasonable cause to 5 believe the accused has committed the offenses and a 6 hearing should be held.</p> <p>7 In this case, there was no reasonable 8 cause hearing before this Dental Board regarding Dr. 9 Lee Gary. The statute was simply not complied with. 10 I've asked the State for the evidence of the reasonable 11 cause hearing. They have not produced them. Myself, 12 my co-counsel Stan Ingram, have looked through the 13 minutes of the meetings. We've not found a reasonable 14 cause hearing was had. If there is a reasonable 15 cause hearing we've not been provided it, and in the 16 State's response we've not seen that. We're asking the 17 court to dismiss this case at this time for the lack 18 of compliance with the statutes.</p> <p>19 Several of you are new members to the Dental 20 Board. I believe you heard from the State's attorney 21 or the Board's attorney, Mr. Mutziger, back in April 22 of 2023 in this courtroom, and I want to read from 23 that transcript. He's giving you an outline, the 24 new members, of the job of the Dental Board, the duty 25 to enforce to protect the public. He says -- in the</p>	<p style="text-align: right;">Page 160</p> <p>1 agree with some of the recitations by counsel opposite. 2 This Board is charged to protect the due process of 3 those or licensees which it seeks to impose disciplinary 4 action. This Board is charged with protecting the 5 rights of the accused in carrying out its legislative 6 function.</p> <p>7 The issue that I have with the argument 8 being made is that you've only been presented part 9 of the statutory language. Even in a quasi criminal 10 setting, such as this, I would tend to agree with 11 counsel opposite that statutes are strictly construed 12 against the drafter in favor of interpretation for 13 the person in which it's to be enforced.</p> <p>14 The portion of law that is being relied on 15 does not end with that which was recited by counsel 16 opposite. In fact, there's a paragraph in 73-9-63 that 17 ends with a few additional lines and conveniently 18 left out. It reads that, The Board may by regulation 19 establish an investigative panel consisting of at 20 least two people, one of whom should be a Board member 21 to review Complaints and determine the existence of 22 probable cause and whether the Complaint should proceed 23 to formal hearing.</p> <p>24 Now, it's been contended the word "hearing" 25 was used quite a lot, and I challenge you to examine</p>
<p style="text-align: right;">Page 159</p> <p>1 first picture, he obviously has a power point. You'll 2 see an example of an allegation. Perhaps there's 3 been some kind of patient harm or permanent injury 4 that is suffered by the patient. Then it goes to our 5 investigations department. The investigation is 6 completed. We then may have a proceeding in this 7 very room where we put forth evidence, and the Board 8 would make a determination as to whether a violation 9 exists.</p> <p>10 That is the reasonable cause hearing that 11 is required by the statute. It is a don't pass go. 12 There was no reasonable cause hearing before this 13 Board or the Board would be aware of it, and pursuant 14 to the statute and the case law this is a penal 15 statute. It must be strictly enforced and construed 16 against the State. There is no reasonable cause 17 hearing. The Notice of Hearing and Complaint is void 18 and of no effect, and the law and statutes mandate 19 in the Supreme Court that a dismissal of this 20 complaint in its entirety against Dr. Lee Gary be 21 granted. Any questions?</p> <p>22 HEARING OFFICER LOVE: We'll allow Board 23 counsel to respond, and then if they have any questions 24 they can ask them.</p> <p>25 MR. MUTZIGER: Thank you. So I would</p>	<p style="text-align: right;">Page 161</p> <p>1 73-9-63. If you find where it's charged that this 2 Board must conduct a reasonable cause hearing, I 3 challenge you because you won't find it.</p> <p>4 The words "full Board" were used as if 5 you're strictly bound to make a full Board 6 determination of reasonable cause, yet the very same 7 statutory language that was omitted says the Board 8 is permitted to create an investigatory panel for the 9 very purpose of determining whether to proceed on a 10 Complaint, and that provision doesn't exist in a 11 vacuum because, in fact, the Board has rules that 12 address that.</p> <p>13 30 Mississippi, Administrative Code 2302 14 the Board's rules of procedural, Rule 2401, states 15 that if the Board or its designated member -- or its 16 designated member determines that formal disciplinary 17 proceedings should be initiated, essentially the Board 18 may submit a Complaint and Notice of Hearing. Well, I 19 submit to you today, Board, that's exactly the process 20 the Board follows. The Board has an investigative 21 panel. The Board has staff investigators. The Board 22 has a staff attorney. The Board has investigative 23 Board members assigned by district to investigate 24 cases. A reasonable cause determination is made by 25 this investigative panel. Well, why isn't that on</p>

<p style="text-align: right;">Page 162</p> <p>1 the agenda and why isn't that in the Board minutes? 2 Well, why would it be in the Board minutes? Is the 3 full Board taking action on the matter? Is the full 4 Board considering the facts? Why would the full Board 5 consider the facts of the case when, in fact, you 6 have a core protected method to determine reasonable 7 cause. 8       If the argument is going to be somehow 9 that the rights aren't being protected of the accused, 10 well I put to you that we're work doing more to 11 protect the rights of the accused than what's being 12 requested. We're shielding you all, the trier of fact, 13 from information about that case until it's actually 14 time to be heard. I don't quite understand other than 15 perhaps a technical argument to dismiss the case on 16 a -- I don't even want to call it a technicality, 17 but why would you pursue a less protective way to 18 determine reasonable cause for your client. 19       Additionally, it's interesting that in the 20 motion by respondent it's unclear what prejudice has 21 occurred. What damage has occurred to invalidate 22 this Complaint? Have you heard an allegation that 23 there's -- that the Complaint is unfounded? I've 24 not heard that argument being made. 25       I would submit to this Board that</p>	<p style="text-align: right;">Page 164</p> <p>1 allegations against my client in a motion. That 2 argument does not hold water. I'm asking this Board 3 to comply with the due process requirements stated 4 in 73-9-63 in the Mississippi Supreme Court decision 5 stating that the revocation of a dental license is 6 penal in nature and must be strictly construed against 7 a governmental body attempting to enforce such penalty. 8       What you didn't hear the State say is that, 9 yes, the Board conducted a reasonable cause hearing 10 and found sufficient proof to go through with a Notice 11 and formal Complaint. He didn't say that. He argues 12 that he doesn't have to abide by the statute because 13 the Board may by regulation establish an investigative 14 panel consisting of at least two people, one of whom 15 shall be a more -- excuse me, a Board member to review 16 Complaints to determine the existence of probable 17 cause. I've asked for it. It hasn't been produced 18 in discovery. Where are the minutes showing that the 19 Board -- the Board, not the Board's attorney, not the 20 Board's investigations department, where are the 21 meeting minutes that established the Dental Board -- 22 that is clear law -- established an investigative panel 23 consisting of two people, one of whom shall be a 24 Board member to review Complaints and determine the 25 existence of probable cause.</p>
<p style="text-align: right;">Page 163</p> <p>1 essentially the respondent finds that the continuing 2 statutory language which is given equal effect is just 3 inconvenient to the respondent, that the Board is well 4 in compliance in following its process issuing a 5 Complaint. 6       And lastly, I would just submit that perhaps 7 counsel opposite is mistaken. The Board's been with 8 -- counsel opposite's co-counsel happened to be this 9 Board's attorney for over 25 years. Well, this Board 10 now has in-house counsel. I can't speak to how things 11 were done prior to me being here, but now that we have 12 staff why not utilize the statutorily prescribed method 13 of investigative panel. 14       So I would submit that the argument is 15 simply unfounded and that the Board has satisfied by 16 virtue of using its investigative panel reasonable 17 cause and has stated such in its Complaint. So I would 18 ask that this Board deny the motion to dismiss. 19       HEARING OFFICER LOVE: Any rebuttal? 20       MR. WILLIAMS: Yes. May I address you 21 sitting? 22       HEARING OFFICER LOVE: Yes. 23       MR. WILLIAMS: Thank you. A motion to 24 dismiss challenging the validity of this claim -- 25 Complaint, I'm not addressing the statements or</p>	<p style="text-align: right;">Page 165</p> <p>1       I would argue to you that if those minutes 2 are out there and if the Board has by regulation 3 established this investigative panel, I haven't seen 4 it. I can't find it. I can't find it in the meeting 5 minutes where the Board approved Dr. Grubbs as the 6 investigative member on this case along with Mr. 7 Hardwick and Mr. Mutziger to investigate this Complaint 8 that was initiated by the Board itself. I don't think 9 it exists. There was no investigative panel appointed 10 by this Dental Board; furthermore, there is no minutes, 11 no report that that investigative panel, who we haven't 12 established exists, performed an analysis to determine 13 the existence of probable cause and whether the 14 Complaint should proceed to formal hearing. 15       So either under the initial subsection of 16 the statute if the Board determines there is 17 reasonable cause to proceed, we don't have that. I 18 think the State has admitted that. So let's go down 19 to their response. Has probable cause been determined 20 by the investigative panel. There have been no 21 meeting minutes reported. There is no agenda. We 22 cannot find anything that says the investigative 23 panel of, I assume, Dr. Grubbs and Mr. Mutziger and 24 Mr. Hardwick met, and we determined there's reasonable 25 cause to go forward with this Complaint. That was</p>

