

NEVADA STATE BOARD  
of  
DENTAL EXAMINERS



BOARD MEETING

OCTOBER 5, 2018

9:00 A.M.

**PUBLIC BOOK**

# **Amended Notice of Hearing**

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**BEFORE THE NEVADA STATE BOARD OF DENTAL EXAMINERS**

NEVADA STATE BOARD OF DENTAL  
EXAMINERS,  
  
Complainant,  
  
vs.  
  
GEORGE MILLER, DMD,  
  
Respondent.

**Case No. 6324-1435**

**AMENDED NOTICE OF  
HEARING**

**Date of Hearing: 10/05/18**

**Time of Hearing: 9:00 a.m.**

**TO: GEORGE B. MILLER, DMD, Respondent; and**

**TO: S. BRENT VOGEL, ESQ. and AMANDA BROOKHYSER, ESQ., Respondent's  
Attorneys of Record.**

**PLEASE BE ADVISED** that on or about the 16<sup>th</sup> day of May, 2018, a Complaint was filed with the Nevada State Board of Dental Examiners (the "Board") which, in part, makes allegations that could result in disciplinary action against the license issued to Respondent by the Board. The Complaint was served via counsel on May 16, 2018.

**NOTICE IS HEREBY GIVEN**, pursuant to NRS 631.360, that the public hearing previously scheduled for Friday, September 14, 2018, has been vacated and the Board has rescheduled the public hearing to occur on the following date(s) and time(s) at the following location:

**DATE : Friday, October 5, 2018, and  
Daily thereafter until concluded**

**TIME : 9:00 a.m.**

**LOCATION : Nevada State Board of Dental Examiners  
6010 S. Rainbow Blvd., Suite A1  
Las Vegas, Nevada 89118**

1           **YOU ARE ADVISED** that the hearing will be held pursuant to Nevada Revised Statutes  
2 (“NRS”) Chapters 233B, 622A, and 631, and the Nevada Administrative Code (“NAC”) Chapter  
3 631. The purpose of the hearing is to consider evidence regarding the allegations in the  
4 Complaint and to determine whether Respondent should be subject to discipline pursuant to NRS  
5 Chapter 631 and/or NAC Chapter 631.  
6

7           **YOU ARE FURTHER ADVISED** that the hearing is to be an open meeting pursuant to  
8 Nevada’s Open Meeting Law and may be attended by the public. During the hearing, the Board  
9 may choose to go into closed session to consider the character, alleged misconduct, professional  
10 competence or physical or mental health of Respondent. A verbatim record will be made by a  
11 court reporter. You are entitled to a copy of the transcript, at your cost, of the open and closed  
12 portions of the hearing.  
13

14           **YOU ARE FURTHER ADVISED** that, pursuant to NRS 622A.320(1), you have the  
15 right to answer the Complaint within **twenty (20) days** of service of the Complaint. You have  
16 the right to appear and to be heard at the hearing in your defense, either personally or through  
17 counsel of your choice, at your cost.  
18

19           **YOU ARE FURTHER ADVISED** that, at the hearing, the Board has the burden of  
20 proving the allegations in the Complaint. The Board may, and intends, to call witnesses and to  
21 offer exhibits and evidence regarding the allegations in the Complaint. Respondent also has the  
22 right to call and examine witnesses, offer exhibits/evidence, and cross-examine opposing  
23 witnesses on any matter relevant to the issues involved. Respondent has the right to request that  
24 the Board issue subpoenas to compel witnesses to testify and/or present evidence on your behalf.  
25 When making a request to the Board for issuance of a subpoena, you may be required to  
26 demonstrate the nature and relevance of the witness’ testimony and/or evidence.  
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**Notice of Filing of Complaint &  
Notice of Hearing**

1 **BEFORE THE NEVADA STATE BOARD OF DENTAL EXAMINERS**

2 NEVADA STATE BOARD OF DENTAL  
3 EXAMINERS,

4 Complainant,

5 vs.

6 GEORGE MILLER, DMD,

7 Respondent.  
8

**Case No. 6324-1435**

**NOTICE OF FILING OF  
COMPLAINT & NOTICE OF  
HEARING**

**Date of Hearing: 09/14/18**

**Time of Hearing: 1:00 pm**

9 **TO: GEORGE B. MILLER, DMD, Respondent; and**

10 **TO: S. BRENT VOGEL, ESQ. and AMANDA BROOKHYSER, ESQ., Respondent's  
Attorneys of Record**

11 **PLEASE BE ADVISED** that on or about the 16<sup>th</sup> day of May, 2018, a Complaint was  
12 filed with the Nevada State Board of Dental Examiners (the "Board") which, in part, makes  
13 allegations that could result in disciplinary action against the license issued to Respondent by the  
14 Board. A copy of said Complaint is attached to this Notice which, pursuant to NAC 631.290, is  
15 being mailed via U.S. regular mail, postage prepaid, and via certified mail, return receipt  
16 requested, to Respondent's attorney of record.  
17

18 **NOTICE IS HEREBY GIVEN**, pursuant to NRS 631.360, that the Board has scheduled  
19 a public hearing to consider the allegations contained in the Complaint. The public hearing  
20 concerning the above-referenced matter will occur on the following date(s) and time(s) at the  
21 following location:  
22

23 **DATE : Friday, September 14, 2018, and**  
24 **Daily thereafter until concluded**

25 **TIME : 1:00 p.m. on September 14, 2018, and**  
26 **9:00 a.m. daily thereafter until concluded**

27 **LOCATION : Nevada State Board of Dental Examiners**  
28 **6010 S. Rainbow Blvd., Suite A1**  
**Las Vegas, Nevada 89118**

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2 (“NRS”) Chapters 233B, 622A, and 631, and the Nevada Administrative Code (“NAC”) Chapter  
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9 competence or physical or mental health of Respondent. A verbatim record will be made by a  
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11 portions of the hearing.

