



NEVADA STATE BOARD OF DENTAL EXAMINERS
 6010 S Rainbow Boulevard, Suite A-1
 Las Vegas, Nevada 89118
 (702) 486-7044



Video Conferencing available for this meeting at the Nevada State Board of Medical Examiners located at
 1105 Terminal Way, Suite 301, Reno, NV 89502

NOTICE OF PUBLIC MEETING

Friday, June 19, 2015
9:00 a.m.

FORMAL HEARING AGENDA

Nevada State Board of Dental Examiners v. James Brannan, DDS

Please Note: The Nevada State Board of Dental Examiners may 1) address agenda items out of sequence to accommodate persons appearing before the Board or to aid the efficiency or effectiveness of the meeting; 2) combine items for consideration by the public body; 3) pull or remove items from the agenda at any time. The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of a person. See NRS 241.030. Prior to the commencement and conclusion of a contested case or a quasi judicial proceeding that may affect the due process rights of an individual the board may refuse to consider public comment. See NRS 233B.126.

At the discretion of the Chair, public comment is welcomed by the Board, but will be heard only when that item is reached and will be limited to five minutes per person. A public comment time will also be available as the last item on the agenda. The Chair may allow additional time to be given a speaker as time allows and in his/her sole discretion. Once all items on the agenda are completed the meeting will adjourn.

Asterisks () denote items on which the Board may take action.
 Action by the Board on an item may be to approve, deny, amend, or table.*

1. Call to Order, roll call, and establish quorum

Pledge of Allegiance

2. Public Comment: (Public Comment is limited to five (5) minutes for each individual)

<p>Note: Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual the board may refuse to consider public comment. See NRS 233B.126.</p>
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***3. Formal Hearing:** Nevada State Board of Dental Examiners vs. James Brannan, DDS
 (For Possible Action)

The purpose of this hearing is to consider the allegations regarding/related to the the verified complaints/complaint by the Nevada State Board of Dental Examiners for the violations of NRS 631 and NAC 631 and take such action the Board deems appropriate,

pursuant to NRS 631.350. (Pursuant to NRS 241.030(1)(a), the board may, by motion, enter into closed session)

4. **Public Comment:** (Public Comment is limited to five (5) minutes for each individual)

Note: Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual the board may refuse to consider public comment. See NRS 233B.126.

*5. **Adjournment** (For Possible Action)

* For Possible Action: Indicates items which may be acted upon by the Board.

Agenda Items may be taken out of order by motion of the Board. The Board may remove an agenda item or delay discussion relating to any item on the agenda at any time. (See NRS 241)

Pursuant to NRS 241.030(a), the board may, by motion, enter into closed session to consider the character, alleged misconduct, professional competence, or physical or mental health of a person.

AGENDA POSTING LOCATIONS

Clark County Government Center, 500 Grand Central Parkway, Las Vegas, Nevada
Elko County Courthouse, Room 106, Elko, Nevada
Washoe County Courthouse, 75 Court Street; Reno, Nevada
Office of the N.S.B.D.E., 6010 S Rainbow Boulevard, #A-1, Las Vegas, Nevada
On the Internet at the Nevada State Board of Dental Examiners website: dental.nv.gov
Nevada Public Posting Website: notice.nv.gov

Persons/facilities who want to be on the mailing list must submit a written request every six (6) months to the Nevada State Board of Dental Examiners at the address listed in the previous paragraph. With regard to any board meeting or telephone conference, it is possible that an amended agenda will be published adding new items to the original agenda. Amended Nevada notices will be posted in compliance with the Open Meeting Law.

We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify Angelica Bejar, at (702) 486-7044 ext 36 no later than 48 hours prior to the meeting. Requests for special arrangements made after this time frame cannot be guaranteed.

Pursuant to NRS 241.020(2) you may contact Angelica Bejar at (702) 486-7044 ext 36 to request supporting materials for the public body or you may download the supporting materials for the public body from the Board's website at dental.nv.gov In addition, the supporting materials for the public body are available at the Board's office located at 6010 S Rainbow Blvd, Ste A-1, Las Vegas, Nevada.

**PLEASE DO NOT CONTACT THE BOARD OFFICE REGARDING APPROVAL OF AGENDA
ITEMS. NOTIFICATION WILL BE SENT BY MAIL WITHIN 15 BUSINESS DAYS**

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STATE OF NEVADA
BEFORE THE BOARD OF DENTAL EXAMINERS

NEVADA STATE BOARD OF DENTAL
EXAMINERS,

Case No. 74127-02829

Complainant,

vs.

