

**BEFORE THE WEST VIRGINIA BOARD OF DENTISTRY**

**WEST VIRGINIA BOARD OF DENTISTRY,**

**Complainant,**

**v.**

**CASE NOS. 2016-DB-0026D;  
2016-DB-0041D; and  
2017-DB-0006D**

**CHARLES L. WYLIE, DDS,**

**Respondent.**

**CONSENT AGREEMENT AND ORDER**

Now comes the West Virginia Board of Dentistry (hereinafter “the Board”) and Charles L. Wylie, DDS (hereinafter “the Respondent”), for the purpose of resolving all issues regarding the above-styled matters without litigation.

WHEREAS, the parties have reached an understanding concerning the disposition of the matters in controversy. This Order is the result of settlement and compromise negotiations. Thus, the Board does not intend for the contents of this Consent Agreement and Order to be admissible before any court, tribunal, or body. The Board does find and order as follows:

**FINDINGS OF FACT:**

The Board is a state entity created by West Virginia Code §§ 30-4-1, *et seq.* (Dental Practice Act), and is empowered to regulate the practice of dentistry in the State of West Virginia. At all times relevant to this investigation, the Respondent was a licensee of the Board, holding License No. 2926. As a result, the Respondent is subject to the Board's licensing requirements and rules. This consent agreement resolves matters addressed in three

separate investigations against Respondent. The Findings of Fact for each investigation are summarized in the following sections.

**A. 2016-0-00260 (Patient DM)**

1. One of Respondent's patients, identified as "DM," claimed that, beginning on or about April 22, 2014, Respondent provided treatment for symptoms of tempo mandibular joint (TMJ) dysfunction that included accelerated osteogenic orthodontics without first offering her the option of orthotics. The Board alleges lack of "informed consent" for this procedure. Respondent denies DM's claim that orthotics were not discussed with DM. Respondent asserts that DM stated that she had previously had an orthotic device, that she hated it and would never wear it, and therefore it did not work. Respondent asserts that all issues of treatment were properly discussed and appropriate informed consent obtained.

**B. 2016-DB-0041D (Patient JP)**

1. One of Respondent's patients, identified as "JP," claimed that, on or about April 7, 2016, she went to Respondent for an implant treatment.

2. JP claimed that the sole purpose of the visit was to obtain an implant. JP alleges that she did not request or inquire about a bite adjustment, which is otherwise known as an occlusal adjustment.

3. JP claimed that Respondent performed a complete bite adjustment without her informed consent or knowledge.

4. Respondent denies JP's claims. JP saw the Respondent for implant treatment. On the first visit Respondent asserts he advised JP that she needed a complete bite

adjustment due to vertical bone loss. Respondent asserts JP expressed understanding that a bite adjustment was part of the implant treatment and alleges that the treatment plan signed by JP on April 7, 2016 includes the complete bite adjustment procedure. Appearing immediately above JP's signature is the following: "The treatment alternatives, benefits and risks have been explained to me and I wish to proceed with Alternative 1." Respondent's April 7, 2016, treatment notes indicate that Respondent suggested a complete bite adjustment to JP. A signed statement of the attending dental hygienist, Lori Kinnick, which was provided to the Board by the Respondent, asserts that she reviewed the treatment plan (which included the bite adjustment procedure) with JP prior to the bite adjustment being performed.

**C. 2017-DB-0006D (Patient KC)**

1. On September 4, 2013, KC presented with a non-restorable tooth. Respondent further asserts that he offered KC the option of a bridge, or of extraction and an implant.

2. Respondent performed additional surgical procedures to correct complications from the initial procedures and permanently restored the affected area at no additional cost to KC.

3. KC complained to the Dental Board that she was dissatisfied with the shape of her teeth on the tongue side and that food was becoming trapped. KC discontinued treatment with Respondent.

**II. CONCLUSIONS OF LAW**

1. The Board has jurisdiction to take disciplinary action against the Respondent who is a licensee of the Board. W. Va. Code § 30-4-5.

2. Pursuant to West Virginia Code §§ 30-4-1, *et seq.*, the Board may deny or refuse to renew, suspend, restrict or revoke the license, certificate or permit of, or impose probationary conditions upon or take disciplinary action against, any licensee, certificate holder or permittee for violations of the Dental Practice Act, including violations of the *ADA Code*. W. Va. Code §§ 30-4-19(g),(h).

