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BEFORE THE NEVADA STATE BOARD OF DENTAL EXAMINERS

NEVADA STATE BOARD OF DENTAL EXAMINERS,

Complainant,

vs.

ANTONINA CAPURRO, DMD,

Respondent.

Case No: LL-384-14-1978

**CIVIL SUBPOENA PURSUANT TO
NRS 631.360 FOR APPEARANCE AT
PUBLIC HEARING**

10 THE NEVADA STATE BOARD OF DENTAL EXAMINERS SENDS GREETINGS TO:

11 **Richard Whitley**
12 **Director of the Nevada Department of Health and Human Services**
13 **4126 Technology Way, Suite 100**
14 **Carson City, NV 89706**

15 **YOU ARE HEREBY COMMANDED, TO APPEAR AS A WITNESS**, all and singular,
16 business excuses set aside, to appear and attend to give testimony at a public hearing in connection
17 with the above-referenced matter arising from the Amended Complaint against Antonina Capurro,
18 DMD, pursuant to NRS 631.360(4), NRS 50.165 and NRCP 45, on **May 21, 2021, at 1:00 p.m.**
19 **Pacific Time.** No physical location accessible by the public: Public attendance by Zoom
20 Teleconference ONLY, pursuant to Sec. 1 of Gov. Sisolak’s Emergency Directive 006, and as
21 extended by Directives 016, 018, 021, 026 and 029. Specific log-in credentials will be provided to
22 you via email prior to the public hearing.

23 Richard Whitley, Director of the of Nevada Department of Health and Human Services
24 (“DHHS”) will be expected to give testimony in the above-referenced matter.


25 **CONTEMPT:** Failure by any person without adequate excuse to obey a subpoena served
26 upon that person may be deemed a contempt of the court NRS 631.360, NRS 631.366, and NRCP
27 45(e), punishable by a fine not exceeding \$500 and imprisonment not exceeding 25 days, NRS
28 22.100(2). Additionally, a witness disobeying a subpoena shall forfeit to the aggrieved party \$100

...

1 and all damages sustained as a result of the failure to attend, and a warrant may issue for the
2 witness' arrest. NRS 50.195, 50.205, and 22.100(3).

3 DATED: April 30, 2021.

4 NEVADA STATE BOARD OF DENTAL EXAMINERS

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6 By:  _____

7 Secretary-Treasurer
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EXHIBIT "A"

NEVADA RULES OF CIVIL PROCEDURE

Rule 45 SUBPOENA

(c) Protection of Persons Subject to Subpoena.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or an attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court that issued the subpoena must enforce this duty and may impose an appropriate sanction – which may include lost earnings and reasonable attorney fees – on a party who fails to comply.

(2) Command to Produce Materials or Permit Inspection

(A) Appearance Not Required.

(i) A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing or trial.

(ii) If documents, electronically stored information, or tangible things are produced to the party that issued the subpoena without an appearance at the place of production, that party must, unless otherwise stipulated by the parties or ordered by the court, promptly copy or electronically reproduce the documents or information, photograph any tangible items not subject to copying, and serve these items on every other party. The party that issued the subpoena may also serve a statement of the reasonable cost of copying, reproducing, or photographing, which a party receiving the copies, reproductions, or photographs must promptly pay. If a party disputes the cost, then the court, on motion, must determine the reasonable cost of copying the documents or information, or photographing the tangible items.

(B) **Objections.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, or a person claiming a proprietary interest in the subpoenaed documents, information, tangible things, or premises to be inspected, may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises – or to producing electronically stored information in the form or forms requested. The person making the objection must serve it before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made:

(i) the party serving the subpoena is not entitled to inspect, copy, test, or sample the materials or tangible things or to inspect the premises except by order of the court that issued the subpoena.

(ii) on notice to the parties, the objecting person, and the person commanded to produce or permit inspection, the party serving the subpoena may move the court that issued the subpoena for an order compelling production or inspection; and

(iii) if the court enters an order compelling production or inspection, the order must protect the person commanded to produce or permit inspection from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena

(A) **When Required.** On timely motion, the court that issued a subpoena must quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance;

1 (ii) requires a person requires a person to travel to a place more than 100 miles from
2 the place where that person resides, is employed, or regularly transacts business in person, unless
3 the person is commanded to attend trial within Nevada;

(iii) requires disclosure of privileged or other protected matter and no exception or
4 waiver applies; or

(iv) subjects a person to undue burden.

(B) **When Permitted.** On timely motion, the court that issued a subpoena may quash or
5 modify the subpoena if it requires disclosing:

(i) a trade secret or other confidential research, development, or commercial
6 information; or

(ii) an unretained expert's opinion or information that does not describe specific
7 occurrences in dispute and results from the expert's study that was not requested by the party.

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule
8 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order an appearance or
9 production under specified conditions if the party serving the subpoena:

(i) shows a substantial need for the testimony or material that cannot be otherwise
10 met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

11 **(d) Duties in Responding to a Subpoena.**

12 (1) **Producing Documents or Electronically Stored Information.** These procedures apply
13 to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce
14 them as they are kept in the ordinary course of business or must organize and label them to
15 correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a
16 subpoena does not specify a form for producing electronically stored information, the person
17 responding must produce it in a form or forms in which it is ordinarily maintained or in a
18 reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person
19 responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information .** The person responding need not
20 provide discovery of electronically stored information from sources that the person identifies as
21 not reasonably accessible because of undue burden or cost. On motion to compel discovery or for
22 a protective order, the person responding must show that the information is not reasonably
23 accessible because of undue burden or cost. If that showing is made, the court may nonetheless
24 order discovery from such sources if the requesting party shows good cause, considering the
25 limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

23 (2) **Claiming Privilege or Protection.**

(A) **Documents.** A person withholding subpoenaed information under a claim that it is
24 privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things
25 in a manner that, without revealing information itself privileged or protected, will enable the
26 parties to assess the claim.

(A) **Information Produced.** If information produced in response to a subpoena is subject
27 to a claim of privilege or of protection as trial-preparation material, the person making the claim
28 may notify any party that received the information of the claim and the basis for it. After being
29 notified, a party must promptly return, sequester, or destroy the specified information and any

1 copies it has; must not use or disclose the information until the claim is resolved; must take
2 reasonable steps to retrieve the information if the party disclosed it before being notified; and may
3 promptly present the information under seal to the court for a determination of the claim. The
4 person who produced the information must preserve the information until the claim is resolved.

5 **(e) Contempt; Costs.** Failure by any person without adequate excuse to obey a subpoena
6 served upon that person may be deemed a contempt of the court that issued the subpoena. In
7 connection with a motion for a protective order brought under Rule 26(c), a motion to compel
8 brought under Rule 45(c)(2)(B), or a motion to quash or modify the subpoena brought under Rule
9 45(c)(3), the court may consider the provisions of Rule 37(a)(5) in awarding the prevailing person
10 reasonable expenses incurred in making or opposing the motion.

11 [Amended; effective March 1, 2019.]
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