BEFORE THE COLORADO DENTAL BOARD

STATE OF COLORADO

Case No. 2014-4105-A

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF DISCIPLINARY PROCEEDINGS REGARDING THE LICENSE TO PRACTICE DENTISTRY OF CYRUS FANNING, D.D.S., LICENSE NUMBER DEN 7020,

Respondent.

IT IS HEREBY STIPULATED by and between Inquiry Panel A of the Colorado Dental Board (the “Board”) and Cyrus Fanning, D.D.S. (“Respondent”) as follows:

JURISDICTION

1. Respondent was granted a license to practice dentistry in the state of Colorado on or about February 16, 1993, being issued license number DEN 7020, and has been so licensed at all times relevant hereto.

2. The Board has jurisdiction over the person of Respondent and the subject matter of this Stipulation and Final Agency Order (“Stipulation and Order”).

3. This Stipulation and Order is a full and final resolution of case number 2014-4105-A. This Stipulation and Order does not resolve any other cases, complaints or matters known or unknown to the Board or Respondent, as of the effective date of this Stipulation and Order.

FINDINGS AND CONCLUSIONS

4. The Board finds and Respondent admits that:

a. Respondent provided dental treatment to patient B.M. from approximately November 2008 through May 2014.

b. Respondent’s endodontic treatment of B.M. was substandard.

c. The root canal fill on B.M.’s teeth #s 5 and 14 was short.

d. Respondent did not use a rubber dam for isolation.

e. Respondent failed to obtain preoperative, intraoperative, and postoperative radiographs for B.M.’s teeth #s 5 and 14.

f. There was a lack of diagnostic radiographic evidence of pulp pathology.
g. Respondent failed to maintain a complete periodontal chart.

h. There was a lack of a medical history or pre-medical documentation in B.M.’s chart.

i. Respondent failed to obtain signed informed consents.

5. By virtue of the facts admitted in paragraph 4 above, Respondent admits, and the Board finds, that Respondent violated sections 12-35-129(1)(k) and (z), C.R.S., amended July 1, 2006, which states:

Section 12-35-129. Causes for denial of issuance or renewal -- suspension or revocation of licenses -- other disciplinary action -- unprofessional conduct defined -- disciplinary panels -- cease and desist. (1) The board may deny the issuance or renewal of, suspend for a specified time period, or revoke any license provided for by this article or may reprimand, censure, or place on probation any licensed dentist or dental hygienist after notice and hearing, which may be conducted by an administrative law judge, pursuant to the provisions of article 4 of title 24, C.R.S., or it may issue a letter of admonition without a hearing by certified mail (except that any licensed dentist or dental hygienist to whom such a letter of admonition is sent may, within twenty days after receipt of the letter, request in writing to the board a formal hearing thereon, and the letter of admonition shall be deemed vacated, and the board shall, upon such request, hold such a hearing) for any of the following causes:

(k) An act or omission constituting grossly negligent dental or dental hygiene practice or that fails to meet generally accepted standards of dental or dental hygiene practice;

(z) Falsifying or repeatedly making incorrect essential entries or repeatedly failing to make essential entries on patient records.

PRACTICE RESTRICTION: ENDODONTICS

6. Commencing on the effective date of this Stipulation and Order, Respondent’s license to practice dentistry shall be restricted from performing any treatment or procedure related to endodontics. For purposes of this Stipulation and Order, “endodontic treatment or procedure” means any treatment or procedure relating to disease of the pulp, which includes, but is not limited to, a root canal, a restorative endodontic procedure, a rotary endodontic procedure, a microendodontic procedure, a surgical endodontic procedure, and pulp capping.

7. To lift the practice restriction, Respondent must complete twenty-four (24) hours of a comprehensive endodontics course. The Board must preapprove the course prior to Respondent enrolling in such course. Upon completion of the approved course, Respondent shall timely submit documentation of successful completion to the Board.

8. Following completion of the comprehensive endodontics course, Respondent may submit a written petition to the Board to lift the endodontics restriction. The Board has the sole
discretion as to lifting the restriction. Respondent shall not perform any endodontic treatment or procedures until the Board has provided written confirmation to Respondent that the Board has lifted the restriction and that Respondent may resume endodontic treatment and procedures subject to the terms of this Stipulation and Order.