3. In addition to any other sanction imposed, the Board may require a licensee or permittee to pay the costs of the proceeding. W. Va. Code § 30-4-19(i).

4. Respondent does not admit that he violated any applicable standard of care. However, Respondent and the Board recognize the desirability of avoiding the costs and burdens associated with litigating disputed issues, and as a means of compromise, the Board and the Respondent have hereby agreed to resolve this matter through a voluntary Consent Order.

### **III. CONSENT OF LICENSEE AND ORDER**

The Respondent, by affixing his signature hereto, acknowledges the following:

1. The Respondent has been given the opportunity to seek consultation with counsel and executes this Consent Decree and Order voluntarily, freely, without compulsion or duress, and is mindful that it has legal consequences.

2. No person or entity has made any promise or given any inducement whatsoever to encourage the Respondent to enter into this Consent Decree and Order, other than as set forth herein.

3. Respondent consents to the following terms, and therefore is hereby Ordered as follows:

a. Respondent shall reimburse the Board for the costs of this

proceeding, including but not limited to, the administrative and legal expenses incurred by the Board in the investigation and disposition of this case, up to \$10,000.00.

b. Respondent shall pay a fine in the amount of five thousand dollars (\$5,000).

c. The fine and costs reimbursement shall be paid to the Board in full within ninety (90) days of the date of entry of this Consent Decree, in the form of two cashier's checks, each made payable to the West Virginia Board of Dentistry, and mailed to the Board office at P.O. Box 1447, Crab Orchard, West Virginia, 25827.

d. Within twelve (12) months, Respondent consents to attend and complete a total of eighteen (18) hours of additional continuing education in the following areas: six (6) hours of continuing education in the area of diagnostic imaging for implants; six (6) hours of continuing education in the area of informed consent; and six (6) hours of continuing education in the area of functional occlusion. All of these courses shall be pre-approved by the Board and shall be over and above the regular continuing education credits necessary to maintain his dental license. Respondent shall file proof of completion with the Board.

e. Respondent shall implement steps to immediately improve application of the principles of informed consent.

4. Respondent's failure to fully comply with the terms and conditions of this Order shall be deemed a violation of this Consent Order, and shall be grounds for the Board to take immediate appropriate action.

5. In consideration thereof, the Board agrees not to further prosecute any

of the violations claimed in the three Statements of Charges, which include case numbers: 2016-DB-0026D, 2016-DB-0041D, and 2017-DB-0006D.

6. The Respondent acknowledges that he is aware that he may pursue this matter through appropriate administrative and/or court proceedings, and is aware of his legal rights regarding this matter, but intelligently, knowingly, and voluntarily waives such rights.

7. The Respondent expressly acknowledges that the entire agreement is contained in this Consent Decree and Order and no representations, promises, or inducements have been made by or to Respondent other than as appear in this Consent Decree and Order.

8. The Respondent acknowledges that this Consent Decree and Order is a public document, available for inspection at any time by any member of the public under Chapter 29B, *et seq.*, of the West Virginia Code, Freedom of Information Act, and may be reported to other governmental agencies, professional Boards, or other organizations.

9. The Respondent waives any defense of laches, statute of limitations, estoppel and waiver that he may have otherwise claimed, as they may apply to the Board action that is the subject of this Consent Decree and Order.

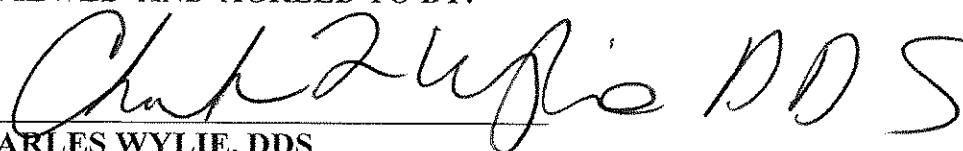
10. The Respondent acknowledges that this Consent Decree and Order will be presented to the Board as soon as practical, but no later than the next scheduled meeting of the Board, with a recommendation for approval from the Complaint Committee.

11. The Respondent, by affixing his signature hereon, consents and agrees to the above terms and conditions affecting his license to practice dentistry in the State of West Virginia.

ENTERED this 19<sup>th</sup> day of July, 2018.

By:   
**C. RICHARD GERBER, DDS, President**  
**WEST VIRGINIA BOARD OF DENTISTRY**

REVIEWED AND AGREED TO BY:

  
**CHARLES WYLIE, DDS**  
**Respondent**