JAMES E. BRANNAN, DDS,

Respondent.

**NOTICE OF FILING OF
COMPLAINT,
DATE(S) SET FOR FORMAL
HEARING, & RELATED
MATTERS**

TO: JAMES E. BRANNAN, DDS, Respondent.

PLEASE BE ADVISED on or about the 30th day of March, 2015, a Complaint was filed with the Nevada State Board of Dental Examiners (the "Board") seeking disciplinary action against your license issued by the Nevada State Board of Dental Examiners.

YOU ARE FURTHER ADVISED the Board has scheduled a public hearing to consider the allegations contained in the Complaint. The public hearing is scheduled to commence on June 19, 2015, at 9:00 a.m. at the offices of the Nevada State Board of Dental Examiners, 6010 S. Rainbow Boulevard, Suite A-1, Las Vegas, Nevada 89118. If necessary, the hearing shall continue to June 20, 2015, commencing at 9:00 am.

YOU ARE FURTHER ADVISED the hearing will be held pursuant to Nevada Revised Statutes ("NRS") chapters 233B, 622A, and 631 and Nevada Administrative Code ("NAC") chapter 631. The purpose of the hearing is to consider evidence regarding the allegations in the Complaint and to determine whether Respondent should be subject to discipline pursuant to NRS

1 and NAC chapters 631.
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3 **YOU ARE FURTHER ADVISED** the hearing is to be an open meeting under Nevada's
4 Open Meeting Law and may be attended by the public. During the hearing, the Board may
5 choose to go into closed session to consider the character, alleged misconduct, professional
6 competence, or physical or mental health of Respondent. A verbatim record will be made by a
7 court reporter. You are entitled to a copy of the transcript, at your cost, of the open and closed
8 portions of the hearing.
9

10 **YOU ARE FURTHER ADVISED** you have the right to answer the Complaint. You
11 have the right to appear and be heard at the hearing in your defense, either personally or through
12 counsel of your choice, at your cost. At the hearing, the Board has the burden of proving the
13 allegations in the Complaint and can call witnesses and offer exhibits/evidence regarding the
14 allegations in the Complaint.
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16 **YOU ARE FURTHER ADVISED** if a violation is found and discipline is imposed, the
17 Board may also recover reasonable attorney's fees and costs pursuant to NRS 622.400.
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19 **YOU ARE FURTHER ADVISED** you have the right to call and examine witnesses,
20 offer exhibits/evidence, and cross-examine opposing witnesses or any matter relevant to the
21 issues involved.
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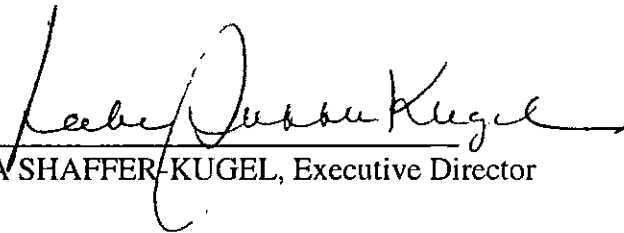
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YOU ARE FURTHER ADVISED you have the right to request the Board issue subpoenas to compel witnesses to testify and/or present evidence on your behalf. When making a request to the Board for issuance of a subpoena, you may be required to demonstrate the nature and relevance of the witness' testimony and/or evidence.

DATED AND DONE this 30th day of March, 2015.

NEVADA STATE BOARD OF DENTAL EXAMINERS

By 
DEBRA SHAFFER-KUGEL, Executive Director

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STATE OF NEVADA
BEFORE THE BOARD OF DENTAL EXAMINERS

NEVADA STATE BOARD OF DENTAL
EXAMINERS,

Complainant,

Case No. 74127-02829

vs.

COMPLAINT

JAMES E. BRANNAN, DDS,

Respondent.

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Complainant, Nevada State Board of Dental Examiners (hereinafter referred as the "Board"), by and through its attorneys, for its Complaint against Respondent, James E. Brannan, DDS (hereinafter referred to as "Respondent" or "Dr. Brannan") alleges and complains as follows:

GENERAL ALLEGATIONS

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1. The Board is empowered to enforce the provisions of Chapter 631 of the Nevada Revised Statutes ("NRS"). NRS 631.190.
 2. The Board, pursuant to NRS 631.190(6), keeps a register of all dentists and dental hygienists licensed in the State of Nevada; said register contains the names, addresses, license numbers, and renewal certificate numbers of said dentists and dental hygienists.
 3. On March 21, 1990, the Board issued Respondent a license to practice dentistry (license number 2568).
 4. Respondent is licensed by the Board and, therefore, has submitted himself to the disciplinary jurisdiction of the Board.

