STATE OF NEVADA
BETORE THE BOARD OF DENTAL EXAMINERS

NEVADA STATE BOARD OF DENTAL EXAMINERS,

Complainant,

vs.

SUZAN FU, DDS,

Respondent.

Case No. 74127-02936

CORRECTIVE ACTION NON-DISCIPLINARY STIPULATION AGREEMENT

IT IS HEREBY STIPULATED AND AGREED by and between SUZAN FU, DDS ("Respondent" or "Dr. Fu"), by and through her attorney, PATRICIA EGAN DAEHNKE, ESQ. of the law firm DAEHNKE STEVENS, LLP, the NEVADA STATE BOARD OF DENTAL EXAMINERS (the "Board"), by and through DONNA HELLMINKEL, DDS, Disciplinary Screening Officer ("DSO"), and the Board’s legal counsel, JOHN A. HUNT, ESQ., of the law firm MORRIS, POLICH & PURDY, LLP as follows via this Corrective Action Non-Disciplinary Stipulation Agreement ("Stipulation Agreement" or "Stipulation"): 

OCTOBER 9, 2009, STIPULATION AGREEMENT

1. On September 18, 2009, Respondent entered into a Stipulation Agreement with the Board in case no. 09-01838 which was approved by the Board on October 9, 2009. Respondent successfully completed all of the terms and conditions of the Stipulated Agreement entered into with the Board on October 9, 2009.

2. Via a Notice of Complaint & Request for Records dated February 11, 2015, the Board notified Respondent of a verified complaint received from Jerry and Margaret Matherly. Via

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Respondent’s initials

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Respondent’s attorney’s initials
letter dated February 27, 2015, Respondent’s attorney was advised that her request for an 
extension to file an answer to Mr. and Mrs. Matherly’s verified complaint was granted to and 
including March 13, 2015. On March 13, 2015, the Board received Respondent’s written 
response (w/enclosures) dated March 13, 2015 in response to Mr. and Mrs. Matherly’s verified 
complaint, a copy of which was provided to Mr and Mrs. Matherly on March 18, 2015. On April 
28, 2015, the Board received dental records from Dr. James Whalen regarding Mr. and Mrs. 
Matherly pursuant to the DSO’s request, copies of which were provided to Mr. and Mrs. 
Matherly and to Respondent and her attorney on April 30, 2015. On June 16, 2015, the Board 
received periodontal charting documents from Dr. Fu regarding Mr. and Mrs. Matherly pursuant 
to the DSO’s request, copies of which were provided to Mr. and Mrs. Matherly and to 
Respondent and her attorney on June 16, 2015.

3. Based upon the limited investigation conducted to date, DSO, Donna Hellwinkel, DDS, 
believes for this matter and not for any other purpose, including any subsequent civil action, 
Respondent violated NAC 631.230(1)(c) with respect to treatment rendered to patient, Jerry 
Matherly, as follows:

A. Respondent’s record keeping was unacceptable. This patient’s records reveal 
there was no periodontal charting, medical history or periodontal diagnosis made. Poor 
documentation of restorative treatments: records do not include types of restorative 
materials used or explanation of restorative techniques done. No endodontic diagnosis 
for tooth #6.

B. Respondent’s radiographs and radiographic techniques were unacceptable. No 
biteewing x-rays taken as part of initial intraoral series and the patient has a high decay 
rate. The six periapical x-rays taken as the initial intraoral complete series are 
undiagnostic.

C. Respondent’s placement of a post in Tooth #6 was unacceptable. Insufficient 
post length for tooth #6. The post cemented in canine tooth #6 is only 2 mm below the 
DEJ, thus, making the post insufficient for either root stability or for retention of crown.

D. Respondent’s authorization to perform four (4) quadrants of scaling and root
planing was unacceptable. Respondent records for this patient are insufficient to justify the authorization of four quadrants of scaling and root planing.