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13 right to answer the Complaint within **twenty (20) days** of service of the Complaint. You have  
14 the right to appear and to be heard at the hearing in your defense, either personally or through  
15 counsel of your choice, at your cost.

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17 proving the allegations in the Complaint. The Board may, and intends, to call witnesses and to  
18 offer exhibits and evidence regarding the allegations in the Complaint. Respondent also has the  
19 right to call and examine witnesses, offer exhibits/evidence, and cross-examine opposing  
20 witnesses on any matter relevant to the issues involved. Respondent has the right to request that  
21 the Board issue subpoenas to compel witnesses to testify and/or present evidence on your behalf.  
22 When making a request to the Board for issuance of a subpoena, you may be required to  
23 demonstrate the nature and relevance of the witness’ testimony and/or evidence.

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**YOU ARE FURTHER ADVISED** that, if a violation is found and discipline is imposed, the Board may also recover reasonable attorney's fees and costs pursuant to NRS 622.400.

DATED this 16 day of May, 2018.

NEVADA STATE BOARD OF DENTAL EXAMINERS

By: Melanie Bernstein Chapman  
MELANIE BERNSTEIN CHAPMAN, ESQ.  
General Counsel

**Complaint**  
**NSBDE v. George B. Miller, DMD**

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**STATE OF NEVADA**  
**BEFORE THE BOARD OF DENTAL EXAMINERS**

NEVADA STATE BOARD OF DENTAL  
EXAMINERS,

Case No. 6324-1435

Complainant,

vs.

**COMPLAINT**

GEORGE B. MILLER, DMD

Respondent.

10 Complainant, the Nevada State Board of Dental Examiners (hereinafter referred to as the  
11 "Board"), by and through its attorney, Melanie Bernstein Chapman, Esq, and pursuant to NRS  
12 631.360 and NRS 631.363, hereby issues this Complaint against Respondent, George B. Miller,  
13 DMD (hereinafter referred to as "Respondent" or "Dr. Miller"), and alleges as follows:

14 **GENERAL ALLEGATIONS**

15 **Parties and Jurisdiction**

16 1. The Board is empowered to enforce the provisions of Chapter 631 of the Nevada  
17 Revised Statutes ("NRS"). NRS 631.190.

18 2. The Board, pursuant to NRS 631.190(6), keeps a register of all dentists and dental  
19 hygienists licensed in the State of Nevada; said register contains the names, addresses, license  
20 numbers, and renewal certificate numbers of said dentists and dental hygienists.

21 3. On August 17, 2012, the Board issued Respondent a license to practice dentistry  
22 in the State of Nevada (License # 6324).

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

25 **Patient, Lissa McCain**

26 5. Via a *Notice of Complaint & Request for Records* dated October 4, 2016,  
27 Respondent was notified of the verified complaint of patient, Lissa McCain. The same was  
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1 accompanied by a copy of Ms. McCain's verified complaint and certain records which  
2 referenced specific dates, activities, and allegations set forth by Ms. McCain concerning the care  
3 and treatment rendered to her by Respondent.

4 6. On October 17, 2016, Respondent submitted a written response containing two  
5 (2) sentences, one of which stated "[t]reatment within the standard of care," a copy of which was  
6 provided to Ms. McCain on October 31, 2016.

7 7. On January 13, 2017, Respondent was provided copies of exhibits Ms. McCain  
8 and Respondent submitted at an August 16, 2016, hearing in Henderson Municipal Court, case  
9 number 16AH000074.

10 8. Henderson Municipal Court, Case Number 16AH000074 concerned the treatment  
11 rendered by Respondent to Ms. McCain that is also the subject of the verified complaint  
12 submitted by Ms. McCain to the Board.

13 9. Pursuant to NRS 631.363, Investigator, Dr. Bradley Strong, (also referred to as  
14 the "DSO"), was assigned to conduct an investigation and informal hearing concerning the  
15 verified complaint filed by Ms. McCain.

16 10. On January 24, 2017, Respondent was provided a copy of the radiographs and  
17 photos taken by Investigator, Dr. Bradley Strong during his evaluation of Ms. McCain on  
18 November 17, 2016.

19 11. On January 31, 2017, the Board received dental records from Zachary B. Truman,  
20 DMD regarding Ms. McCain, a copy of which was provided to Respondent on February 1, 2017.

21 12. On February 13, 2017, the Board received dental records from Sharam Ghodsi,  
22 DDS regarding Ms. McCain, a copy of which was provided to Respondent on February 14, 2017.

23 13. On February 27, 2017, the Board received dental records from Jason Morris, DDS  
24 regarding Ms. McCain, a copy of which was provided to Respondent on March 3, 2017.

#### 25 Informal Hearings

26 14. On January 25, 2017, via certified mail, return receipt requested, and regular mail,  
27 Respondent was provided with a Notice of Informal Hearing regarding the verified complaint of  
28

1 Lissa McCain.

2 15. The Notice of Informal Hearing set the informal hearing for 10:00 a.m. on Friday,  
3 March 31, 2017, at the offices of Morris, Policy & Purdy, LLP, 3800 Howard Hughes Parkway,  
4 Suite 500, Las Vegas, Nevada 89169.

5 16. In part, the Notice of Informal Hearing indicated that, pursuant to NAC  
6 631.250(1), the Disciplinary Screening Officer shall not limit the scope of the investigation to the  
7 matters set forth in the authorized investigation noted above, "but will extend the investigation to  
8 any additional matters which appear to constitute a violation of any provision of Chapter 631 of  
9 the Nevada Revised Statutes or the regulations contained in Chapter 631 of NAC of this  
10 Chapter."