1 5. Via *Notice of Complaint & Request for Records* dated August 14, 2013, the Board
2 notified Respondent of the verified complaint from Patient, Barbara Harrison. On August 31,
3 2013, the Board received Dr. Brannan's written response (with enclosures) dated August 29,
4 2013, to Ms. Harrison's complaint, a copy of which was provided to Ms. Harrison on September
5 24, 2013. On March 4, 2014, the Board forwarded correspondence to Dr. Brannan advising that
6 Bradley Strong, DDS, the Disciplinary Screening Officer assigned to the verified complaint of
7 Ms. Harrison, requested copies of his daily schedules for the period of September 1, 2013,
8 through February 28, 2014. On March 19, 2014, the Board received copies of the daily schedules
9 from Dr. Brannan's practice, a copy of which was provided to Dr. Strong on March 26, 2014.

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11 6. Via *Notice of Complaint & Request for Records* dated May 20, 2014, the Board notified
12 Respondent of the verified complaint from Patient, Jill Houska. On June 17, 2014, the Board's
13 Executive Director forwarded correspondence to Dr. Brannan (address: 2655 S. Rainbow Blvd.,
14 Suite 304, Las Vegas, Nevada 89146), which, in part, advised that the Board had not received his
15 factual answer and dental records relative to Ms. Houska, and referenced NAC 631.350. On
16 September 15, 2014, the Board's Executive Director forwarded correspondence to Dr. Brannan
17 (address: 236 MacFarland Avenue, Unit 97, Box 571, Indian Springs, NV 89018) referencing
18 that Dr. Strong, the DSO assigned to two pending matters before the Board has made several
19 attempts to contact him at the dental office address he has on file with the Board in addition to
20 his cellular number but, as of the date of the letter, he (Dr. Brannan) has failed to contact Dr.
21 Strong. Further, the September 15, 2014, correspondence requests Dr. Brannan to update the
22 Board records pursuant to NAC 631.150 if he is no longer practicing at 2655 S. Rainbow Blvd.,
23 Suite 304, Las Vegas, Nevada 89146.

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25 7. Respondent has not responded to the *Notice of Complaint & Request for Records* dated
26 May 20, 2014, regarding the verified complaint from Patient, Jill Houska.
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1 8. On November 5, 2014, via correspondence dated October 29, 2014, sent via certified
2 mail, return receipt requested and via regular mail (address: 2655 S. Rainbow Blvd, Suite 304,
3 Las Vegas, Nevada 89146), Respondent was provided notice of informal hearing set for 8:00
4 a.m. on Friday, December 19, 2014, at Morris, Polich & Purdy, LLP, 500 South Rancho Drive,
5 Suite 17, Las Vegas, Nevada 89106, regarding the above-referenced verified complaints of
6 Barbara Harrison and Jill Houska. Included therewith was a Subpoena Duces Tecum regarding
7 certain original documents and/or items required to be produced on the date/time of the informal
8 hearing. Both of the above-referenced envelopes (i.e., the one sent regular mail and the one sent
9 certified mail, return receipt requested) sent to Dr. Brannan on November 5, 2014, at 2655 S.
10 Rainbow Blvd., Suite 304, Las Vegas, Nevada 89146, were returned to sender with a notation
11 from the postal service "moved left no address unable to forward return to sender."

13 9. On November 17, 2014, copies of the above-referenced correspondence dated October
14 29, 2014, and Subpoena Duces Tecum were sent via certified mail, return receipt requested and
15 via regular mail (address: 236 MacFarland Avenue, Indian Springs, NV 89018 – Dr. Brannan's
16 home address). Both of the above-referenced envelopes (i.e., the one sent regular mail and the
17 one sent certified mail, return receipt requested) sent to Dr. Brannan on November 17, 2014, at
18 236 MacFarland Avenue, Indian Springs, NV 89018, were returned to sender with notations
19 from the postal service of "return to sender – attempted – not known – unable to forward" and
20 "return to sender – insufficient address – unable to forward."