<p style="text-align: right;">Page 166</p> <p>1 not done. The statute was not followed. Either way 2 you look at it, a reasonable cause analysis or a 3 probable cause analysis, penal statutes must be 4 enforced against the State and strictly construed 5 without complying with a reasonable cause or probable 6 cause determination. This Complaint is procedurally 7 void. It fails on its face. The Notice of Hearing 8 is improper, and the Complaint must be dismissed in 9 toto with prejudice.</p> <p>10 HEARING OFFICER LOVE: At this time if 11 the Board has any questions they can ask them now.</p> <p>12 MR. MUTZIGER: Is the State given the 13 opportunity to respond or does that conclude the 14 motion?</p> <p>15 HEARING OFFICER LOVE: Hold on.</p> <p>16 MR. WILLIAMS: I would object. This is 17 my motion. He's not given the last bite at the apple 18 procedurally.</p> <p>19 HEARING OFFICER LOVE: Yes. Well, 20 understanding that this is an administrative proceeding, 21 if the Board needs to hear everything it needs to hear 22 in order to, you know, properly rule, I don't think 23 without it, you know, they can do that. So I don't 24 -- you know, you wouldn't even be limited in your 25 ability to respond. I think at some point we may</p>	<p style="text-align: right;">Page 168</p> <p>1 a competitor. Well, that investigative Board member 2 actually removes himself from the deliberation, so 3 they are precluded. And so it is a joint determination, 4 a joint discussion. There are parts of it that are 5 informal between counsel, the investigative supervisor, 6 or the investigator on the case and the investigative 7 Board member assigned to the case.</p> <p>8 And on the form -- I'm willing to divulge 9 -- there are numerous options that can be selected in 10 terms of how to proceed in a case in terms of what 11 action it believes should be taken, whether it be 12 disciplinary action, whether it be no action, remand 13 the case, or something less than disciplinary action.</p> <p>14 HEARING OFFICER LOVE: Okay. And for you, 15 respondent's counsel, can you provide an explanation 16 on why you filed this motion when you did related to 17 the timeliness of the filing of the motion.</p> <p>18 MR. WILLIAMS: Yes. I'm going to respond 19 to him first, if I can.</p> <p>20 HEARING OFFICER LOVE: Sure.</p> <p>21 MR. WILLIAMS: He says there was an 22 investigative record. I asked for that in discovery. 23 He objected and cited confidentiality. I almost filed 24 a motion to compel, but due to an administrative 25 hearing -- if I had been in a circuit courtroom, that</p>
<p style="text-align: right;">Page 167</p> <p>1 have to cut it off, but, honestly, to allow just a full 2 opportunity for both sides to be heard.</p> <p>3 MR. WILLIAMS: Well, respectfully, that's 4 fine, and we can keep going back and forth all 5 afternoon if that's your decision, but this is a 6 question of law for the hearing officer.</p> <p>7 HEARING OFFICER LOVE: Okay. All right. 8 I do have a question for Board counsel related to the 9 investigative panel. Can you I guess generally speak 10 to the establishment of that panel.</p> <p>11 MR. MUTZIGER: So the Board has 12 investigative records that are just that, investigative 13 records. They're confidential. They're protected 14 by confidentiality, exempt from the Public Records 15 Act, and those records are used to notate the finding 16 of that investigative panel. That would probably -- 17 that's something that I could provide perhaps in 18 closed session to show as evidence, but the State is 19 not willing to turn over investigative records that 20 are protected by confidentiality.</p> <p>21 We have a clear established process of -- 22 as I stated, the investigative Board members are 23 assigned by district to investigate Complaints. 24 They're assigned by a district because there is a 25 possibility that arguments can be made or that it's</p>	<p style="text-align: right;">Page 169</p> <p>1 would have been the first thing I would had done: 2 Show it to me. You say it's there. I say it's not 3 there. Show it to us and we won't be having this 4 argument. If it's there, I've asked for it. It hasn't 5 been produced.</p> <p>6 When was the analysis done? I'm not 7 worried about what check mark he clicks on a form. 8 When was the probable cause determination made and 9 by whom? When was the investigative panel put forth 10 by this Board? It's not there. He can claim 11 confidentiality, but I've called the Board or called 12 him out on that. If it exists, that will put this 13 to bed. I don't think it is. There was no probable 14 cause determination made by the investigative panel 15 because an investigative panel wasn't established by 16 this Board.</p> <p>17 With regard to the timing of the motion, 18 I filed the motion when I did to expedite matters 19 because this issue, if granted, is dispositive. This 20 case is dismissed with prejudice. I could have filed 21 this motion along with my other motions at the close 22 of the plaintiff's case in chief as a motion for a 23 directed verdict.</p> <p>24 The timing of the motion, it was filed 25 seven days before we're here today. I believe your</p>