11 17. Included with the Notice of Informal Hearing was a Subpoena Duces Tecum  
12 dated January 19, 2017, addressed to Respondent which, in pertinent part, provides:

13 WE COMMAND YOU, that all and singular, business and excuses being set  
14 aside, appear at **Morris Polich & Purdy, LLP, 3800 Howard Hughes**  
15 **Parkway, Suite 500, Las Vegas, Nevada 89169**, on the **31<sup>st</sup> day of March**  
16 **2017**, at the hour of **10:00 am** to produce the following documents:

17 1. Any and all records regarding patient *Lissa McCain*,  
18 including, but not limited to, billing records, laboratory work  
19 orders, prescription slips, insurance records (including any  
20 correspondence or billing submitted to an insurance provider),  
health history, charts notes, informed consents, daily patient  
schedules for the dates of treatment, day sheets, radiographs,  
treatment plans and patient logs; and

21 Id., pg. 1 (emphasis in original).

22 18. On March 6, 2017, Respondent was also personally served with a copy of the  
23 above-reference Notice of Informal Hearing and Subpoena Duces Tecum.

24 19. On March 27, 2017, the Board received Respondent's correspondence dated  
25 March 25, 2017 which, in part, addressed the fact that Respondent would not be attending the  
26 informal hearing. Respondent's March 25, 2017 correspondence included statements concerning  
27 his care and treatment of Ms. McCain.  
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1           20.     On March 31, 2017, the date of the scheduled informal hearing, the Board  
2 received correspondence from Respondent which, in part, requested the dismissal of Dr. Strong,  
3 DSO, and further requested that this case be assigned to new Board counsel.

4           21.     On March 31, 2017, at 10:00 a.m. the above-referenced Informal Hearing,  
5 noticed on January 25, 2017, was held in Las Vegas, Nevada, regarding the verified complaint of  
6 Lissa McCain and/or as more fully addressed in the Notice of Investigative Complaint. The  
7 informal hearing was held pursuant to NRS 631.363 and NAC 631.250 and 631.255.

8           22.     In attendance at the March 31, 2017, informal hearing was the DSO, Bradley  
9 Strong, DDS, the Board's Executive Director, Debra Shaffer-Kugel, and the Board's attorney,  
10 John A. Hunt, Esq.

11           23.     Respondent did not attend the March 31, 2017 informal hearing.

12           24.     Following the informal hearing, written findings of fact and conclusions were  
13 drafted, pursuant to NRS 631.363(3). *See, Findings and Recommendations of the Informal*  
14 *Hearing Held Pursuant to NRS 631 and NAC 631 & Consent of George B. Miller, DMD to the*  
15 *Findings and Recommendations Pursuant to NRS 631.363(3)*, dated June 12, 2017.

16           25.     The June 12, 2017 Findings and Recommendations were forwarded to  
17 Respondent for review and consent pursuant to NRS 631.363(5).

18           26.     Respondent did not consent to the June 12, 2017 Findings and Recommendations.

19           27.     In August, 2017, the Board was advised that Respondent had retained counsel to  
20 represent him in this matter.

21           28.     Though under no obligation to do so, on or about October 4, 2017, current  
22 counsel for the Board contacted counsel for Respondent with an offer to reopen the informal  
23 hearing to allow Respondent to respond to the allegations and participate in the process prior to  
24 the filing of a formal complaint in light of the fact that that Respondent had retained counsel and  
25 the Board had retained new counsel.

26           29.     On or about November 10, 2017, counsel for Respondent contacted counsel for  
27 the Board to advise that Respondent did, in fact, wish to re-open the informal hearing so that he  
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1 could participate in the process.

2 30. On November 21, 2017, via service to his attorney's office and to Respondent's  
3 mailing address, Respondent was served with a Notice of Informal Hearing and Subpoena Duces  
4 Tecum. Pursuant to this Notice, the reopened Informal Hearing was scheduled for March 16,  
5 2018 at the office of the Nevada State Board of Dental Examiners.

6 31. In addition to re-opening the informal hearing, counsel for the Board offered to  
7 accept a written response to Lissa McCain's allegations despite the fact that the time for such  
8 response had passed.

9 32. Because Findings and Recommendations had been forwarded to Respondent  
10 following the March 31, 2017 informal hearing, the opportunity file a response subsequent to  
11 November 21, 2017 meant that Respondent was also given the opportunity to file a written  
12 response to the Findings and Recommendations dated June 12, 2017.

13 33. On or about February 5, 2018, Respondent submitted a detailed response to Lissa  
14 McCain's allegations and DSO Strong's June 12, 2017 Findings and Recommendations.

15 34. On February 9, 2018, the preliminary investigation into the verified complaint of  
16 Lissa McCain, including but not limited to the June 12, 2107 Findings and Recommendations  
17 and Respondent's February 5, 2018 response, were reviewed by the Review Panel appointed  
18 pursuant to SB 256.

19 35. As to Lissa McCain's verified compliant, the Review Panel found that there was a  
20 preponderance of the evidence to support the investigator's preliminary findings and  
21 recommendations and support the continuation of the investigatory process, including but not  
22 limited to, an informal hearing.

23 36. On or about February 12, 2018, Respondent was served with a copy of the  
24 Review Panel Findings via service to his attorney's office.

25 37. On March 16, 2018, at 10:00 a.m., pursuant to the November 21, 2017 Notice of  
26 Informal Hearing, Respondent and Respondent's attorney appeared at the offices of the Nevada  
27 State Board of Dental Examiners in Las Vegas, Nevada, for the purposes of the Noticed Informal  
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1 Hearing regarding the verified complaint of Lissa McCain and/or as more fully addressed in the  
2 Notice of Investigative Complaint.

