

NEVADA STATE BOARD  
of  
DENTAL EXAMINERS



BOARD MEETING

JUNE 14, 2019

9:00 A.M.

**PUBLIC BOOK**

**Notice of Filing of Amended  
Complaint & Renotice of  
Formal 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**

**NOTICE OF FILING OF  
AMENDED COMPLAINT AND  
RENOTICE OF FORMAL  
HEARING**

**Date of Hearing: 6/14/19**

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

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

**TO: SEAN KELLY, ESQ., Respondent's Attorney of Record.**

**PLEASE BE ADVISED** that on or about the 2nd day of May, 2019, an Amended 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. A copy of said Amended Complaint is attached to this Notice which, pursuant to NAC 631.290, is being served via U.S. regular mail, postage prepaid, and via certified mail, return receipt requested, to Respondent's attorney of record.

**NOTICE IS HEREBY GIVEN**, pursuant to NRS 631.360, that the Board has scheduled a public hearing to consider the allegations contained in the Complaint. Specifically, the public hearing previously scheduled for October 5, 2018 has been rescheduled to occur on the following date(s) and time(s) at the following location:

**DATE : Friday, June 14, 2019, and  
Daily thereafter until concluded**

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

1           **LOCATION :**        **Nevada State Board of Dental Examiners**  
2                               **6010 S. Rainbow Blvd., Suite A1**  
3                               **Las Vegas, Nevada 89118**

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

9           **YOU ARE FURTHER ADVISED** that the hearing is to be an open meeting pursuant to  
10 Nevada’s Open Meeting Law and may be attended by the public. During the hearing, the Board  
11 may choose to go into closed session to consider the character, alleged misconduct, professional  
12 competence or physical or mental health of Respondent. A verbatim record will be made by a  
13 court reporter. You are entitled to a copy of the transcript, at your cost, of the open and closed  
14 portions of the hearing.  
15

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

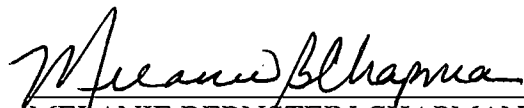
21           **YOU ARE FURTHER ADVISED** that, at the hearing, the Board has the burden of  
22 proving the allegations in the Complaint. The Board may, and intends, to call witnesses and to  
23 offer exhibits and evidence regarding the allegations in the Complaint. Respondent also has the  
24 right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

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

5  
6 DATED this 2 day of May, 2019.


7  
8 NEVADA STATE BOARD OF DENTAL EXAMINERS

9 By:   
10 MELANIE BERNSTEIN CHAPMAN, ESQ.  
11 General Counsel

12 **CERTIFICATE OF SERVICE**

13 I hereby certify that on the 2nd day of May 2019, I caused the above and foregoing  
14 **RENOTICE OF HEARING** to be served via Regular US Mail and Certified Mail-Return  
15 Receipt Requested, by placing a true and correct copy of the same in the U.S. Mail with postage  
16 fully prepaid, from Las Vegas, Nevada, to Respondent's attorney of record at the address below:  
17

18  
19 Sean M. Kelly, Esq.  
20 Carroll, Kelly, Trotter, Franzen, McBride & Peabody  
21 8329 W. Sunset Road  
22 Suite 260  
23 Las Vegas, Nevada 89113  
24 *Attorneys for Respondent*

25 By:   
26 Angelica Bejar  
27 Nevada State Board of Dental Examiners  
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# **Amended Complaint**

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

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

Case No. 6324-1435

**AMENDED COMPLAINT**

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

**GENERAL ALLEGATIONS**

Parties and Jurisdiction

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 August 17, 2012, the Board issued Respondent a license to practice dentistry in the State of Nevada (License # 6324).
4. Respondent is licensed by the Board and, therefore, has submitted himself to the disciplinary jurisdiction of the Board.

Patient, Lissa McCain

5. Via a *Notice of Complaint & Request for Records* dated October 4, 2016, Respondent was notified of the verified complaint of patient, Lissa McCain. The same was

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 14. On June 19, 2018, the Board received a complete copy of dental records from  
26 Thien Tang, DDS, regarding Ms. McCain, a copy of which was provided to Respondent on June  
27 20, 2018 and again to his counsel on August 8, 2018.



1 15. On August 8, 2018, all digital radiographs in the Board's possession were  
2 forwarded to Respondent's counsel.