<p style="text-align: right;">Page 170</p> <p>1 procedural rules, which are loosely enforced, were a 2 15-day time frame. It was filed to speed the process 3 through because these preliminary matters can be 4 argued now and let you rule on them as they are law 5 questions, or I can stand up after he's called 6 Mr. Hardwick, he's called Dr. Grubbs, he's called 7 Dr. Conaway and we can have this same motion after the 8 Board's heard four hours of testimony with me asking 9 you based on a procedural due process defect to dismiss 10 this case. That's why I filed this motion ahead of 11 the hearing and the motion to dismiss Count 1 as well, 12 which will be argued next.</p> <p>13 The same, likewise, he's objected to the 14 timeliness of my objections to Dr. Harkins serving 15 as an expert witness and Dr. Conaway. I could withhold 16 those until they're called, but in my best use of 17 judicial economy and everybody's time I find it better 18 for the Board to hear them on the outset as opposed 19 to later during the determination of this case after 20 the quote, hearing, formal hearing has been initiated.</p> <p>21 MR. MUTZIGER: The State would like to 22 respond.</p> <p>23 HEARING OFFICER LOVE: Sure.</p> <p>24 MR. MUTZIGER: I'd hardly consider this 25 the outset. August the 21st the Complaint was</p>	<p style="text-align: right;">Page 172</p> <p>1 MR. WILLIAMS: Yes. If it exists, show 2 it to us pursuant to a confidentiality agreement. 3 They're done every day. If it exists, quit hiding 4 behind the wall of confidential documents and show 5 us the document to save everybody this time. It 6 doesn't exist. There was no probable cause hearing. 7 There was no reasonable cause hearing.</p> <p>8 The Boring case is on point. If procedural 9 statutory requirements are not complied with, you 10 don't pass go in a penal setting. Statutes permitting 11 revocation of licenses are penal in nature and must 12 be strictly construed against a governmental body 13 attempting to enforce a penalty. And I have a copy of 14 that case for you I will hand you whenever convenient 15 if you would like it.</p> <p>16 The Supreme Court has held in June of 2018 17 this year, King, a Mississippi military department, 18 The Mississippi Supreme Court abandoned deferential 19 review of agency statutory interpretation because 20 its decisions on the issue were contradictory and by 21 abandoning deference the court stepped fully into 22 the constitutional role letting only courts interpret 23 statutes.</p> <p>24 The Dental Board no longer has the authority 25 to interpret statutes. That is left with the court</p>
<p style="text-align: right;">Page 171</p> <p>1 initially served. Seven days ago today, I wouldn't 2 classify that as the outset.</p> <p>3 The claim is continued to be made to the 4 due process. Due process amounts to notice and an 5 opportunity to be heard. I'm sorry, but where has 6 that been deprived? Notice has been sent via a 7 Complaint registered mail, personally served, and the 8 opportunity to be heard is currently under way. So 9 it's unclear to me what due process violation is at 10 -- or injury has occurred to the respondent.</p> <p>11 I'm just going to urge again that the Board 12 not fall into the trap of inserting language of a 13 full Board hearing, rational or substantial -- let's 14 see, justification hearing. Hearing just doesn't 15 exist in the language, so he's inserting a hearing 16 into the language and then he's conveniently omitting 17 the other language that clearly provides an alternative 18 pathway to performing the function.</p> <p>19 Now, he may not like it that it's a 20 privileged confidential record, but I would argue that 21 the evidence the Board utilizes it as by gosh, the 22 Board has adopted a rule to even implement and utilize 23 it. So just because he is, I suppose, speculates that 24 it doesn't exist doesn't make it so. That's all.</p> <p>25 HEARING OFFICER LOVE: Any response?</p>	<p style="text-align: right;">Page 173</p> <p>1 systems, the chancery courts, circuit courts, 2 Mississippi Supreme Court, if we get there. The law 3 is clear in the Boring decision you have to follow 4 the process. If you don't follow the process, you 5 don't pass go. There's been no production of a 6 reasonable cause hearing. In fact, I think they would 7 agree a reasonable cause hearing was not completed 8 by this Board. Was a probable cause hearing before 9 an investigative panel? They say it was. We said 10 produce it. It hasn't been produced. Did this Board 11 appoint an investigative panel for matters such as 12 this? I have not seen that either where that formal 13 Board appointment was made of this panel appointing 14 Grubbs to be the investigative Board member, either 15 Mr. Mutziger or Mr. Hardwick to be the other member 16 of that panel, but if it was, show me the probable 17 cause determination that gets us here today on a void 18 Complaint and Notice of Hearing.</p> <p>19 MR. MUTZIGER: I only have one brief comment, 20 just one brief reply. Neither does the respondent 21 get to interpret or insert language or determine what 22 language to follow the statute. That's all.</p> <p>23 HEARING OFFICER LOVE: Any --</p> <p>24 BOARD PRESIDENT SMITH: I have a question.</p> <p>25 MR. WILLIAMS: Yes, sir.</p>