3 38. In attendance on March 16, 2018 was Respondent, Respondent's counsel Amanda  
4 Brookhyser, Esq., the DSO, Bradley Strong, DDS, and the Board's attorney, Melanie Bernstein  
5 Chapman, Esq.

6 39. On the afternoon of March 16, 2018, Respondent suddenly left the offices of the  
7 Nevada State Board of Dental Examiners without advising DSO Strong or Board counsel of the  
8 alleged sudden illness that caused him to unilaterally end the proceeding scheduled for March  
9 16, 2018.

10 40. On March 20, 2018, Respondent's counsel, on behalf of Respondent advised  
11 counsel for the Board that Respondent wished to "move forward."

12 41. On March 20, 2018, Respondent's counsel was advised that a Notice continuing  
13 the Informal Hearing to March 30, 2018 would be forthcoming. Respondent, through his  
14 counsel, was also advised that he would have to comply with the subpoena for Ms. McCain's  
15 original records either through production of the original records or a bates-stamped copy of the  
16 records together with a custodian of records affidavit.

17 42. On March 20, 2018, via service to his attorney's office, Respondent was served  
18 with a Re-Notice of Informal Hearing. Pursuant to this Notice, the reopened Informal Hearing  
19 was re-scheduled for March 30, 2018 at 10:00 a.m. at the office of the Nevada State Board of  
20 Dental Examiners.

21 43. On March 30, 2018, approximately an hour and a half prior to the time the  
22 Informal Hearing was scheduled to begin, counsel for the Board was informed that Respondent  
23 would not be attending the Informal Hearing.

24 44. On March 30, 2018, at 10:00 a.m. the above-referenced and properly-noticed  
25 Informal Hearing was held at the Board office in Las Vegas, Nevada, regarding the verified  
26 complaint of Lissa McCain and/or as more fully addressed in the Notice of Investigative  
27 Complaint. The informal hearing was held pursuant to NRS 631.363 and NAC 631.250 and  
28



1 631.255.

2 45. In attendance at the March 30, 2018, informal hearing was the DSO, Bradley  
3 Strong, DDS, the Board's attorney, Melanie Bernstein Chapman, Esq. and Respondent's  
4 attorney, Amanda Brookhyser.

5 46. Respondent did not attend the informal hearing on March 30, 2018.

6 47. At no time prior to the March 30, 2018 informal hearing did Respondent express  
7 his desire to dispense with the re-opened Informal Hearing or to continue the process utilizing  
8 the original Findings and Recommendations dated June 12, 2017.

9 48. On April 4, 2018, written findings of fact and conclusions were issued by DSO,  
10 Dr. Strong, pursuant to NRS 631.363(3). *See, Findings and Recommendations of the Informal*  
11 *Hearing Held Pursuant to NRS 631 and NAC 631*, dated April 4, 2018 (hereinafter F&R).

12 49. On April 5, 2018, the investigation into the verified complaint of Lissa McCain,  
13 including but not limited to the informal hearing and F&R, was reviewed by the Review Panel  
14 appointed pursuant to SB 256.

15 50. Following its review, the Review Panel approved and adopted the Findings and  
16 Recommendations submitted by Bradley Strong, DDS.

17 51. The Review Panel instructed that the F&R were to be presented to Respondent  
18 pursuant to NRS 631.363(3) for consent to, or rejection of, the F&R pursuant to NRS  
19 631.363(5).

20 52. The Review Panel further found that, in the event Respondent rejects the F&R,  
21 additional disciplinary procedures pursuant to NRS Chapter 631 and NAC Chapter 631,  
22 including the filing of a Formal Complaint and a full disciplinary hearing before the Nevada  
23 State Board of Dental Examiners, were appropriate.

24 53. On April 6, 2018, the F&R were forwarded to Respondent for review and consent  
25 pursuant to NRS 631.363(5) together with documents to facilitate his acceptance or rejection of  
26 the F&R. Correspondence sent with the F&R advised that a failure to respond on or before April  
27 24, 2018 would be deemed a rejection of the F&R and would result in the filing of a formal  
28

1 complaint.

2 54. Respondent did not consent to the F&R.

3 55. Respondent did not respond to the F&R, thereby rejecting the F&R.

4 56. There is a preponderance of the evidence to support the F&R and/or there is a  
5 preponderance of the evidence to support a conclusion that the Respondent violated one or more  
6 provisions of NRS Chapter 631 and/or NAC Chapter 631.

7  
8 **Count I**  
9 **Violations of NRS Chapter 631 and NAC 631**

10 57. The Board repeats and realleges the allegation contained in paragraphs 1 through  
11 56 and reincorporates the same as if fully set forth herein.

12 58. Respondent's treatment of Patient, Lissa McCain, violated NRS 631.3475(1),  
13 NRS 631.3475(2), NRS 631.3475(4), NRS 631.349, NAC 631.230 (1)(a) and/or NAC 631.230  
14 (1)(c).

