

NEVADA STATE BOARD
of
DENTAL EXAMINERS

FORMAL HEARING

JANUARY 30, 2015

11:00 A.M.

PUBLIC BOOK

COMPLAINT
HAMADA R MAKARITA, DDS

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STATE OF NEVADA
BEFORE THE BOARD OF DENTAL EXAMINERS

NEVADA STATE BOARD OF DENTAL
EXAMINERS,

Complainant,

vs.

HAMADA R. MAKARITA, DDS,

Respondent.

Case No. 74127-_____

COMPLAINT

Complainant, Nevada State Board of Dental Examiners (hereinafter referred as the “Board”), by and through its attorneys, for its Complaint against Respondent, Hamada R. Makarita, DDS (hereinafter referred to as “Respondent” or “Dr. Makarita”) alleges and complains as follows:

GENERAL ALLEGATIONS

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 January 26, 2012, the Board issued Dr. Makarita a limited license as/for live patient supervisor (license number LL-287-11), pursuant to NRS 631.2715.

1 4. NRS 631.2715 provides:

2 **NRS 631.2715 Limited license to supervise certain courses of continuing education.**

3 1. The Board shall, without a clinical examination required by NRS 631.240 or 631.300,
4 issue a limited license to a person to supervise courses of continuing education involving live
5 patients at an institute or organization with a permanent facility registered with the Board for the
6 sole purpose of providing postgraduate continuing education in dentistry if the person has received
7 a degree from a dental school or college accredited by the Commission on Dental Accreditation of
8 the American Dental Association or its successor.

9 2. A limited license issued pursuant to this section expires 1 year after the date of its issuance
10 and may be renewed annually upon submission of proof acceptable to the Board of compliance
11 with subsection 1 and payment of any fee required pursuant to subsection 3.

12 3. The Board may impose a fee of not more than \$100 for the issuance and each renewal of a
13 limited license issued pursuant to this section.

14 4. A limited license issued pursuant to this section may be suspended or revoked by the
15 Board if the holder of the limited license:

16 (a) Has had a license to practice dentistry suspended, revoked or placed on probation in
17 another state, territory or possession of the United States, the District of Columbia or a foreign
18 country;

19 (b) Has been convicted of a felony or misdemeanor involving moral turpitude; or

20 (c) Has a documented history of substance abuse.

21 5. A holder of a limited license issued pursuant to this section shall notify the Board in
22 writing by certified mail not later than 30 days after:

23 (a) The death of a patient being treated by a dentist under the supervision of the holder of a
24 limited license;

25 (b) Any incident which:

26 (1) Results in the hospitalization of or a permanent physical or mental injury to a patient
27 being treated by a dentist under the supervision of the holder of a limited license; and

28 (2) Occurs while the dentist is treating the patient under the supervision of the holder of a
limited license; or

(c) Any event or circumstance described in subsection 4. (Added to NRS by 2009, 1525)

5. Respondent is licensed by the Board and, therefore, has submitted himself to the
disciplinary jurisdiction of the Board.

6. Via *Notice of Investigative Complaint & Request for Records* dated February 4, 2014
("Notice of Investigative Complaint"), the Board notified Respondent that a properly noticed
meeting on January 24, 2013, pursuant to Agenda item 5(c), it had authorized an investigative
complaint regarding whether Respondent possibly violated NAC 631.155 by failing to notify the
Board within thirty (30) days of an occurrence referenced therein. In part, the Notice of
Investigative Complaint referenced the Board receiving information from the Commonwealth of
Virginia, Department of Health Professionals regarding the Board of Dentistry's Mandatory