<p style="text-align: right;">Page 174</p> <p>1 BOARD PRESIDENT SMITH: You said that that 2 Supreme Court ruling was in the revocation of a license 3 determined to make it a penal, I think. Do you know 4 most of our procedure things are not revocation of 5 licenses? Is this even a revocation of a license or 6 a suspension? What did the Supreme Court rule? Was 7 it a revocation that made it penal? 8 MR. WILLIAMS: No. Anytime a revocation 9 hearing makes it penal in nature. We're here on a 10 Complaint against Dr. Gary. It is penal in nature 11 because we're going for either a suspension or 12 revocation. We don't know -- 13 BOARD PRESIDENT SMITH: There's not a 14 difference in what they ruled? You're saying the 15 Supreme Court ruled revocation or suspension? 16 MR. WILLIAMS: The Supreme Court clearly 17 ruled if the Board had no authority to give notice 18 they had no authority to hold a hearing or revoke a 19 license. I don't think it matters. If you revoke 20 it, you suspend it, and that's why so many times in 21 your executive sessions y'all have reasonable cause 22 hearings and you pass or remand matters to file. 23 The Supreme Court, I don't -- I can't 24 find it, and the AG may point it out for me, but this 25 case nor the statute speaks to a difference between</p>	<p style="text-align: right;">Page 176</p> <p>1 BOARD PRESIDENT SMITH: But I don't remember 2 that anytime we've had a hearing pull together because 3 it would prejudice our jurors, who we're the jury. 4 And so we're left to investigative dentists, an 5 investigator, and an attorney. They look at that 6 stuff, and if we -- I would think that you wouldn't 7 want us to know everything in the beginning. So the 8 way we've always done it has just been like Westley 9 said: There's a piece of paper that says remand or 10 not, you know, and I'm sure we have that, but it was 11 not a hearing. 12 MR. WILLIAMS: And I have not seen that 13 piece of paper and I have not been with the Dental 14 Board as long as you have, but my co-counsel, who has 15 represented y'all for 20-plus years, tells me there 16 is always a reasonable cause determination whether 17 there is reasonable justification to go forward with 18 a Complaint whether it be the full Dental Board or 19 the investigating panel, the probable cause, and that's 20 what's not present here. 21 BOARD PRESIDENT SMITH: Well, I don't know 22 where it is, but I'm sure it's here somewhere. 23 HEARING OFFICER LOVE: Okay. If there's 24 nothing further on that motion, I think we can take 25 up the motion to dismiss Charge 1 of the Complaint,</p>
<p style="text-align: right;">Page 175</p> <p>1 a suspension or revocation. 2 BOARD PRESIDENT SMITH: There's a big 3 difference. There's a big difference. If your 4 license is revoked, you don't have a license. If it's 5 suspended, you still have a license. It's just 6 temporarily stopped. 7 MR. WILLIAMS: Temporary, but a 8 suspension -- 9 BOARD PRESIDENT SMITH: But that's not a 10 revocation -- revocation, or whatever you -- I'm not 11 no attorney, you know, but anyway.... 12 MR. WILLIAMS: I don't think the Supreme 13 Court in reading it reads between a suspension or 14 revocation. What they're saying is if you don't give 15 proper notice and follow the statutes, the hearing and 16 Complaint is void, whatever may come of the hearing, 17 whether it's a suspension, it's a revocation. You 18 decide it doesn't pass go. It's remanded to the files. 19 Without due process, following the statutory procedures, 20 you don't pass go. It doesn't matter where your end 21 result is. 22 BOARD PRESIDENT SMITH: This is only my 23 13th year to be on the Board, and I've only had to do 24 a few hearings. 25 MR. WILLIAMS: Yes, sir.</p>	<p style="text-align: right;">Page 177</p> <p>1 the next motion. 2 MR. WILLIAMS: I will proceed with a 3 question for the hearing officer. Will you be ruling 4 on these motions? 5 HEARING OFFICER LOVE: The first two, the 6 way -- it looks like it's probably best to take them 7 under advisement until the conclusion of the case, the 8 State's case in chief. 9 And then the remaining, the evidentiary 10 ones, yes, I can rule on those I guess after y'all 11 -- after the hearing, after you present the motions 12 on the last three related to striking or excluding 13 evidence, but these first two, yes, I'm not going to 14 announce that ruling until the conclusion of the 15 Board counsel's case in chief. 16 MR. WILLIAMS: Okay. The second motion 17 filed by Dr. Gary is to dismiss Count 1 or Charge 1 18 of the Board's complaint against him. Charge 1, I 19 will read to you: The respondent violated MS Code 20 Annotated Section 73-9-61 (1) (b) in that the 21 respondent willfully violated any of the rules or 22 regulations duly promulgated by the Board or of any 23 of the rules or regulations duly promulgated by the 24 appropriate dental licensure agency or another state 25 or jurisdiction; namely, that respondent violated</p>

<p style="text-align: right;">Page 178</p> <p>1 30 MS Admin Code 2301, Rule 1.31 Board Reg 31, Report 2 of Morbidity or Mortality in that respondent failed 3 to submit a complete report within 30 days to the 4 Board of a mortality or other incident occurring in 5 the outpatient facilities of such dentist which result 6 in permanent physical or mental injury to a patient 7 during or as a direct result of dental procedures or 8 anesthesia or sedation. That was Charge 1 of the 9 Complaint against Dr. Gary. 10 Dr. Gary has answered that Complaint and 11 denied that allegation in that he did not willfully 12 fail to report as required in Charge 1. 13 Once again, this case has been looked at 14 by the Mississippi Supreme Court in Mississippi State 15 Board of Dental Examiners versus Dr. Mandell all the 16 way back in 1945, 198 MS 49 1945. The statute 17 authorizing revocation of dentistry license for 18 certain offenses as penal in nature must be strictly 19 construed. The court held in penal statutes the 20 word "willful" generally means with a bad purpose, 21 an evil purpose, without ground for believing the act 22 to be lawful and indicates a bad or corrupt purpose; 23 but if the act charged to be willful merely reflects 24 thoughtlessness and exhibits only an error of judgment 25 with no bad or evil purpose, it does not constitute</p>	<p style="text-align: right;">Page 180</p> <p>1 case, the State Dental Board versus Mandell, a 1945 2 case, the case that essentially adopts the willful 3 definition based off of two Georgia cases, a 1903 and 4 a 1905 case. You'll notice that in his definitions 5 it says an appeals -- a penal statute the word 6 "willful" generally means. Generally means. It 7 doesn't always mean that. 8 This is a Dental Board case that he cited. 9 It goes on to say thoughtlessness, or exhibits only 10 an error of judgement. There's no bad or evil purpose, 11 so it's not willfulness. How do we -- how do we beat 12 that. Well, the problem is that willful is not 13 universally deprived, and he cites the Supreme Court 14 and the Court of Appeals also has recent opinions on 15 this. 16 Johnson versus State, 2010, a Mississippi 17 Court of Appeals case, found that the willful taking 18 of property from a business did not equate to the 19 intent to deprive the owner of property. They said, 20 therefore, in the holding we can't say -- this is 21 the State Court of Appeals, 2008, We can't say that 22 the term "willfully" always equates with the specific 23 intent of crime. Willful can have other meanings 24 than this perceived malice or intent to break the law. 25 The same case also references a California</p>
<p style="text-align: right;">Page 179</p> <p>1 willfulness. 2 At the close of the plaintiff's case in 3 chief I will be back up here asking you to dismiss 4 Charge 1 of the Complaint against Dr. Gary because 5 there will be no evidence put before you that Dr. Gary 6 willfully with a bad or evil purpose failed to report 7 a death arising out of possibly his treatment. He's 8 not a medical doctor. I don't think he's qualified 9 to establish causation, but there will be no proof 10 that Dr. Gary willfully failed to report this to the 11 Board. I think the proof you'll hear is that he wish 12 he had reported this. This matter would be resolved 13 and not lingering over him three years later, but an 14 error of judgment, thoughtlessness or ignorance of 15 the law are not willful. We feel that the State will 16 fail to submit proof of a willful, bad, evil intent 17 in failing to report, and we would ask that Charge 1 18 be dismissed on those grounds and on the case law in 19 Mississippi State Board of Dental Examiners v. Mandell. 20 HEARING OFFICER LOVE: Any response? 21 MR. MUTZIGER: Yes, ma'am. An interesting 22 argument. I'd go so far to say it's a clever argument. 23 And whenever you have a Supreme Court case dealing 24 with the Dental Board it requires close examination. 25 The retort that I would have is that in this Mandell</p>	<p style="text-align: right;">Page 181</p> <p>1 statute that talks about discharging firearms into a 2 house. Even though the statute said willfully 3 discharged a firearm into a house, the court notes 4 that in the interpretation of the California statute 5 you didn't have to hit the house. It's not necessary 6 that you intend to hit the house. What was more 7 important was that it was a willful act. It stated, 8 In other words, despite the use of the word "willful" 9 in the statute, the prosecution does not have to 10 prove that the shooter specifically intended to shoot 11 the building. 12 And yet another example, a Fifth Circuit 13 case, 2011, talks about heat of passion and 14 manslaughter is a lesser included offense of murder 15 because it lacks malice not willfulness. Again, 16 another distinction that willfulness does not always 17 equate malice as he would suggest by this Dental Board 18 case. 19 And when you look at this Dental Board 20 case, let's look at the context of it. This 1945 case, 21 it's got a really big different charge than what the 22 respondent is facing today. The charge is that the 23 licensee in the 1945 case willful, knowing, and 24 unlawful misrepresentation for the purpose of 25 misleading the Board to procure a license fraudulently.</p>