15 59. NRS 631.3475 provides, in pertinent part:

16 **NRS 631.3475 Malpractice; professional incompetence; disciplinary action in**  
17 **another state; substandard care; procurement or administration of controlled**  
18 **substance or dangerous drug; inebriety or addiction; gross immorality; conviction**  
19 **of certain crimes; failure to comply with certain provisions relating to controlled**  
20 **substances; failure to obtain certain training; certain operation of medical facility.**  
21 The following acts, among others, constitute unprofessional conduct:

- 19 1. Malpractice;
- 20 2. Professional incompetence;
- 21 \*\*\*
- 22 4. More than one act by the dentist or dental hygienist constituting substandard care in  
23 the practice of dentistry or dental hygiene;
- 24 \*\*\*\*

25 60. NRS 631.349 provides, in pertinent part:

26 **NRS 631.349 Examples of unprofessional conduct not complete list or**  
27 **authorization of other acts; Board may hold similar acts unprofessional conduct.**

28 The acts described in NRS 631.346 to 631.3485, inclusive, must not be construed as a  
complete list of dishonorable or unprofessional conduct, or as authorizing or permitting  
the performance of other and similar acts, or as limiting or restricting the Board from  
holding that other or similar acts constitute unprofessional or dishonorable conduct.

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61. NAC 631.230 provides, in pertinent part:

**NAC 631.230 Unprofessional Conduct.**

1. In addition to those specified by statute and subsection 3 of NAC 631.177, the following acts constitute unprofessional conduct:

The following acts, among others, constitute unprofessional conduct:

\*\*\*\*

(c) The consistent use of dental procedures, services or treatments which constitute a departure from prevailing standard of acceptable dental practice even though the use does not constitute malpractice or gross malpractice.

\*\*\*\*

62. Respondent's treatment of patient, Lissa McCain constituted unprofessional conduct as defined above in the following respects:

- a. On September 22, 2015, Respondent's assessment of the existing conditions (previous restorations), diagnosis, and treatment plan for tooth #26 were below the standard of care.
- b. Tooth #26 previously had an incisal/facial composite filling that was due to non-carious lesions from attrition from excess wear on the lower anterior edges. The patient's chief complaint was "sensitivity" on tooth #26. Respondent failed to carry out and properly record the examination procedures required to make an endodontic diagnosis.
- c. Examination procedures required to make an endodontic diagnosis as approved by the American Association of Endodontics and the American Board of Endodontics are:

**Medical/Dental History:**Past/recent treatment, drugs

**Chief complaint (if any):** How long, symptoms, duration of pain, location, onset, stimuli, relief, referred, medication.

**Clinical Exam:** Facial symmetry, sinus tract, soft tissue, periodontal status (probing, mobility), caries, restorations (defective, newly placed?)

**Clinical Testing:** Pulp Tests: Cold, electric pulp test, heat, Periapical tests: Percussion, palpation, biting

**Radiographic analysis:** New periapicals (at least 2), bitewing, cone beam CT

**Additional tests:** Transillumination, selective anesthesia, test cavity.

1 d. Respondent's exam was void of:

2 **Clinical exam:** Soft tissue, periodontal status (probing, mobility), caries,  
3 restorations (defective, newly placed?)

4 **Clinical testing:** Pulp Tests: Cold, electric pulp test, heat, Periapical tests:  
5 Percussion, palpation, biting

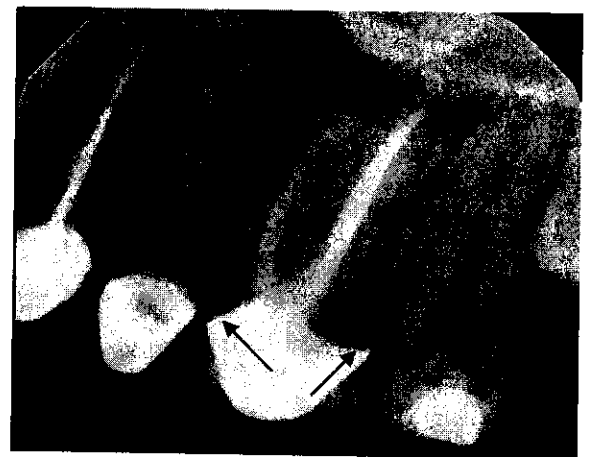
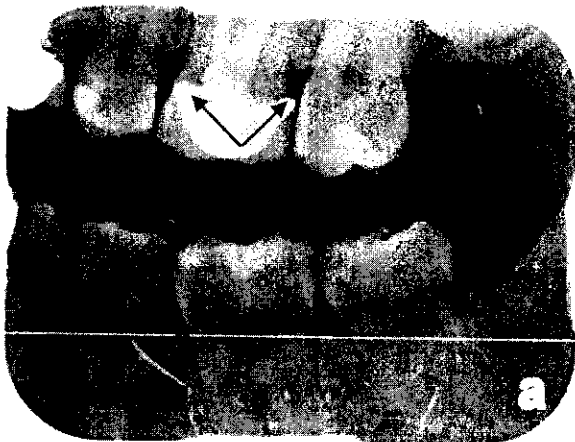
6 e. Respondent failed to make an appropriate endodontic pulpal diagnosis prior to  
7 performing a root canal treatment on tooth #26 by simply writing the word "pulpitis,"  
8 which does not justify or satisfy a definitive diagnosis to initiate root canal therapy.

9 f. Respondent failed to make an appropriate apical diagnosis.

10 g. Based upon the patient's attrition/wear, Respondent failed to properly address the  
11 patient's occlusal scheme and whether this may have been a contributing factor in her  
12 sensitivity and/or lower anterior pain.

13 h. Respondent's failure to conduct the examination procedures required to make a  
14 proper endodontic diagnosis led to the unnecessary root canal treatment of #26.

15 i. On September 22, 2015, Respondent delivered a crown on tooth #14 below the  
16 standard of care. Despite taking an x-ray to determine marginal integrity and stating  
17 in his record, "margins are closed" (image on the left), the margins are in fact open



26 (see DSO's image on the right).

27 j. On October 17, 2015, Respondent again consistently misdiagnosed the presence of  
28 caries in tooth #26. Radiographs clearly reflect there was no presence of caries.