E. Respondent failed to use a rubber dam to prevent contamination of the endodontic procedures; Respondent was performing on Tooth #6.

F. Respondent failed in a timely manner to provide the Board with a complete copy of patient’s records for Jerry Matherly.

4. Based upon the limited investigation conducted to date, DSO, Donna Hellwinkel, DDS, believes for this matter and not for any other purpose, including any subsequent civil action, Respondent violated NAC 631.230(1)(c) with respect to treatment rendered to patient, Margaret Matherly, as follows:

A. Respondent’s record keeping was unacceptable. No medical history. No periodontal diagnosis. No periodontal assessment that would include amount of plaque or calculus and condition of tissue. No recording of materials used and no laboratory slips in chart. No explanations or descriptions of treatment.

B. Respondent’s radiographs and radiographic techniques were unacceptable. Respondent’s radiographs were nondiagnostic based upon the radiographs being overexposure, cone cuts, and apices were not captured.

C. Respondent’s periodontal treatment of this patient was unacceptable. Periodontal charting shows generalized probing depths of 2 to 4 mm. No periodontal assessment made. The generalized recorded pocket depths and radiographic evidence is insufficient to warrant this patient receiving four (4) quadrants of scaling and root planing.

D. Respondent failed in a timely manner to provide the Board with a complete copy of patient’s records for Margret Matherly.

5. Respondent, without admitting to the opinions of the DSO, Donna Hellwinkel, DDS, contained in Paragraph 3 (re: Patient, Jerry Matherly) and Paragraph 4 (re: Patient, Margaret Matherly), for settlement purposes only, and not for any other purpose (including any subsequent civil action), acknowledges if this matter were to proceed to a full board hearing, a sufficient quantity and/or quality of evidence could be proffered sufficient to meet a preponderance of the evidence standard of proof regarding the matters contained in Paragraph 3 (re: Patient, Jerry

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[Signature] Respondent’s attorney’s initials
Matherly) and **Paragraph 4** (re: Patient, Margaret Matherly), including that Respondent violated the regulatory provision(s) noted therein.

6. Based upon the limited investigation conducted to date, the opinions of the DSO, Donna Hellwinkel, DDS, and Respondent’s acknowledgment contained in **Paragraph 5**, the parties have agreed to resolve the pending investigation(s) pursuant to the following non-disciplinary corrective terms and conditions:

   **A.** Respondent agrees her dental practice shall be monitored for a period of twelve (12) months from the adoption of this Stipulation Agreement by the Board (sometimes referred to as the “monitoring period”). During the monitoring period, Respondent shall allow either the Executive Director of the Board and/or the agent appointed by the Executive Director of the Board to inspect Respondent’s records during normal business hours to insure compliance of this Stipulation. During the monitoring period, Respondent’s practice shall be monitored regarding scaling, root planning, crowns, fillings, record keeping, and billing practices. Such monitoring shall include, but will not be limited to, personally observing the treatment rendered to those patients who receive the above-referenced dental procedures and/or treatments. Respondent further acknowledges the Disciplinary Screening Officer and or an agent appointed by the Executive Director may contact patient(s) who have received the above-referenced dental procedures and/or treatments.

   **B.** Respondent also agrees in the event Respondent no longer practices dentistry in the State of Nevada prior to completion of the above-referenced monitoring period, the monitoring period shall be tolled. For purposes of the tolling of the monitoring period, reference to the "monitoring period" shall also include all terms and conditions noted in **Paragraphs 6.A. and 6.C.** (so there is no misunderstanding, should the monitoring period be tolled, it then also means the terms and conditions of **Paragraphs 6.A. and 6.C.** are also tolled). In the event the monitoring period is tolled because Respondent does not practice in the State of Nevada and the terms and conditions of this Stipulation Agreement are not satisfied (i.e., including completion of the monitoring period) within two (2) years from the adoption of this Stipulation Agreement by the Board, Respondent agrees her license to practice dentistry in Nevada will be deemed voluntarily surrendered with disciplinary action. Thereafter, the Board’s Executive Director, without any further action or hearing by the Board, shall issue an Order of Voluntary Surrender with disciplinary action and report same to the National Practitioners Data Bank.