22 10. On November 5, 2014, *attempted* personal service of the notice of informal hearing and
23 Subpoena Duces Tecum was had upon Dr. Brannan at the 2655 South Rainbow Blvd., Suite 304,
24 Las Vegas, Nevada 89146. Service was not effectuated as the location was vacant. See Affidavit
25 of Due Diligence dated November 14, 2014.

27 11. On December 19, 2014, the above-referenced informal hearing was held in Las Vegas,
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1 Nevada, regarding the above-referenced verified complaints of Barbara Harrison and Jill Houska
2 and/or as more fully addressed in the notice of informal hearing. The informal hearing was held
3 pursuant to NRS 631.363 and NAC 631.250 and 631.255.
4

5 12. In attendance at the December 19, 2014, informal hearing was Bradley Strong, DDS,
6 Disciplinary Screening Officer; Debra Shaffer-Kugel, Executive Director of the Board, and
7 Board attorney, John A. Hunt, Esq. Respondent did not attend the informal hearing.
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9 **ALLEGATIONS REGARDING**
10 **RESPONDENT'S TREATMENT OF PATIENT, BARBARA HARRISON**

11 13. The Board repeats and realleges the allegation contained in paragraphs 1 through 12 and
12 reincorporates the same as if fully set forth herein.

13 14. Patient, Barbara Harrison, had actively seen Dr. Brannan for a period of 12 years.
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15 15. Dr. Brannan failed to diagnose and properly treat the patient's periodontal disease. No
16 periodontal charting or periodontal diagnosis was recorded for a period of 10 years. There was
17 evidence of bone loss and generalized radiographic calculus on the x-rays. Said actions/inactions
18 of Dr. Brannan are in violation of NRS 631.075; NRS 631.095; NRS 631.3475(1), (2), and/or
19 (4).
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21 **ALLEGATIONS REGARDING**
22 **RESPONDENT'S TREATMENT OF PATIENT, JILL HOUSKA**

23 16. The Board repeats and realleges the allegation contained in paragraphs 1 through 15 and
24 reincorporates the same as if fully set forth herein.

25 17. Patient, Jill Houska, had actively seen Dr. Brannan for a period of 12 years.

26 18. Dr. Brannon violated NAC 631.350 when he failed to file an answer the complaint within
27 the time prescribed.
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1 19. Dr. Brannan failed to diagnose the patient's periodontal, endodontic, and restorative
2 issues. Said actions/inactions are in violation of NRS 631.075; NRS 631.095; NRS 631.3475(1),
3 (2), and/or (4).

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5 20. Dr. Brannan failed to diagnose the patient's advanced caries with pulpal involvement on
6 teeth #3, #15, and #20 which led to the need for root canal therapy, core buildups, and crowns.
7 Said actions/inactions are in violation of NRS 631.075; NRS 631.095; NRS 631.3475(1), (2),
8 and/or (4).

9 21. Dr. Brannan failed to diagnose the failing restorations, decay, and fractured teeth #4, #5,
10 #7, #10, #12, #18, #29, and #31. Said actions/inactions are in violation of NRS 631.075; NRS
11 631.095; NRS 631.3475(1), (2), and/or (4).

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13 **ALLEGATIONS REGARDING VIOLATION OF NAC 631.150**

14 22. The Board repeats and realleges every allegation contained in paragraphs 1 through 21
15 and reincorporates the same as if fully set forth herein.

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18 23. Dr. Brannon violated NAC 631.150 when he failed to provide the Board written notice
19 within 30 days of a change in his permanent residence address and/or address where he conducts
20 his practice.

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22 **RECOVERY OF ATTORNEY'S FEES AND COSTS**

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24 24. The Board repeats and realleges every allegation contained in paragraphs 1 through 23
25 and reincorporates the same as if fully set forth herein.

1 25. NRS 622.400 provides:

2 1. A regulatory body may recover from a person reasonable attorney's fees and
3 costs that are incurred by the regulatory body as part of its investigative,
4 administrative and disciplinary proceedings against the person if the regulatory
5 body:

6 (a) Enters a final order in which it finds that the person has violated any
7 provision of this title which the regulatory body has the authority to
8 enforce, any regulation adopted pursuant thereto or any order of the
9 regulatory body; or

10 (b) Enters into a consent or settlement agreement in which the regulatory
11 body finds or the person admits or does not contest that the person has
12 violated any provision of this title which the regulatory body has the
13 authority to enforce, any regulation adopted pursuant thereto or any order
14 of the regulatory body.