- 1
- 2 k. Respondent's root canal treatment was below the standard of care and filled short of
- 3 the apex. Respondent failed to recognize the short fill on the radiographs, failed to
- 4 document the short fill, and failed to inform the patient of the short fill.
- 5
- 6 l. Respondent failed to note in the dental records his review of the x-rays following the
- 7 root canal on tooth #26 that may indicate the root canal is short.
- 8
- 9 m. On November 14, 2015, upon the patient's continued complaints of "sensitivity" on
- 10 tooth #26, Respondent noted that the root canal "may be" short and recommended a
- 11 retreatment. Respondent's diagnosis and treatment plan for a tooth #26 root canal
- 12 retreatment were below the standard of care. Respondent's formulation of his
- 13 treatment plans lack validation or support from any form of clinical testing or
- 14 appropriate diagnosis.
- 15
- 16 n. The patient's chief complaint was "sensitivity" on tooth #26. Respondent again failed
- 17 to carry out and properly record the examination procedures required to make an
- 18 endodontic diagnosis (as previously noted above on 09/22/15). Respondent failed to
- 19 take a new x-ray to further evaluate the tooth and previous treatment rendered.
- 20
- 21 o. On December 12, 2015, Respondent's retreatment of the root canal on tooth #26 was
- 22 below the standard of care. Respondent failed to place a rubber dam to initiate
- 23 treatment and properly isolate the tooth in which he was performing endodontic
- 24 therapy. Respondent failed to remove the previously placed gutta percha.
- 25
- 26 p. At the time of the December 12, 2015 retreatment, there was a lateral root perforation.
- 27 Respondent failed to recognize the distal subcrestal perforation despite having a
- 28 radiograph that clearly shows an endodontic file penetrating through the root and
- extending into the alveolus.
- q. Respondent's notes state that he "suspects fracture" despite clear radiologic evidence to the contrary.
- r. Respondent failed to inform the patient of the occurrence of the perforation and was unclear of the state of tooth #26.
- s. In his February 2018 supplemental response to Ms. McCain's allegations, Respondent continued to fail to acknowledge that a perforation had taken place, instead writing that "the file went to working length almost immediately;" therefore, he "ordered an x-ray and after review, I suspected something like a fracture" and "told the patient there might be a fracture in her tooth."

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- t. Referral for endodontic consult was made “for retreatment eval,” but no mention of a perforation or of any urgency for the endodontic evaluation was made to the patient or the specialist to whom she was referred.
- u. Respondent’s documentation of “Suspect fracture. Placed file...Endo refer to Dr. Shalev for retreatment eval. NV (Next Visit) #26 after endo retreatment” evidences



that he is either unable to recognize a perforation or he was attempting to cover up his mistake.

- v. Respondent’s written referral for endodontic treatment noted that “pt still having pain . . . re-eval RCTs.” There was no mention of a perforation or other communication with the endodontist.
- w. Respondent failed to share the x-rays previously taken showing the root perforation on 12/12/15 with the endodontist to facilitate the appropriate diagnosis and care of this patient.
- x. On March 31, 2016, Dr. Morris sent a report to Radiant Smiles advising that, “upon clinical and radiographic exam, it appears that there is a distal subcrestal perforation of #26.” Dr. Morris recommended extraction of tooth #26 and bridge or implant placement.

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- y. On March 31, 2016, the same day Dr. Morris verbally and in writing advised Radiant Smiles, Respondent's employer, of his finding of a perforation, a letter sent to Ms. McCain from Radiant Smiles owner advised Ms. McCain, contrary to the information provided by Dr. Morris, that tooth #26 had a large filling with decay. This letter continued to fail to mention or acknowledge the perforation. The letter does not advise Ms. McCain that, on or about December 23, 2015, as confirmed on March 31, 2016, Dr Morris' diagnosis of Tooth #26 was a distal subcrestal perforation. The March 31, 2016 letter to Ms. McCain did not advise that tooth #26 will need to be extracted or that Dr Morris recommended an implant or bridge.
  
- z. Prior to filing her complaint with the Board, Ms. McCain filed a small claims matter with the Henderson Municipal Court (case number 16AH000074) concerning the treatment received by Respondent.
  
- aa. A hearing took place in Henderson Municipal Court case number 16AH000074 on August 16, 2016, approximately four-and-a-half months after receipt of Dr. Morris' March 31, 2016 report and six weeks prior to submitting her claims to the Board.
  
- bb. Copies of the exhibits submitted to the Henderson Municipal Court were obtained by the Board and provided to Respondent on January 13, 2017.
  
- cc. A review of the exhibits submitted to the Henderson Municipal Court on behalf of Radiant Smiles confirm that the radiograph taken by Respondent on December 12, 2015 displaying the distal subcrestal perforation on Tooth #26 was omitted from the exhibits submitted to the Court.
  
- dd. At the August 16, 2018 hearing in Henderson Municipal Court, a radiograph was presented and statements were made that a large cavity was present on Tooth #26. The radiograph submitted to the Court was from Ms. McCain's prior treating dentist Dr Thien Tang in 2015. A review of Dr Tang's dental records submitted to the Board by Ms. McCain states no decay present on Tooth #26.
  
- ee. Records were purposely withheld from the court in the Henderson Municipal Court matter. The records submitted were void of the x-ray taken on December 12, 2015 that clearly showed when, where, and how the distal subcrestal perforation occurred.