<p style="text-align: right;">Page 182</p> <p>1 Well, my gosh, how could you not define willful there 2 is with malice intent. When you take the whole context 3 of the charge, I mean, I would tend to agree. 4 Well, what are we charging the respondent 5 in this case? A willful violation of any of the 6 Board's regulations. What say you if we take this 7 interpretation, this proposed universal and apply to 8 every situation -- definition and apply that to our 9 statute. You mean to tell me that anytime someone 10 violates the Board's regulations whether it be failing 11 to do their continuing education, whether it be failing 12 to document administration of local anesthesia as 13 required by Board regulation that there is no 14 consequence unless we can show that they did it with 15 malice, that they intended to break the law, 16 essentially be spiteful? Well, then, what recourse 17 does the Board have in enforcing its regulations. 18 We're not talking about a narrow, willful, knowing, 19 and unlawful misrepresentation for the purpose of 20 misleading the Board to procure a license fraudulently. 21 We're talking about all of the Board's regulations. 22 We're talking about a class of violations. This 23 interpretation really creates an absurd result. We 24 are to apply to every violation of our regulations 25 that, hey, it's really only a violation if you can</p>	<p style="text-align: right;">Page 184</p> <p>1 law. Only courts can interpret the law. Penal 2 statutes are construed against the body that drafts 3 them. If the language of the statute needs to be 4 changed, that's up to the legislature level. That's 5 not this Board's prerogative. That's not my 6 prerogative. 7 Any law as it exists states in penal 8 statutes the word "willful" generally means with a 9 bad purpose, an evil purpose, without grounds for 10 believing the act to be lawful and that it indicates 11 a bad or corrupt purpose; but if the act charged to 12 the willful merely reflects thoughtfulness and 13 exhibits only an error of judgment with no bad or 14 evil purpose, it does not constitute reasonableness. 15 We're not here talking about all of the other 16 what-if's Mr. Mutziger went into, what effect could 17 this have for us. 18 There's one issue before the hearing 19 officer today is does the Complaint as stated against 20 him that he willfully failed to report to the Board 21 within 30 days. That's the only thing for you to 22 consider today. We can't consider what consequences 23 that may have. The Board is not tasked any longer 24 with interpreting -- interpreting, excuse me, the 25 statutes. That can only be done by the courts and</p>
<p style="text-align: right;">Page 183</p> <p>1 show that they did it because they wanted to break 2 the law; otherwise, let me tell you what the practical 3 effect of that is. How do we do our job and then 4 protect the public? How then do we enforce our 5 regulations? Did the legislature really intend that 6 for every violation of a regulation we've got to show 7 that they intended to break the law? 8 I'll put to you that there is no universal 9 definition of willful, but you have to take into 10 consideration the context and the court recognized 11 differing definitions. The court itself says that 12 there's no universal definition. What produces the 13 nonabsurd result, not response interpretation. So I 14 would move that you deny his request to dismiss 15 Charge 1. 16 HEARING OFFICER LOVE: Any reply? 17 MR. WILLIAMS: Yes, ma'am. It's not the 18 respondent's interpretation. It's the case law out 19 of the Mississippi Supreme Court. Is this 20 administrative agency going to go with the language 21 in a dental case against a dental practitioner charged 22 with willfully using false names to practice dentistry 23 in the state of Mississippi or are we going to go 24 with an interpretation of a California statute. It's 25 clear: This is the law. I'm not interpreting the</p>	<p style="text-align: right;">Page 185</p> <p>1 the judicial branch. The court in a dental case has 2 clearly told us what willful means. There will be 3 no evidence that Dr. Gary acted willfully, acted with 4 a bad purpose, with an evil purpose, or a bad or 5 corrupt purpose. 6 The evidence that you will see is that 7 while his act reflected thoughtfulness or error of 8 judgment, it was with no bad or evil purpose, and it 9 does not meet willful. 10 HEARING OFFICER LOVE: Thank you. Any 11 questions from the Board? 12 BOARD PRESIDENT SMITH: I got a question. 13 HEARING OFFICER LOVE: All right. 14 BOARD PRESIDENT SMITH: I don't see in 15 the charge there that second word, and you haven't 16 mentioned it. I'm not sure I know what that means, 17 wanton. 18 MR. WILLIAMS: What section -- 19 BOARD PRESIDENT SMITH: Wanton. It's 20 willful or wanton. 21 MR. WILLIAMS: Bear with me. 22 BOARD MEMBER WILLIAMS: So do you want a 23 dictionary.com definition or.... 24 MR. WILLIAMS: I was looking for the 25 Complaint. I've got it up here somewhere.</p>