9. If the endodontics restriction is lifted, Respondent must complete the first five (5) endodontics cases with a practice monitor (the practice monitor shall be defined and selected in accordance with paragraph 20 below) with a review of the diagnosis and treatment plan followed by direct, over-the-shoulder observation during the endodontic procedures. Reports from the practice monitor on the diagnosis and treatment plan and over-the-shoulder reviews shall be submitted to the Board within fourteen (14) days of the review for which the report is written. It is Respondent’s responsibility to ensure that all reports are complete and timely submitted to the Board.

10. The terms of paragraphs 24 through 27 below shall be applicable to the practice monitor with regard to the endodontics practice restriction.

11. Nothing in this Stipulation and Order shall be interpreted to expand Respondent’s scope of practice as allowed by applicable law, professional standards, and Respondent’s education, training, or experience.

12. Respondent agrees that this practice restriction is indefinite in duration and may continue even after the probationary period is complete.

**PROBATION**

13. Commencing on the effective date of this Stipulation and Order, Respondent’s license shall be placed on probation for a period of twelve (12) months and until all terms have been completed and accepted by the Board.

14. Credit for the period of probation shall be given only for the periods of time in which Respondent is in full compliance with all terms of this Stipulation and Order.

15. Unless otherwise specified, all terms of the Stipulation and Order and all terms of probation shall remain in effect from the effective date of this Stipulation and Order until probation is terminated.

**CPEP DOCUMENTATION SEMINAR AND POST-PROGRAM**

16. Respondent must successfully complete all portions of the Center for Personalized Education for Physicians (“CPEP”) Documentation Seminar, including the post-program (www.cpepdoc.org/programs-courses/medical-record-keeping-seminar/follow-up-program), within six (6) months of the effective date of this Stipulation and Order.

17. Respondent shall request that CPEP provide the Board with a final report following completion of the post-program. Respondent shall assure that such a final report is received by the Board within six (6) months of the effective date of this Stipulation and Order.
18. All instructions issued by CPEP shall constitute terms of this Stipulation and Order. Respondent shall comply with all CPEP instructions within the time periods established by CPEP and/or the Board.

PRACTICE MONITOR

19. Commencing on the effective date of this Stipulation and Order and subject to paragraphs 6 through 12 above, Respondent’s practice of dentistry shall be monitored by a practice monitor until Respondent completes at least five (5) endodontics cases. Respondent shall not perform any act constituting endodontics until a practice monitor has been approved by the Board. Respondent shall not receive credit for the period of probation until the Board has approved a practice monitor.

20. After the practice restriction is lifted and prior to performing any act constituting the practice of endodontics, Respondent shall submit to the Board, using a Board-approved form, a Colorado-licensed dentist to serve as Respondent’s practice monitor. For each state in which the nominee is licensed, the nominee’s license must be in good standing. The Board may deny a nominee who fails to meet the qualifications set forth in the approved form or for other good cause.

21. Respondent shall provide the practice monitor with a copy of this Stipulation and Order.

22. Respondent shall engage the practice monitor to be present and personally observe the initial evaluation, diagnosis, and treatment planning for Respondent’s first five (5) endodontics cases. Respondent shall not initiate endodontic treatment on any of the first five endodontics cases until the practice monitor has reviewed and approved Respondent’s treatment plan for each specific case.

23. At least once each month and until Respondent completes at least five (5) endodontics cases, on dates randomly selected by the practice monitor, the practice monitor shall visit each office where Respondent practices dentistry and will review all charts maintained by Respondent in cases for which Respondent is rendering endodontic care.

24. If, at any time, the practice monitor believes Respondent is not practicing in accordance with generally accepted standards of dental practice in Colorado, is not in compliance with this Stipulation and Order, is unable to practice with skill and safety to patients, or has violated or is violating any other provisions of the Dental Practice Act, the practice monitor shall immediately inform the Board in writing, provide a detailed description of the occurrence or conduct, and state the practice monitor’s findings or conclusions in connection therewith.

25. The Board may direct the practice monitor to review matters in addition to Respondent’s dental charts, and the practice monitor is authorized to review such other records maintained by Respondent as the practice monitor deems appropriate.

26. If the practice monitor fails to perform the duties set forth in this Stipulation and Order, upon notice to Respondent, the Board may terminate the practice monitor’s approval and
may require Respondent to nominate a new practice monitor. Within 30 days of such notice, Respondent shall nominate a new practice monitor according to the procedure set forth above.