15 2. As used in this section, "costs" means:

16 (a) Costs of an investigation.

17 (b) Costs for photocopies, facsimiles, long distance telephone calls and
18 postage and delivery.

19 (c) Fees for court reporters at any depositions or hearings.

20 (d) Fees for expert witnesses and other witnesses at any depositions or
21 hearings.

22 (e) Fees for necessary interpreters at any depositions or hearings.

23 (f) Fees for service and delivery of process and subpoenas.

24 (g) Expenses for research, including, without limitation, reasonable and
25 necessary expenses for computerized services for legal research.

26 26. This action relates to the Board, a regulatory body, undertaking action as part of its
27 investigative, administrative, and disciplinary proceedings against Respondent as to the
28 enforcement of provisions of chapter 631 of the Nevada Revised Statutes and/or chapter 631 of

1 the Nevada Administrative Code which the Board has the authority to enforce and, therefore,
2 NRS 622.400(1) is satisfied.

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5 27. That, as a result of NRS 622.400(1) being satisfied, as alleged immediately above, the
6 Board may, should NRS 622.400(1)(a) or (b) be satisfied, recover from Respondent its attorney's
7 fees and costs.

8
9 **Wherefore, it is prayed:**

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11 1. The Board conduct a hearing regarding the above-referenced matters constituting
12 violations of the provision of chapter 631 of the NRS and/or NAC;

13 2. Upon conclusion of said hearing, the Board take such action as it deems appropriate
14 pursuant to NRS 631.350, and any other applicable provision of chapter 631 of the NRS and/or
15 NAC;

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17 3. To the extent the Board deems appropriate, assess against Respondent as provided by law
18 regarding attorney's fees and costs incurred by reason of the investigation, administration, and
19 prosecution, and hearing of this matter;

20 4. To the extent the Board deems appropriate, impose a fine upon Respondent in an amount
21 deemed appropriate, pursuant to NRS 631.350(1)(c);

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23 5. To the extent the Board deems appropriate, order that Respondent reimburse one or both
24 of the at-issue patients, pursuant to NRS 631.350(1)(l);

25 6. To the extent the Board deems appropriate, issue a public reprimand upon Respondent,
26 pursuant to NRS 631.350(1)(e), based upon any findings of Respondent's violations of the
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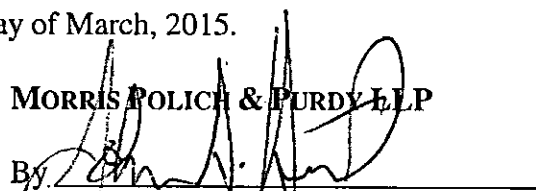
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1 above-referenced provisions of chapter 631 of the Nevada Revised Statutes and Nevada
2 Administrative Code; and

3 7. Take such further action provided for and allowed pursuant to relevant authority.

4 Respectfully submitted this 30th day of March, 2015.

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6 **MORRIS POLICH & PURDY LLP**

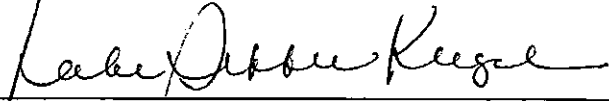
7 By 
8 John A. Hunt, Esq. (NSBN 1888)
9 Bert Wuester Jr., Esq. (NSBN 5556)
10 500 South Rancho Drive, Suite 17
11 Las Vegas, Nevada 89106
12 ph. (702) 862-8300; fax (702) 862-8400
13 email: jhunt@mpplaw.com
14 email: bwuester@mpplaw.com
15 Attorney for Complainant

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VERIFICATION


STATE OF NEVADA)
)
) ss:
COUNTY OF CLARK)

The foregoing Complaint has been prepared from information known to me or communicated to me and/or the Board and its staff and/or upon the information available and as referenced in the Complaint and any exhibit(s). Based on such information, it is believed the allegations in the Complaint are true and correct.

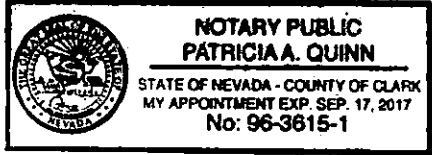


Debra Shaffer-Kugel, Executive Director, Nevada State Board of Dental Examiners

SUBSCRIBED and SWORN to before me
this 30th day of March, 2015.



NOTARY PUBLIC, in and for said
County and State.



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