<p style="text-align: right;">Page 186</p> <p>1 BOARD MEMBER WILLIAMS: Well, he's just 2 looking -- he's asking about a word. 3 MR. WILLIAMS: Okay. He's asking for a 4 word. I can't find the Complaint in front of me here. 5 Your question is? 6 BOARD PRESIDENT SMITH: What does that 7 word mean? 8 BOARD MEMBER WILLIAMS: It's in the response. 9 BOARD PRESIDENT SMITH: Wanton. 10 MR. WILLIAMS: What does the word wanton -- 11 BOARD PRESIDENT SMITH: It says willful 12 or wanton. It denies that it was willful or wanton. 13 MR. WILLIAMS: I don't have a definition 14 for wanton for you here today. 15 BOARD PRESIDENT SMITH: Well, can Dr. 16 Williams -- can you read what that word means? 17 HEARING OFFICER LOVE: Well, I think it's -- 18 BOARD PRESIDENT SMITH: No? 19 HEARING OFFICER LOVE: -- not a good idea -- 20 BOARD PRESIDENT SMITH: Oh, it's okay. All 21 right. 22 HEARING OFFICER LOVE: -- to make those 23 arguments. Just allow the different attorneys to 24 speak. 25 MR. MUTZIGER: As the opportunity to</p>	<p style="text-align: right;">Page 188</p> <p>1 the motion to dismiss the Complaint and motion to 2 dismiss Charge 1 of the Complaint will be held and 3 announced after the Board counsel presents its case in 4 chief. 5 MR. WILLIAMS: Thank you. Next I would 6 call on another evidentiary matter for hearing. In 7 the discovery process, the Board attorney indicated 8 that he planned to use a certain confidential document 9 in his case in chief. I filed this motion out of an 10 abundance of caution because the document he planned 11 to produce into the public domain through this public 12 hearing is a confidential document I would believe 13 would be just the nature of the documents which they 14 would not produce to me in discovery. It's an NPD 15 report. That's all I will go into it with the Board. 16 I move to exclude any reference to the 17 report, any reference to numbers, or allegations 18 which may be contained therein. The report itself is 19 confidential. It cannot be used to establish guilt. 20 It's a confidential provision I think, and, too, if 21 the Board enters that into the public arena it may 22 subject the Board to fines through that entity, that 23 federal entity, because it is a confidential reporting 24 requirement. 25 For that we ask that it not be entered into</p>
<p style="text-align: right;">Page 187</p> <p>1 respond has been had, this -- I would clarify. The 2 mischaracterization of reliance by California law, 3 California law is actually relied on -- well, not 4 relied on but referenced by the Mississippi Court of 5 Appeals (unintelligible). It's not a California case. 6 MR. WILLIAMS: I'm reading from the 7 Complaint here, and I'm happy to try to respond that 8 wanton is in Charge 1 of this Complaint. Mr. Mutziger 9 can correct me. The respondent willfully violated 10 any of the rules or regulations. 11 BOARD MEMBER BISHOP: He's referring to 12 your answer. 13 BOARD MEMBER WILLIAMS: Response. 14 MR. WILLIAMS: To my answer? 15 BOARD MEMBER BISHOP: Yes. 16 BOARD PRESIDENT SMITH: Yeah, I see Answer. 17 It says Answer right there. I'm sorry. 18 BOARD MEMBER WILLIAMS: It's technically 19 in the answer. 20 MR. WILLIAMS: Willful or wanton, that's 21 my word, not his. Acting without a purpose. 22 BOARD PRESIDENT SMITH: Okay. 23 HEARING OFFICER LOVE: Any other questions? 24 If not, we can proceed with the next motion. As I 25 previously indicated, the -- or stated, the rulings on</p>	<p style="text-align: right;">Page 189</p> <p>1 evidence, it not be referred to in any way or manner, 2 it not be referred to what is on that document, whether 3 financial or any statements made because those were 4 not submitted by an attorney. They were not submitted 5 by a general dentist such as yourselves. They were 6 submitted by an insurance adjustor to a reporting 7 agency. The document is fraught with hearsay, but the 8 largest problem it's a confidential document not to 9 be used in administrating hearings -- administrative 10 hearings of this type. 11 MR. MUTZIGER: The Board has no issue not 12 introducing into evidence the NPDB report. The Board 13 has no issue making a reference to any monetary value; 14 however, the NPDB report serves an important function 15 to establish Charge 1 of the Complaint. As part of 16 the Board's duty to protect the public, to perform 17 investigations and take disciplinary action, we 18 depend on the public to submit complaints. It is 19 based off of those complaints, those allegations, that 20 we actually conduct investigations and determine 21 there's appropriate procedures for any action. 22 One habit of receiving notification of 23 complaints or a type of complaint is an NPDB report. 24 Is an NPDB report conclusive? Absolutely not. The 25 Board has not treated it as such. It is evidence of</p>

<p style="text-align: right;">Page 190</p> <p>1 such. What it is is a notification, a notification 2 that could prompt an investigation to determine 3 whether we should pursue disciplinary action. 4 It's irrelevant in this case because the 5 charge in Charge 1 is that the respondent did not 6 notify the Board timely or at all of -- as required 7 by Regulation 31, a morbidity or mortality occurring 8 as a direct result of dental care that he provided. 9 In fact, the way that the Board actually initiated 10 its investigation was through the NPDB report. Again, 11 the Board has no need to introduce the report itself. 12 The Board has no problem not referencing any details 13 within the report; however, it is an instrumental 14 part of the case for the Board to show notification 15 of this patient mortality occurred not by respondent 16 but instead by receipt of the NPDB report. Only 17 then after receipt does the Board conduct an 18 investigation. 19 The mere existence of the report means 20 nothing. It points us in a direction and then the 21 Board develops evidence. If the evidence is obtained 22 to substantiate a violation and determine that a 23 Complaint should be filed, the Board will proceed; 24 but if not, no action is taken. It's merely a starting 25 point.</p>	<p style="text-align: right;">Page 192</p> <p>1 the notification of the mortality, then I'll deny 2 that use of it in that way. But the report absolutely 3 can be used to show that notification of the mortality 4 was what the Board did in response of the receipt of 5 that report and the timeliness of the report versus 6 -- and how that led to -- possibly led to the violation 7 as alleged in the Complaint. 8 MR. WILLIAMS: Can I ask for clarification? 9 HEARING OFFICER LOVE: Sure. 10 MR. WILLIAMS: So is it your ruling the 11 report cannot come in and be admitted into evidence 12 in the public body, but if the investigator so chooses 13 he can be questioned as to how did you initiate your 14 investigation based off a confidential report from 15 the NPDB? 16 HEARING OFFICER LOVE: Yes. I believe 17 that's the extent to which -- if I'm understanding 18 Board counsel's response, that's the extent to which 19 the Board is seeking to use this particular report. 20 MR. MUTZIGER: Sounds accurate. 21 MR. WILLIAMS: Thank you. 22 HEARING OFFICER LOVE: All right. 23 MR. WILLIAMS: Going forward, we filed an 24 objection or motion to exclude the use by the Dental 25 Board of Dr. Robert Harkins as an expert witness. I</p>
<p style="text-align: right;">Page 191</p> <p>1 So again, the Board would agree that no 2 details concerning the report be discussed. We agree 3 no monetary value of any kind, only that the Board 4 received such a report and did initiate the 5 investigation. 6 HEARING OFFICER LOVE: Any reply? 7 MR. WILLIAMS: I think we're in agreement, 8 and they listed it as a document they sought to 9 introduce into evidence. That's why we filed our 10 motion. We think it's confidential, but if they plan 11 to refer to that report in any manner other than we 12 received it, I'll make a contemporaneous objection 13 because it's hearsay within hearsay by a nonmedical 14 dental provider. 15 HEARING OFFICER LOVE: Well, so to rule 16 on this particular motion to strike that report, I 17 guess based on what I'm hearing I will grant in part 18 and deny in part just based on the use of it. So yes, 19 I think -- no. The ruling is that the report can be 20 used to show notification and the method by which the 21 Board used it to, you know, prompt this investigation, 22 but to use it to -- any use of the report to sort of 23 substantiate the violation or as evidence of any of 24 the underlying facts related to that report or beyond 25 -- using the report beyond just as a means of showing</p>	<p style="text-align: right;">Page 193</p> <p>1 do not know if they still plan to do that at this time. 2 MR. MUTZIGER: The Board will not be calling 3 Dr. Harkins as a witness. 4 MR. WILLIAMS: All right. Likewise, we 5 received late in discovery a supplemental designation 6 of Dr. Frank Conaway who's with us here today. We 7 would move to strike the plaintiff's supplemental 8 designation of Dr. Conaway because, as stated, it was 9 not filed within 15 days of today's hearing. They 10 served Dr. Conaway's designation 14 days before the 11 hearing. He's asking my motions not to be considered 12 because they were not timely pursuant to the procedural 13 statutes of this Board. Well, Dr. Conaway, in my 14 opinion, was not timely designated and should not be 15 considered as an expert witness by this Board. Dr. 16 Harkins was. 17 So the first point we would move is to 18 exclude Dr. Conaway on the late hour, late designation, 19 14 days before this hearing, not 15. 20 The other ground for our motion was to 21 prevent any perceived or undo bias or prejudice from 22 having Dr. Conaway serve as the Board's expert witness. 23 As you all are aware or may be aware, Dr. Conaway 24 served on this exact State Board of Dental Examiners 25 until, I believe, 2021. He served with many of you,</p>