3 16. Dr. Miller's counsel was also advised that original xrays from Dr. Tang's office  
4 were available for inspection at the Board offices. Dr. Miller and his counsel did present to the  
5 Board office on September 26, 2018.

6 Informal Hearings

7 17. On January 25, 2017, via certified mail, return receipt requested, and regular mail,  
8 Respondent was provided with a Notice of Informal Hearing regarding the verified complaint of  
9 Lissa McCain.

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

13 19. In part, the Notice of Informal Hearing indicated that, pursuant to NAC  
14 631.250(1), the Disciplinary Screening Officer shall not limit the scope of the investigation to the  
15 matters set forth in the authorized investigation noted above, "but will extend the investigation to  
16 any additional matters which appear to constitute a violation of any provision of Chapter 631 of  
17 the Nevada Revised Statutes or the regulations contained in Chapter 631 of NAC of this  
18 Chapter."

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

21 WE COMMAND YOU, that all and singular, business and excuses being set  
22 aside, appear at **Morris Polich & Purdy, LLP, 3800 Howard Hughes**  
23 **Parkway, Suite 500, Las Vegas, Nevada 89169**, on the **31<sup>st</sup> day of March**  
24 **2017**, at the hour of **10:00 am** to produce the following documents:

25 1. Any and all records regarding patient *Lissa McCain*,  
26 including, but not limited to, billing records, laboratory work  
27 orders, prescription slips, insurance records (including any  
28 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,

1 treatment plans and patient logs; and

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

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

5 22. On March 27, 2017, the Board received Respondent's correspondence dated  
6 March 25, 2017 which, in part, addressed the fact that Respondent would not be attending the  
7 informal hearing. Respondent's March 25, 2017 correspondence included statements concerning  
8 his care and treatment of Ms. McCain.

9 23. On March 31, 2017, the date of the scheduled informal hearing, the Board  
10 received correspondence from Respondent which, in part, requested the dismissal of Dr. Strong,  
11 DSO, and further requested that this case be assigned to new Board counsel.

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

16 25. In attendance at the March 31, 2017, informal hearing was the DSO, Bradley  
17 Strong, DDS, the Board's Executive Director, Debra Shaffer-Kugel, and the Board's attorney,  
18 John A. Hunt, Esq.

19 26. Respondent did not attend the March 31, 2017 informal hearing.

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

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

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

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

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

7 32. On or about November 10, 2017, counsel for Respondent contacted counsel for  
8 the Board to advise that Respondent did, in fact, wish to re-open the informal hearing so that he  
9 could participate in the process.

10 33. On November 21, 2017, via service to his attorney's office and to Respondent's  
11 mailing address, Respondent was served with a Notice of Informal Hearing and Subpoena Duces  
12 Tecum. Pursuant to this Notice, the reopened Informal Hearing was scheduled for March 16,  
13 2018 at the office of the Nevada State Board of Dental Examiners.

14 34. In addition to re-opening the informal hearing, counsel for the Board offered to  
15 accept a written response to Lissa McCain's allegations despite the fact that the time for such  
16 response had passed.

17 35. Because Findings and Recommendations had been forwarded to Respondent  
18 following the March 31, 2017 informal hearing, the opportunity file a response subsequent to  
19 November 21, 2017 meant that Respondent was also given the opportunity to file a written  
20 response to the Findings and Recommendations dated June 12, 2017.

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

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

27 38. As to Lissa McCain's verified compliant, the Review Panel found that there was a  
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1 preponderance of the evidence to support the investigator's preliminary findings and  
2 recommendations and support the continuation of the investigatory process, including but not  
3 limited to, an informal hearing.

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

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

11 41. In attendance on March 16, 2018 was Respondent, Respondent's counsel Amanda  
12 Brookhyser, Esq., the DSO, Bradley Strong, DDS, and the Board's attorney, Melanie Bernstein  
13 Chapman, Esq.

14 42. On the afternoon of March 16, 2018, Respondent suddenly left the offices of the  
15 Nevada State Board of Dental Examiners without advising DSO Strong or Board counsel of the  
16 alleged sudden illness that caused him to unilaterally and without notice end the proceeding  
17 scheduled for March 16, 2018.

18 43. On March 20, 2018, Respondent's counsel, on behalf of Respondent advised  
19 counsel for the Board that Respondent wished to "move forward."