1 Suspension Order and the Petition for Reinstatement Notice. In addition, the Notice of
2 Investigative Complaint referenced the Board receiving documents pertaining to a Judgment in a
3 Criminal Case in the United States District Court, Eastern District of Virginia.
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5 7. On June 16, 2014, the Board forwarded correspondence to Respondent regarding his lack
6 of providing a factual response and/or supporting documentation in response to the Notice of
7 Investigative Complaint which was forwarded to him via certified mail.
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9 8. Respondent has not responded to the Notice of Investigative Complaint.
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11 9. On October 29, 2014, via certified mail, return receipt requested and via regular mail,
12 Respondent was provided notice of informal hearing regarding the suspension of his Virginia
13 license set for 10:00 a.m. on Friday, November 21, 2014, at 10:00 a.m. at Morris, Polich &
14 Purdy, LLP, 500 South Rancho Drive, Suite 17, Las Vegas, Nevada 89106.
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16 10. On November 21, 2014, the above-referenced informal hearing was held in Las Vegas,
17 Nevada, regarding the suspension of Respondent's Virginia license and/or as more fully
18 addressed in the Notice of Investigative Complaint. The informal hearing was held pursuant to
19 NRS 631.363 and NAC 631.250 and 631.255.
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21 11. In attendance at the November 21, 2014, informal hearing was Donna Hellwinkel, DDS,
22 Disciplinary Screening Officer; Debra Shaffer-Kugel, Executive Director of the Board, and
23 Board attorney, John A. Hunt, Esq. Respondent did not attend the informal hearing.
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25 12. Subsequent to the informal hearing, *Findings and Recommendations of the Informal*
26 *Hearing Held Pursuant to NRS 631 and NAC 631 & Consent of Hamada R. Makarita, DDS, to*
27 *the Findings and Recommendations Pursuant to NRS 631.363(5)* ("FR&C") were prepared and
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1 forwarded to Respondent. Respondent did not respond nor consent to the FR&C.
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3 **ALLEGATIONS REGARDING**
4 **NRS 631.3475(7), NAC 631.155(4), and/or NAC 631.155(3)**

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

7 14. NRS 631.3475(7) provides:

8 Malpractice; professional incompetence; disciplinary action in another state;
9 substandard care; administration of controlled substance or dangerous drug;
10 inebriety or addiction; gross immorality; conviction of certain crimes; certain
11 operation of medical facility. The following acts, among others, constitute
unprofessional conduct:

12 ***

13 7. Conviction of a felony or misdemeanor involving moral turpitude or which
14 relates to the practice of dentistry in this State, or conviction of any criminal
violation of this chapter;

15 ****

16 15. *A Judgment in a Criminal Case* was filed on April 12, 2013, in the United States District
17 Court for the Eastern District of Virginia, Alexandria Division, in the matter captioned United
18 States of America v. Hamada Makarita, case no. 1:12cr00223-001, wherein Respondent was
19 found guilty by a jury and was convicted of the following felonies in violation of federal law:
20 one (1) count of health care fraud in violation of 21 U.S.C. Section 1347 (felony), one (1) count
21 of aggravated identify theft in violation of 21 U.S.C. Section 1028A (felony), one (1) count of
22 conspiracy to distribute and dispense controlled substance in violation of 21 U.S.C. Section 846
23 (felony), and five (5) counts of dispensing controlled substances in violation of 21 U.S.C.
24 Section 841(a)(1) (felony). That as a result, Respondent was sentenced to a term of twenty-five
25 (25) months in federal prison to be followed by three (3) years of supervised release and
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1 Respondent was ordered to pay \$91,629.38 in restitution and a special assessment in the amount
2 of \$800.00.

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5 16. Respondent has provided no notice to the Board of the filing of the above-referenced
6 *Judgment in Criminal Case*.

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8 17. Respondent violated NAC 631.155(4) in that he failed to notify the Board in writing by
9 certified mail within thirty (30) days of his felony convictions as noted in the above-referenced
10 *Judgment in a Criminal Case* filed on April 12, 2013.

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13 18. In the matter captioned Virgina: Before the Department of Health Professionals; In re:
14 Hamada R. Makarita, D.D.S., License No.: 0401-007149, an *Order* was entered on April 22,
15 2013, pursuant to Section 54.1-2409 of the Code of Virginia (1950), as amended, wherein it was
16 ordered that the license of Hamada R. Makarita, D.D.S., to practice dentistry in the
17 Commonwealth of Virginia was suspended.