<p style="text-align: right;">Page 194</p> <p>1 and while everyone is entitled to their deference, we 2 believe that administrative hearings must be conducted 3 in a fair and impartial manner free from any suspicion 4 of prejudice, unfairness for all -- or impression. 5 We're concerned -- not challenging Dr. 6 Conaway's qualifications in any way -- that the Board 7 may give one of its former members, who served with 8 many of you, greater consideration, credibility, or 9 deference than you would give another dentist who has 10 not served in the Board capacity. It's for that 11 reason that we would move to or objected to the expert 12 designation of Dr. Conaway because we feel that while 13 it can be stated everyone would be objective and 14 give every witness the same credibility and due 15 deference, human nature dictates that the Board will 16 give a former member, such as Dr. Conaway, who served 17 many years with many of you, greater consideration 18 or credibility as to the expert opinions he offers 19 in this case. 20 HEARING OFFICER LOVE: Can I ask you to 21 identify in your motion where you raise that 22 timeliness argument? 23 MR. WILLIAMS: I didn't raise that in my 24 motion because it was filed when it was, and I was 25 not objecting to the timeliness of it, but today I</p>	<p style="text-align: right;">Page 196</p> <p>1 So you'll see this throughout the case law, 2 the focus is on primarily the hearing officer. Board 3 members, they're mentioned, but throughout case law 4 you will see that the bias that the court is concerned 5 with primarily rests with the hearing officer. We're 6 not talking about the Board members sitting in 7 judgment. We're not talking about the hearing officer 8 conducting the proceeding. We're talking about an 9 expert witness offering opinions. 10 And I don't know how else to say it, but 11 counsel opposite makes the motion when that one of its 12 own will get deferential treatment, well, how about 13 a current board member? The witness list provides 14 that Haley Birmingham is a character witness. So in 15 one vein, you know, don't present an expert witness 16 that's a former Board member, but yeah, we'll present 17 a current Board member. Oh, and my co-counsel was 18 plaintiff counsel for the Board for 25 years. 19 I mean, I would just ask that the Board 20 -- and, of course, the timeliness. I mean, the Board 21 has been tasked ultimately with three days to respond 22 to six motions, and so I would just ask that this -- 23 this Board, if you're going to enforce timeliness 24 just that it be consistent. 25 The Board -- or excuse me. The</p>
<p style="text-align: right;">Page 195</p> <p>1 received the Board's responses to my motions, and 2 that's their first objection is these are untimely. 3 These aren't proper. So while it's not in my motion 4 I would agree with you I can move as soon as he's 5 called in limine to exclude him for failure to comply 6 with the procedural requirements. 7 HEARING OFFICER LOVE: Yes. We'll just 8 -- yes. I think you're going to have to do that 9 because I don't see that in here, and just in fairness, 10 I don't know that they even had an opportunity to 11 respond to that now. 12 MR. WILLIAMS: Fair enough. 13 HEARING OFFICER LOVE: Okay. All right. 14 Your response? 15 MR. MUTZIGER: It's just an interesting 16 motion overall. So first and foremost, exclusion of 17 bias has been defined. In fact, counsel opposite 18 uses a very good case that defines Odyssey B. Fadden 19 versus Mississippi State Board of Medical Licensure 20 and talks about that there is a presumption that Board 21 members, officers, behave honestly and fairly in 22 conducting hearing, the hearing and decision making 23 process, and the presumption will not be overcome 24 absence of showing a personal or financial interest 25 or evidence in this conduct of the hearing officer.</p>	<p style="text-align: right;">Page 197</p> <p>1 respondent's discovery, notification of witnesses. 2 Again, approximately seven days prior to hearing 3 after two requests. So be fair. If you want to 4 exclude my witness, his have to go, too. But the 5 fact remains that respondent has failed to show, 6 other than a mere allegation by designation that he's 7 a former Board member, that you all will be biased 8 because you see him -- has he shown that there's a 9 personal interest? No. Has he shown there's a 10 financial interest? No. Evidence of misconduct? 11 None. It's just mere speculation. 12 And as I stated in my response, don't be 13 surprised if an expert witness is a former Board 14 member. I think the governor probably -- I should 15 hope that he picks qualified persons to sit as a 16 Board member. So I just ask that you deny his motion. 17 HEARING OFFICER LOVE: Any reply? 18 MR. WILLIAMS: Very briefly. I won't 19 belabor the point. Because I designated a fact witness 20 to testify as a character witness, we're asking this 21 about an expert witness to testify as to dentistry. 22 Ms. Birmingham can't testify as to the dental standard 23 of care. She's not going to be asked to do that. 24 More likely than not, she may or may not be called. 25 The motion was made. It's argued. I have nothing</p>