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

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

2 46. On March 30, 2018, approximately an hour and a half prior to the time the  
3 Informal Hearing was scheduled to begin, counsel for the Board was informed that Respondent  
4 would not be attending the Informal Hearing.

5 47. On March 30, 2018, at 10:00 a.m. the above-referenced and properly-noticed  
6 Informal Hearing was held at the Board office in Las Vegas, Nevada, regarding the verified  
7 complaint of Lissa McCain and/or as more fully addressed in the Notice of Investigative  
8 Complaint. The informal hearing was held pursuant to NRS 631.363 and NAC 631.250 and  
9 631.255.

10 48. In attendance at the March 30, 2018, informal hearing was the DSO, Bradley  
11 Strong, DDS, the Board's attorney, Melanie Bernstein Chapman, Esq. and Respondent's  
12 attorney, Amanda Brookhyser.

13 49. Respondent did not attend the informal hearing on March 30, 2018.

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

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

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

23 53. Following its review, the Review Panel approved and adopted the Findings and  
24 Recommendations submitted by Bradley Strong, DDS.

25 54. The Review Panel instructed that the F&R were to be presented to Respondent  
26 pursuant to NRS 631.363(3) for consent to, or rejection of, the F&R pursuant to NRS  
27 631.363(5).  
28

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

5 56. On April 6, 2018, the F&R were forwarded to Respondent for review and consent  
6 pursuant to NRS 631.363(5) together with documents to facilitate his acceptance or rejection of  
7 the F&R. Correspondence sent with the F&R advised that a failure to respond on or before April  
8 24, 2018 would be deemed a rejection of the F&R and would result in the filing of a formal  
9 complaint.

10 57. Respondent did not consent to the F&R.

11 58. Respondent did not respond to the F&R, thereby rejecting the F&R.

12 59. There is a preponderance of the evidence to support the F&R and/or there is a  
13 preponderance of the evidence to support a conclusion that the Respondent violated one or more  
14 provisions of NRS Chapter 631 and/or NAC Chapter 631.

15  
16 **Count I**  
**Violations of NRS Chapter 631 and NAC 631**

17 60. The Board repeats and realleges the allegation contained in paragraphs 1 through  
18 56 and reincorporates the same as if fully set forth herein.

19 61. Respondent's treatment of Patient, Lissa McCain, violated NRS 631.3475(1),  
20 NRS 631.3475(2), NRS 631.3475(4), NRS 631.349, NAC 631.230 (1)(a) and/or NAC 631.230  
21 (1)(c).

22 62. NRS 631.3475 provides, in pertinent part:

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

1. Malpractice;
2. Professional incompetence;

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4. More than one act by the dentist or dental hygienist constituting substandard care in the practice of dentistry or dental hygiene;

\*\*\*\*

63. NRS 631.349 provides, in pertinent part:

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

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.

64. 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.

\*\*\*\*

65. 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**

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**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.

d. Respondent's exam was void of:

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

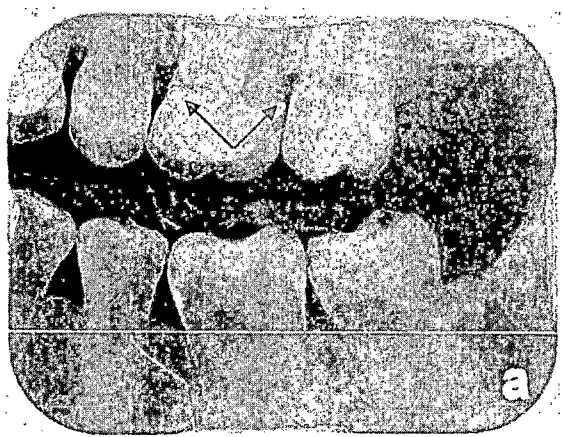
**Clinical testing:** Pulp Tests: Cold, electric pulp test, heat, Periapical tests: Percussion, palpation, biting

- e. Respondent failed to make an appropriate endodontic pulpal diagnosis prior to performing a root canal treatment on tooth #26 by simply writing the word "pulpitis," which does not justify or satisfy a definitive diagnosis to initiate root canal therapy.
- f. Respondent failed to make an appropriate apical diagnosis.
- g. Based upon the patient's attrition/wear, Respondent failed to properly address the patient's occlusal scheme and whether this may have been a contributing factor in her sensitivity and/or lower anterior pain.
- h. Respondent's failure to conduct the examination procedures required to make a proper endodontic diagnosis led to the unnecessary root canal treatment of #26.
- i. Respondent's failure to conduct and/or document the examination procedures required to make a proper endodontic diagnosis fell below the standard of care.