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**Count II**  
**Failure to Comply With Supoena Duces Tecum**

63. The Board repeats and realleges the allegations contained in paragraphs 1 through 62 and reincorporates the same as if fully set forth herein

64. Included with the Notice of Informal Hearing was a Subpoena Duces Tecum dated January 19, 2017, addressed to Respondent which, in pertinent part, provides:

WE COMMAND YOU, that all and singular, business and excuses being set aside, appear at **Morris Polich & Purdy, LLP, 3800 Howard Hughes Parkway, Suite 500, Las Vegas, Nevada 89169**, on the **31<sup>st</sup> day of March 2017**, at the hour of **10:00 am** to produce the following documents:

1. Any and all records regarding patient ***Lissa McCain***, including, but not limited to, billing records, laboratory work orders, prescription slips, insurance records (including any correspondence or billing submitted to an insurance provider), health history, charts notes, informed consents, daily patient schedules for the dates of treatment, day sheets, radiographs, treatment plans and patient logs; and

Id., pg. 1 (emphasis in original).

65. On March 3, 2017, Respondent was personally served with a copy of the Notice of Informal Hearing and Subpoena Duces Tecum.

66. Included with the Notice of Hearing dated November 21, 2017 was a Subpoena Duces Tecum dated November 21, 2017, sent to Respondent's attorney which, in pertinent part, provides:

WE COMMAND YOU, that all and singular, business and excuses being set aside, appear at the office of **the Nevada State board of Dental Examiners located at 6010 S. Rainbow Blvd., Suite A1, Las Vegas, Nevada 89118**, on the **16<sup>th</sup> day of March 2018**, at the hour of **10:00 am** to produce the following documents:

1. Any and all records regarding patient ***Lissa McCain***, including, but not limited to, billing records, laboratory work orders, prescription slips, insurance records (including any correspondence or billing submitted to an insurance provider), health history, charts notes, informed consents, daily patient schedules for the dates of treatment, day sheets, radiographs, treatment plans and patient logs.





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

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

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

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

7  
8 (f) Fees for service and delivery of process and subpoenas.

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

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

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

19  
20 **Wherefore, it is prayed:**

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

23 2. That, upon conclusion of said hearing, the Board determine what, if any,  
24 disciplinary action it deems appropriate pursuant to NRS 631.350, and any other applicable  
provision of chapter 631 of the NRS and/or NAC;

25 3. That, to the extent the Board deems appropriate, the Board should assess against  
26 Respondent attorney's fees and costs incurred by reason of the investigation, administration,  
27 prosecution, and hearing of this matter as provided by law;

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

5. That, to the extent the Board deems appropriate, the Board should order that Respondent reimburse any at-issue patient(s), pursuant to NRS 631.350(1)(l);

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

7. That, to the extent the Board deems appropriate, the Board should take other and further action as may be just and appropriate, provided for and allowed pursuant to relevant authority.

Respectfully submitted this 14 day of May, 2018.

**Nevada State Board of Dental Examiners**


By Melanie Bernstein Chapman  
Melanie Bernstein Chapman, Esq.  
6010 S Rainbow Blvd, Suite A-1  
Las Vegas, Nevada 89118  
ph. (702) 486-7044; fax (702) 486-7046  
Attorney for the Board

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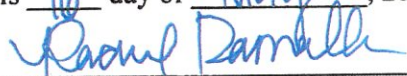
**VERIFICATION**

STATE OF NEVADA     )  
                                  )  
COUNTY OF CLARK    )     ss:

Dr. Gregory J. Pisani, DDS, having been duly sworn, hereby deposes and states under penalty of perjury that he is a member of the Nevada State Board of Dental Examiners and a member the Review Panel of the Nevada State Board of Dental Examiners; that he has read the foregoing complaint; and that based upon information discovered in the course of the investigation into the verified complaint of Lissa McCain and reviewed by the Review Panel, he believes that the allegations and charges in the foregoing Complaint against Respondent are true, accurate and correct.

  
\_\_\_\_\_  
**Gregory J. Pisani, DDS**  
Member, Nevada State Board of Dental Examiners  
Member, Review Panel of the Nevada State Board of Dental Examiners

SUBSCRIBED and SWORN to before me  
this 16<sup>th</sup> day of May, 2018.

  
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NOTARY PUBLIC  
(notary seal)



# **Certificate of Service**

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STATE OF NEVADA

BEFORE THE BOARD OF DENTAL EXAMINERS

NEVADA STATE BOARD OF DENTAL EXAMINERS,

Case No. 6324-1435

Complainant,

vs.

GEORGE B. MILLER, DMD

Respondent.

CERTIFICATE OF SERVICE

I hereby certify that on the 16<sup>th</sup> day of May 2018, I caused the below referenced documents to be served by placing a true and correct copy of the same in the U.S. regular mail, postage prepaid, AND via certified mail, return receipt requested, from Las Vegas, Nevada, to Respondent's attorney of record at the below referenced address.


The documents served with this *Certificate of Service* are as follows:

1. Complaint in the matter of *Nevada State Board of Dental Examiners vs. George B. Miller, DMD*, dated May 16, 2018;
2. Notice of Filing of Complaint and Notice of Hearing, dated May 16, 2018;
3. Fingerprint Instructions Correspondence and Packet pursuant to NRS 622.360

The above-referenced documents were sent, as noted above, to the following:

S. Brent Vogel, Esq.  
Amanda Brookhyser, Esq.  
Lewis Brisbois Bisgaard & Smith LLP  
6385 S. Rainbow Blvd., #600  
Las Vegas, Nevada 89118  
*Attorneys for Respondent*

By:

  
Patricia Quinn, Legal Assistant  
Nevada State Board of Dental Examiners

**Answer to Complaint**  
**George B. Miller, DMD**



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STATE OF NEVADA

BEFORE THE BOARD OF DENTAL EXAMINERS

NEVADA STATE BOARD OF DENTAL EXAMINERS,

CASE NO. 6324-1435

ANSWER TO COMPLAINT

Complainant,

GEORGE B. MILLER, DMD ,

Respondent

COMES NOW, Respondent GEORGE B. MILLER, DMD, by and through his counsel of record S. Brent Vogel, Esq., and Amanda J. Brookhyser, Esq., of the Law Firm LEWIS BRISBOIS BISGAARD & SMITH, and hereby answers the Complaint as follows:

**ANSWER TO COMPLAINT**

**GENERAL ALLEGATIONS**

**Parties and Jurisdiction**

1). Respondent admits the allegations contained in Paragraphs 1, 2, 3, and 4 of the section entitled Parties and Jurisdiction of the Complaint.

