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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 30<sup>th</sup> 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.  
2

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.  
15

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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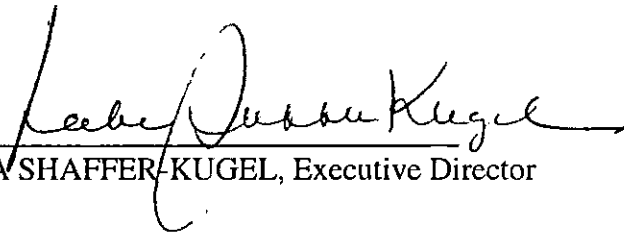
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**YOU ARE FURTHER ADVISED** you have the right to request the Board issue subpoenas to compel witnesses to testify and/or present evidence on your behalf. When making a request to the Board for issuance of a subpoena, you may be required to demonstrate the nature and relevance of the witness' testimony and/or evidence.

DATED AND DONE this 30<sup>th</sup> 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:

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**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.

10  
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.

24  
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,  
28

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.  
8

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.  
14

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).  
20

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

27 18. Dr. Brannon violated NAC 631.350 when he failed to file an answer the complaint within  
28 the time prescribed.

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).

4  
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).

12  
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.

21  
22 **RECOVERY OF ATTORNEY'S FEES AND COSTS**

23  
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:**

10  
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;

16  
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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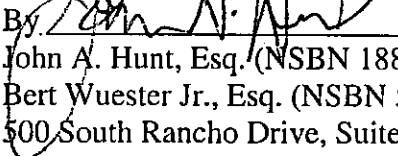
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1 above-referenced provisions of chapter 631 of the Nevada Revised Statutes and Nevada  
2 Administrative Code; and

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

4 Respectfully submitted this 30<sup>th</sup> day of March, 2015.

5  
6 **MORRIS POLICH & PURDY LLP**

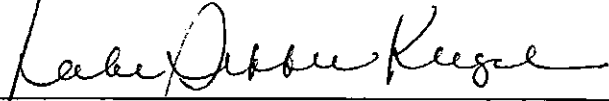
7 By   
8 John A. Hunt, Esq. (NSBN 1888)  
9 Bert Wuester Jr., Esq. (NSBN 5556)  
10 500 South Rancho Drive, Suite 17  
11 Las Vegas, Nevada 89106  
12 ph. (702) 862-8300; fax (702) 862-8400  
13 email: jhunt@mpplaw.com  
14 email: bwuester@mpplaw.com  
15 Attorney for Complainant

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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 30<sup>th</sup> day of March, 2015.

  
\_\_\_\_\_  
NOTARY PUBLIC, in and for said County and State.



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