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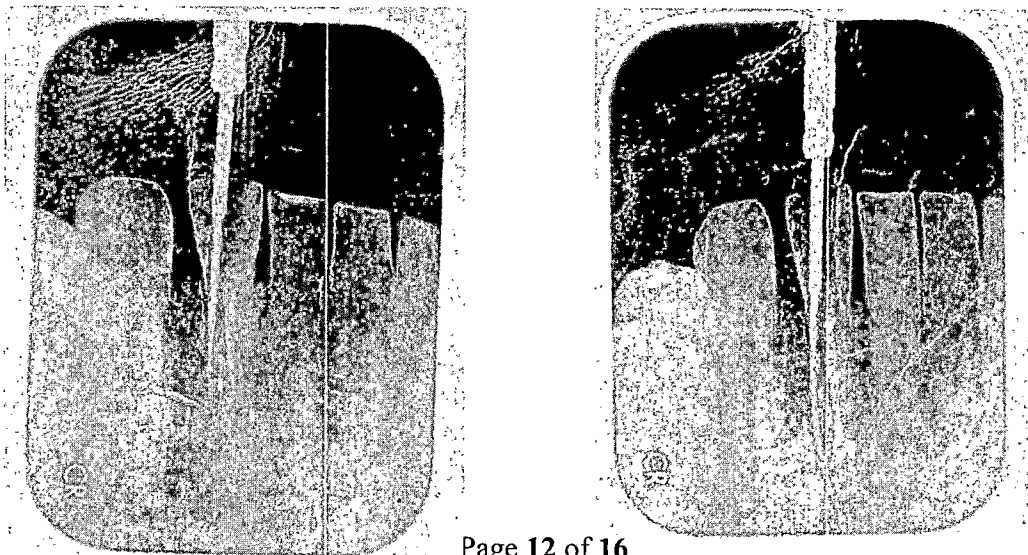
j. On September 22, 2015, Respondent delivered a crown on tooth #14 below the standard of care. Despite taking an x-ray to determine marginal integrity and stating in his record, "margins are closed" (image on the left), the margins are in fact open



(see DSO's image on the right).

- k. On October 17, 2015, Respondent again consistently misdiagnosed the presence of caries in tooth #26. Radiographs clearly reflect there was no presence of caries.
- l. Respondent's root canal treatment was below the standard of care and filled short of the apex. Respondent failed to recognize the short fill on the radiographs, failed to document the short fill, and failed to inform the patient of the short fill.
- m. Respondent failed to note in the dental records his review of the x-rays following the root canal on tooth #26 that may indicate the root canal is short.
- n. On November 14, 2015, upon the patient's continued complaints of "sensitivity" on tooth #26, Respondent noted that the root canal "may be" short and recommended a retreatment. Respondent's diagnosis and treatment plan for a tooth #26 root canal retreatment were below the standard of care. Respondent's formulation of his treatment plans lack validation or support from any form of clinical testing or appropriate diagnosis.
- o. The patient's chief complaint was "sensitivity" on tooth #26. Respondent again failed to carry out and properly record the examination procedures required to make an endodontic diagnosis (as previously noted above on 09/22/15). Respondent failed to take a new x-ray to further evaluate the tooth and previous treatment rendered.

- 1 p. On December 12, 2015, Respondent's retreatment of the root canal on tooth #26 was  
2 below the standard of care. Respondent failed to place a rubber dam to initiate  
3 treatment and properly isolate the tooth in which he was performing endodontic  
4 therapy. Respondent failed to remove the previously placed gutta percha.  
5  
6 q. At the time of the December 12, 2015 retreatment, there was a lateral root  
7 perforation. Respondent failed to recognize the distal subcrestal perforation despite  
8 having a radiograph that clearly shows an endodontic file penetrating through the root  
9 and extending into the alveolus.  
10  
11 r. Respondent's notes state that he "suspects fracture" despite clear radiologic evidence  
12 to the contrary.  
13  
14 s. Respondent failed to inform the patient of the occurrence of the perforation and was  
15 unclear of the state of tooth #26.  
16  
17 t. In his February 2018 supplemental response to Ms. McCain's allegations, Respondent  
18 continued to fail to acknowledge that a perforation had taken place, instead writing  
19 that "the file went to working length almost immediately;" therefore, he "ordered an  
20 x-ray and after review, I suspected something like a fracture" and "told the patient  
21 there might be a fracture in her tooth."  
22  
23 u. Referral for endodontic consult was made "for retreatment eval," but no mention of a  
24 perforation or of any urgency for the endodontic evaluation was made to the patient  
25 or the specialist to whom she was referred.  
26  
27 v. Respondent's documentation of "Suspect fracture. Placed file...Endo refer to Dr.  
28 Shalev for retreatment eval. NV (Next Visit) #26 after endo retreatment" evidences