**Patient Lissa McCain**

2). Respondent admits the allegations contained in Paragraphs 5, 6, 9, 10, 11, 12, and 13 of the section entitled Patient Lissa McCain of the Complaint.

3). Respondent denies the allegations as set forth in Paragraphs 7 and 8 of the section entitled Patient Lissa McCain of the Complaint.

**Informal Hearings**

4). Respondent admits the allegations contained in Paragraphs 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, and 55 of the section entitled Informal Hearings of the Complaint.

5). Respondent denies the allegations as set forth in Paragraph 56 of the section entitled Informal Hearings of the Complaint.

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**COUNT I**

**Violations of NRS Chapter 631 and NAC 631**

- 6). Respondent repeats and realleges as though fully stated herein his answers to Paragraphs 1 through 54 of the Complaint.
- 7). As Paragraphs 59, 60, and 61 of Count I of the Complaint contain citations to statutes, there is no factual allegation for Respondent to either admit or deny.
- 8). Respondent denies the allegations as set forth in Paragraphs 58, 62(a), 62(b), 62(c), 62(d), 62(e), 62(f), 62(g), 62(h), 62(i), 62(j), 62(k), 62(l), 62(m), 62(n), 62(o), 62(p), 62(q), 62(r), 62(s), 62(t), 62(u), 62(v), 62(w), 62(x), , 62(y), 62(z), 62(aa), 62(bb), 62(cc), 62(dd), and 62(ee) of Count I of the Complaint.

**COUNT II**

**Failure to Comply with Subpoena Duces Tecum**

- 9). Respondent repeats and realleges as though fully set forth herein his answers to Paragraphs 1 through 62(ee) of the Complaint.
- 10). Respondent admits the allegations contained in Paragraphs 64, 65, 66 and 67 of Count II of the Complaint.
- 11). Respondent denies the allegations as set forth in Paragraphs 68 and 69 of Count II of the Complaint.

**COUNT III**

**Recovery of Attorney's Fees and Costs**

- 10). Respondent repeats and realleges as though fully set forth herein his answers to Paragraphs 1 through 69 of the Complaint.
- 11). As Paragraph 71 of Count III of the Complaint contains citations to statutes, there is no factual allegation for Respondent to either admit or deny.
- 12). Respondent denies the allegations as set forth in Paragraphs 72 and 73 of Count III of the Complaint.

**CONCLUDING ANSWER TO ALL ALLEGATIONS**

- 13). All allegations not specifically addressed herein due to the nature of the language and



1 construction of the allegations, or for any other reason, are specifically denied.

2 AFFIRMATIVE DEFENSES

3 AFFIRMATIVE DEFENSES

4 1. The allegations as stated in the Complaint do not state a violation of NRS  
5 630.3475(1).

6 2. The allegations as stated in the Complaint do not state a violation of NRS  
7 630.3475(2).

8 3. The allegations as stated in the Complaint do not subject Respondent to discipline  
9 by the Board as provided in NRS 630.349

10 4. The allegations as stated in the Complaint do not subject Respondent to discipline  
11 by the Board as provided in NAC 631.230(1)(a) and/or NAC 631.230(1)(c).

12 4. The injuries, if any, allegedly suffered by Patient as set forth in the Complaint were  
13 caused in whole or in part by the negligence of a third party or third parties over which  
14 Respondent had no control.

15 5. The damages, if any, alleged in the Complaint were not the result of any acts of  
16 omission, commission, or negligence, but were the result of a known risk, which was consented to  
17 by Patient.

18 6. The damages, if any, incurred by Patient were not attributable to any act, conduct,  
19 or omission on the part of the Respondent. Respondent denies that he was negligent or otherwise  
20 culpable in any matter or in any degree with respect to the matters set forth in the Complaint.

21 7. That it has been necessary for Respondent to employ the services of an attorney to  
22 defend this action and a reasonable sum should be allowed Respondent for attorneys' fees,  
23 together with costs of suit incurred herein.

24 8. Patient's damages, if any, were not proximately caused by Respondent.

25 9. Patient's injuries and damages, if any, are the result of forces of nature over which  
26 Respondent had no control or responsibility.

27 10. Patient failed to mitigate damages, if any.

28 11. At all times mentioned herein, Respondent acted reasonably and in good faith with

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regard to the acts and transactions which are the subject of this Complaint.

WHEREFORE, Respondent prays for judgment as follows:

1. That all charges against him be dismissed;
2. For such other and further relief as may deemed just and proper in these premises.

Dated this 5<sup>th</sup> day of June, 2018.

By: /s/ Amanda Brookhyser

S. BRENT VOGEL, ESQ

Nevada Bar No. 6858

AMANDA J. BROOKHYSER, ESQ.

Nevada Bar No. 11526

LEWIS BRISBOIS BISGAARD & SMITH LLP

6385 S. Rainbow Boulevard, Suite 600

Las Vegas, Nevada 89118

Telephone: 702.893.3383

Facsimile: 702.893.3789

Attorneys for George B. Miller, DMD