<p style="text-align: right;">Page 198</p> <p>1 further to argue, other than, one, he's criticizing 2 now my responses to discovery saying they're untimely. 3 What you didn't hear from plaintiff's counsel or 4 Board counsel is when he sent those. I responded to 5 discovery within 10 days -- 10 days from the date I 6 received his request. Ten days. There is no 7 regulation for that. I am an active trial attorney 8 representing multiple people across the state of 9 Mississippi. I responded in 10 days. The procedures 10 is civil -- in Circuit Court allow for 30 days to 11 respond. So there is no basis to argue that my 12 responses were untimely. I designated my witnesses 13 within 10 days of receiving the request. Why I 14 didn't receive the request early on I cannot begin 15 to answer. I designated my witnesses to testify. 16 The timeliness of his designation was 14 days. Why 17 haven't I filed that? I'm within the 15 days 18 there. But I can file -- make that objection 19 contemporaneously. That is fine, and I have nothing 20 bad to say about Dr. Conaway, and that's not the 21 purpose of this motion. 22 MR. MUTZIGER: I just have to correct 23 counsel opposite. In fact, the Board's very 24 regulations, Part 2302, regarding discovery provide 25 that any respondent who requests discovery not upon</p>	<p style="text-align: right;">Page 200</p> <p>1 that but just simply that he is a former Board 2 member. There's no basis -- legal basis to exclude 3 him on that ground. So your motion is denied. 4 MR. WILLIAMS: Thank you. The final 5 motion we filed, and I have not received a response 6 from the State to -- I don't know if he plans to 7 object to the motion or not, but we filed an objection 8 to this hearing starting so late in the day at 1:30 9 p.m. when it started after that as to the timing of 10 the hearing and going past the 5 o'clock hour. That 11 was our motion filed. It has not been responded to. 12 We did not agree to this hearing. We were 13 given notice, but due to other family obligations I 14 have to be back in Greenwood, so I would ask that 15 the hearing conclude at 5 p.m. or thereabout because 16 we have not even begun into the hearing of this case 17 with opening statements, calling the witnesses, et 18 cetera. 19 MR. MUTZIGER: The State would not object. 20 HEARING OFFICER LOVE: You don't object 21 to recessing this hearing to another day? 22 MR. MUTZIGER: Correct. 23 HEARING OFFICER LOVE: Okay. Well, 24 hearing no objection, do you need some time to sort 25 of be able to stay on the record when the recess date</p>
<p style="text-align: right;">Page 199</p> <p>1 prompting by the complaining counsel shall produce 2 discovery, but anyone who actually requests discovery 3 shall promptly themselves upon their own initiative 4 disclose to complaining counsel. It was not incumbent 5 upon me to request and say to reciprocate. The rules 6 provide for it. As soon as you make the request you 7 are to also promptly respond. My request was more 8 than 10 days following receipt of -- or excuse me, 9 following production of discovery. 10 HEARING OFFICER LOVE: Any questions from 11 the Board? 12 (No response.) 13 HEARING OFFICER LOVE: Hearing none I will 14 announce my decision on this motion. I am going to 15 deny the motion to exclude on the basis of it seems 16 like you made an argument that the Board may be biased, 17 that they're -- you know, they may not behave honestly 18 and fairly because Dr. Conaway is a former Board member, 19 but there's no legal basis to exclude him on that 20 ground alone, simply that he is a former Board member. 21 So without establishing or, you know, making some 22 type of argument that he has some sort of personal 23 or financial stake in this matter or that, you know, 24 he has some sort of substantial personal animosity 25 against the respondent, without such allegations like</p>	<p style="text-align: right;">Page 201</p> <p>1 will be? Are you able to do that today so that we 2 can put into the record that this hearing is recessed 3 until X, Y, Z date? 4 MR. WILLIAMS: I don't think it's a matter 5 of logistics with the Board members' schedules. I 6 think it would probably have to either be a special 7 setting.... 8 HEARING OFFICER LOVE: Are you able to do 9 that today? 10 MR. MUTZIGER: I'm willing to open up the 11 calendars and let's try to find a date. 12 BOARD PRESIDENT SMITH: We usually like 13 Fridays. 14 HEARING OFFICER LOVE: Okay. 15 MR. MUTZIGER: December 8th I would throw 16 out as a possibility. 17 HEARING OFFICER LAMPKIN: You said December 18 8th? 19 MR. MUTZIGER: December 8th. 20 MR. WILLIAMS: Can we have a recess where 21 I can go call my co-counsel and experts to see, and 22 I can do that whenever dates are obtained? 23 HEARING OFFICER LOVE: Okay. We'll take 24 a five-minute recess and return at 4:57 p.m. 25 (OFF RECORD AT 4:52 P.M. TO 4:57 P.M.)</p>

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1 HEARING OFFICER LOVE: So Mr. Williams,  
2 they're proposing November 10th.  
3 MR. WILLIAMS: Like I said, I can't agree  
4 to that, but if the Board sets it at that time...  
5 HEARING OFFICER LOVE: Because you can,  
6 once -- once it's set, you know, if there is a reason  
7 that you would need to actually continue that date --  
8 MR. WILLIAMS: And if I could talk to my  
9 co-counsel who would like to attend and be present,  
10 I could answer that, but I can't get him on the phone  
11 in North Dakota. So if it's set and I need to file  
12 that motion --  
13 HEARING OFFICER LOVE: To continue --  
14 MR. WILLIAMS: To continue, yes, ma'am.  
15 HEARING OFFICER LOVE: -- for whatever  
16 those stated reasons are. Okay. All right.  
17 MR. MUTZIGER: So do I understand November  
18 10th, but subject to motion if Stan has a problem?  
19 Is that what I heard?  
20 HEARING OFFICER LOVE: Yes. What time?  
21 MR. MUTZIGER: 8:30, Tommie? Work for you?  
22 MR. WILLIAMS: I can do 8:30.  
23 HEARING OFFICER LOVE: All right. This  
24 hearing in Case Number 2022-81 is recessed until  
25 November 10th, 2023, at 8:30 a.m.

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1 And I'll just on the record remind Board  
2 members do not discuss this matter during this recess  
3 period. No deliberations or anything or any -- any  
4 aspect of the hearing that was had today. So the  
5 hearing is recessed, but there -- prior to recessing  
6 after the start of the hearing you heard a lot of  
7 things that you may want to deliberate on, but you  
8 can't. So be mindful of that.  
9 (OFF RECORD.)  
10 BOARD MEMBER WILLIAMS: You need to adjourn  
11 the whole meeting before anybody leaves.  
12 BOARD PRESIDENT SMITH: I'll entertain a  
13 motion to adjourn.  
14 BOARD MEMBER WILLIAMS: I will grant you  
15 the motion.  
16 BOARD PRESIDENT SMITH: Okay. Is there a  
17 second?  
18 BOARD MEMBER LAMPKIN: Second.  
19 BOARD PRESIDENT SMITH: Thank you. All  
20 in favor, say "aye."  
21 DENTAL BOARD: "Aye."  
22 BOARD PRESIDENT SMITH: Any opposed?  
23 (No response.)  
24 BOARD PRESIDENT SMITH: Now we're adjourned.  
25 (HEARING RECESSED AT 5:02 P.M.)

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1 CERTIFICATION OF REPORTER  
2  
3 I, Kellye S. Shows, Court Reporter and  
4 Notary Public for the state of Mississippi, do  
5 hereby certify that the above and foregoing pages  
6 contain a full, true and correct transcript of the  
7 proceedings had in the aforementioned case at the time  
8 and place indicated, which proceedings were recorded  
9 by me to the best of my skill and ability.  
10 I also certify that I placed the witness  
11 under oath to tell the truth and that all answers  
12 were given under that oath.  
13 I certify that I have no interest,  
14 or otherwise, in the outcome of this case.  
15  
16  
17 This the 9th day of November, 2023.  
18  
19 *Kellye S. Shows*  
20 KELLYE S. SHOWS  
21 MS CSR #1290  
22  
23  
24 My Commission Expires:  
25 January 17, 2024

Approved on the 12th day of January, 2024:

*M. Lewis Grubbs*  
M. Lewis Grubbs, D.M.D. - MSBDE Board Secretary

<b>\$</b>	<b>\$900,000</b> 81:12	<b>12:23</b> 122:3	<b>2</b>
<b>\$1</b> 99:14	<b>(</b>	<b>12th</b> 12:23 13:17, 18,23	<b>2</b> 13:20 60:15
<b>\$1,250</b> 82:18	<b>(1)</b> 177:20	<b>13,000</b> 86:24	76:10,12,21 77:14, 23 156:19
<b>\$1.3</b> 93:18	<b>(b)</b> 177:20	<b>135</b> 156:7	<b>20</b> 23:5 69:12 72:22 73:7
<b>\$100,000</b> 80:13	<b>1</b>	<b>138</b> 156:23	<b>20,000</b> 85:18
<b>\$1000</b> 122:24 135:5 140:14 143:24 146:9,20 148:16	<b>1</b> 23:6 60:15 83:25 95:8 120:1 143:23 144:20,22 170:11 176:25 177:17,18 178:8,12 179:4,17 183:15 187:8 188:2 189:15 190:5	<b>13th</b> 175:23	<b>20-plus</b> 176:15
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