27. Respondent shall ensure that all reports by the practice monitor are complete and timely submitted to the Board on Board-approved practice monitoring forms. Respondent understands that the Board may accept a report, reject a report, refer the matter for additional disciplinary proceedings, or take any further action authorized by law.

**TERMINATION OF PROBATION**

28. At the end of the probationary period, after Respondent has successfully completed all terms and conditions of this Stipulation and Order, Respondent must request termination of probation. With Respondent’s written request to terminate probation, Respondent shall establish, through written and other documentation satisfactory to the Board, that Respondent has satisfied all terms and conditions of probation.

**OTHER TERMS**

29. Respondent shall comply fully with this Stipulation and Order, the Dental Practice Act, all Board rules and regulations, and all other laws related to the practice of dentistry.

30. If Respondent relocates outside of Colorado, Respondent shall notify the Board of the change of address within 30 days of such relocation. Respondent understands that the Board will notify the board of examiners, or the equivalent regulatory agency, of the jurisdiction to which Respondent relocates of the existence and terms of this Stipulation and Order.

31. During pendency of the terms of this Stipulation and Order, Respondent shall attend any meeting with the Board upon 30 days notice from the Board if Respondent resides in Colorado and upon 60 days notice if Respondent resides out of state.

32. Respondent understands Respondent’s right to receive a formal notice of charges and to have a formal disciplinary hearing pursuant to section 12-35-129(1), C.R.S. By entering into this Stipulation and Order, Respondent knowingly and voluntarily waives those rights. Admits the facts contained in this Stipulation and Order, relieves the Board of its burden of proving such facts, and waives the right to present a defense by oral and documentary evidence. Respondent hereby requests that the Board accept this Stipulation and Order with the same force and effect as an order entered into as a result of a formal disciplinary hearing. Respondent further waives the right to appeal or seek judicial review of the Stipulation and Order entered herein.

33. Respondent acknowledges and agrees that any violation of this Stipulation and Order is a violation of a lawful Board order pursuant to section 12-35-129(1)(i), C.R.S., is grounds for further proceedings pursuant to the Dental Practice Act, and may constitute a basis for further disciplinary action. If this matter is referred to hearing for violation of this Stipulation and Order, this Stipulation and Order shall be admissible as evidence. If an alleged violation of this Stipulation and Order proceeds to hearing and the facts that constitute the violation are not proven, no further disciplinary action shall be taken by the Board, and this Stipulation and Order
shall remain operative and in full force and effect. The pendency of any disciplinary action pursuant to this Stipulation and Order shall not affect the obligation of Respondent to comply with the terms of this Stipulation and Order.

34. This Stipulation and Order is entered into by Respondent voluntarily, after the opportunity to consult with counsel, and with full understanding of the legal consequences of this Stipulation and Order. The parties agree that no term of this Stipulation and Order is unconscionable.

35. All costs and expenses incurred by Respondent to comply with this Stipulation and Order shall be the sole responsibility of Respondent, and shall in no way be the obligation of the Board.

36. This Stipulation and Order constitutes the entire agreement between the parties. There are no other agreements or promises, written or oral, that modify, interpret, construe, or affect this Stipulation and Order. If a court of competent jurisdiction deems a provision unenforceable, such provision shall be severed, and the remainder of this Stipulation and Order shall be given full force and effect.

37. This Stipulation and Order is a public record in the custody of the Board at all times and shall be reported as required or otherwise authorized by law.

38. This Stipulation and Order shall not become an order of the Board unless accepted and signed by all parties.

39. The effective date of this Stipulation and Order shall be the date it is either: (a) deposited in the United States mail, first-class postage prepaid, to Respondent’s address of record with the Board, or (b) served by electronic means to Respondent at Respondent’s electronic address of record with the Board. Respondent hereby consents to service by electronic means if Respondent has an electronic address on file with the Board.

40. In the event this Stipulation and Order does not become an order of the Board, it shall be void and Respondent shall not be bound by any provisions or admissions herein.

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AGREED TO AND ACCEPTED BY:

RESPONDENT

Cyrus Rizvi, D.D.S.

COLORADO DENTAL BOARD
INQUIRY PANEL A

By: Maulid Miskell
Program Director
1560 Broadway, Suite 1350
Denver, CO 80202

The FOREGOING Stipulation and Final Agency Order is effective upon service to Respondent, on this 2nd day of September, 2015.