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20 19. Respondent has provided no notice to the Board of the entry of the above-referenced
21 *Order* entered on April 22, 2013.

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24 20. Respondent violated NAC 631.155(3) in that he failed to notify the Board in writing by
25 certified mail within thirty (30) days of the suspension of his license to practice dentistry in
26 Virginia via the above-referenced *Order* entered on April 22, 2013.

1 21. In part, NRS 631.350(1)(b), provides the Board may revoke or suspend the license issued
2 by it to any person upon submission of substantial evidence to the Board that the person has
3 engaged in unprofessional conduct, pursuant to NRS 631.350(b)(2), or violated any regulations
4 adopted by the Board or the provisions of chapter 631 of the Nevada Revised Statutes, pursuant to
5 NRS 631.350(2)(c).
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8 **ALLEGATIONS REGARDING**
NRS 631.2715(4)(a) and/or NRS 631.2715(4)(b)

9 22. The Board repeats and realleges the allegation contained in paragraphs 1 through 21 and
10 reincorporates the same as if fully set forth herein.
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13 23. Respondent holds a Nevada limited license, issued by the Board pursuant to NRS
14 631.2715.
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16 24. In part, NRS 631.2715(4)(a) provides that a limited license issued pursuant to section
17 NRS 631.2715 may be suspended or revoked by the Board if the holder of the limited license has
18 his license to practice dentistry suspended in another state.
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21 25. As referenced above, Respondent had his license to practice dentistry suspended in
22 another state, as noted in the above-referenced *Order* entered on April 22, 2013.
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25 26. In part, NRS 631.2715(4)(b) provides that a limited license issued pursuant to section
26 NRS 631.2715 may be suspended or revoked by the Board if the holder of the limited license has
27 been convicted of a felony.
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27. As referenced above, Respondent was convicted of various felonies as noted in the above-referenced *Judgment in a Criminal Case* filed on April 12, 2013.

RECOVERY OF ATTORNEY’S FEES AND COSTS

28. The Board repeats and realleges every allegation contained in paragraphs 1 through 27 and reincorporates the same as if fully set forth herein.

29. NRS 622.400 provides:

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

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

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

2. As used in this section, “costs” means:

(a) Costs of an investigation.

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

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

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

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

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

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

30. This action relates to the Board, a regulatory body, undertaking action as part of its investigative, administrative, and disciplinary proceedings against Respondent as to the enforcement of provisions of chapter 631 of the Nevada Revised Statutes and/or chapter 631 of the Nevada Administrative Code which the Board has the authority to enforce and, therefore, NRS 622.400(1) is satisfied.

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

Wherefore, it is prayed:

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

2. Upon conclusion of said hearing, the Board take such action as it deems appropriate pursuant to NRS 631.350 and/or NRS 631.2715; and

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

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

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

8 6. Take such further action provided for and allowed pursuant to relevant authority.

9 Respectfully submitted this _____ day of _____, 2014.

11 **MORRIS POLICH & PURDY, LLP**

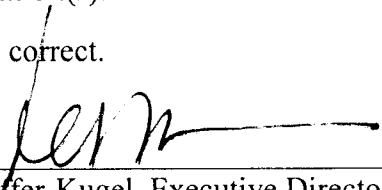
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VERIFICATION

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.



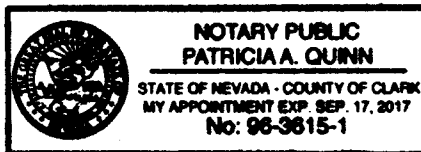
Debra Shaffer-Kugel, Executive Director, Nevada State Board
of Dental Examiners

SUBSCRIBED and SWORN to before me

this 19th day of December, 2014.



NOTARY PUBLIC
(notary seal)



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Respondent's initials