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

3 w. Respondent's written referral for endodontic treatment noted that "pt still having pain  
4 . . . re-eval RCTs." There was no mention of a perforation or other communication  
5 with the endodontist.

6 x. Respondent failed to share the x-rays previously taken showing the root perforation  
7 on 12/12/15 with the endodontist to facilitate the appropriate diagnosis and care of  
8 this patient.

9 y. On March 31, 2016, Dr. Morris sent a report to Radiant Smiles advising that, "upon  
10 clinical and radiographic exam, it appears that there is a distal subcrestal perforation  
11 of #26." Dr. Morris recommended extraction of tooth #26 and bridge or implant  
12 placement.

13 z. On March 31, 2016, the same day Dr. Morris verbally and in writing advised Radiant  
14 Smiles, Respondent's employer, of his finding of a perforation, a letter sent to Ms.  
15 McCain from Radiant Smiles owner advised Ms. McCain, contrary to the information  
16 provided by Dr. Morris, that tooth #26 had a large filling with decay. This letter  
17 continued to fail to mention or acknowledge the perforation. The letter does not  
18 advise Ms. McCain that, on or about December 23, 2015, as confirmed on March 31,  
19 2016, Dr Morris' diagnosis of Tooth #26 was a distal subcrestal perforation. The  
20 March 31, 2016 letter to Ms. McCain did not advise that tooth #26 will need to be  
21 extracted or that Dr Morris recommended an implant or bridge.

22 aa. At no time has Respondent sought to correct the false and/or incorrect and/or  
23 incomplete statements made in the March 31, 2016 correspondence to Ms. McCain.

24 bb. Respondent's record-keeping with respect to Ms. McCain's treatment is below the  
25 standard of care.

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

66. The Board repeats and realleges every allegation contained in paragraphs 1  
through 69 and reincorporates the same as if fully set forth herein.

67. NRS 622.400 provides:

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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.

(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.

68. 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.

69. That, as a result of NRS 622.400(1) being satisfied, as alleged immediately above,

1 should NRS 622.400(1)(a) or (b) be satisfied, the Board recover from Respondent its attorney's  
2 fees and costs.

3  
4 **Wherefore, it is prayed:**

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

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

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

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

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

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

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

24 Respectfully submitted this 2 day of May, 2019.

25 **Nevada State Board of Dental Examiners**


26 By Melanie Bernstein Chapman  
27 Melanie Bernstein Chapman, Esq.  
28 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        )  
                                  )        ss:  
COUNTY OF CLARK        )

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 2018 Review Panel of the Nevada State Board of Dental Examiners that reviewed this matter prior to the filing of a Formal Complaint (charging document); that he is a member of the Review Panel that approved the filing of the Complaint against the Respondent herein; 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 against Respondent, he believes that the allegations and in the foregoing Complaint against Respondent are true, accurate and correct.

  
\_\_\_\_\_  
**Gregory J. Pisani, DDS**  
Member, Nevada State Board of Dental Examiners  
Member, 2018 Review Panel of the Nevada State Board of Dental Examiners

# **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 2<sup>nd</sup> day of May 2019, 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. Amended Complaint in the matter of *Nevada State Board of Dental Examiners vs. George B. Miller, DMD*, dated May 2, 2019;
2. Notice of Filing of Complaint and Notice of Hearing, dated May 2, 2019;

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

Sean M. Kelly, Esq.  
Carroll, Kelly, Trotter, Franzen, McBride & Peabody  
8329 W. Sunset Road  
Suite 260  
Las Vegas, Nevada 89113  
*Attorneys for Respondent*

By:



Angelica Bejar  
Nevada State Board of Dental Examiners