   **C.** Respondent further agrees during the above-referenced monitoring period wherein Respondent is practicing dentistry in the State of Nevada, Respondent shall maintain a
daily log containing the following information for patients receiving scaling, root planning, crowns, or fillings:

1. Name of patient
2. Date treatment commenced
3. Explanation of treatment
4. Pre and Post radiographs

The daily logs shall be maintained at Respondent dental office and made available during normal business hours without notice. Failure to maintain and/or provide the daily log(s) upon request by an agent of the Board shall be an admission of unprofessional conduct. Upon receipt of substantial evidence that Respondent has either failed to maintain or has refused to provide the daily log(s) upon request by an agent assigned by the Executive Director, or Respondent has refused to provide copies of patient records requested by the agent assigned by the Executive Director, Respondent agrees her license to practice dentistry in the State of Nevada shall be automatically suspended without any further action of the Board other than the issuance of an Order of Suspension by the Executive Director. Thereafter, Respondent may request, in writing, a hearing before the Board to reinstate Respondent's license. However, prior to a full Board hearing, Respondent waives any right to seek judicial review, including injunctive relief from any court of competent jurisdiction, including a Nevada Federal District Court or Nevada State District Court to reinstate her license/privilege to practice dentistry in the State of Nevada pending a final Board hearing. Respondent shall also be responsible for any costs or attorney's fees incurred in the event the Board has to seek injunctive relief to prevent Respondent from practicing dentistry during the period Respondent's license is automatically suspended.

D. Respondent agrees that addition to completing the required continuing education, Respondent shall obtain an additional twenty-eight (28) hours of supplemental education as follows:

1. Seven (7) hours re: scaling and root planning
2. Seven (7) hours re: crowns
3. Seven (7) hours re: fillings
4. Seven (7) hours re: record keeping and billing practices

Information, documents, and/or description for the above-referenced supplemental education must be submitted in writing to the Executive Director of the Board for approval prior to attendance. Upon the receipt of the written request to attend the supplemental education, the Executive Director of the Board shall notify Respondent in writing whether the requested supplemental education is approved for attendance. Respondent agrees fifty percent (50%) of the supplemental education in each category shall be completed through attendance at live lecture and/or hands on clinical demonstration and the remaining fifty percent (50%) of the supplemental education in
each category may be completed through online/home study courses. The cost associated
with this supplemental education shall be paid by Respondent. All of the supplemental
education must be completed within six (6) months of the adoption of this Stipulation by
the Board. In the event Respondent fails to complete the supplemental education set forth
in paragraph 6.D, within six (6) months of adoption of this Stipulation by the Board,
Respondent agrees her license to practice dentistry in the State of Nevada may be
automatically suspended by the Board’s Executive Director without any further action of
the Board other than the issuance of an Order of Suspension by the Executive Director.
Upon Respondent submitting written proof of the completion of the supplemental
education and paying the reinstatement fee pursuant to NRS 631.345, Respondent’s
license to practice dentistry in the State of Nevada will automatically be reinstated by the
Executive Director of the Board, assuming there are no other violations of any of the
provisions contained in this Stipulation. Respondent agrees to waive any right to seek
injunctive relief from any Federal or State of Nevada District Court to prevent the
automatic suspension of Respondent’s license to practice dentistry in the State of Nevada
due to Respondent’s failure to comply with Paragraph 6.D. Respondent shall also be
responsible for any costs or attorney’s fees incurred in the event the Board has to seek
injunctive relief to prevent Respondent from practicing dentistry during the period
Respondent’s license is automatically suspended.

E. Respondent agrees that within thirty (30) days of adoption of this Stipulation Agreement
by the Board, Respondent shall reimburse the Board for the cost of the investigation as of
May 26, 2016, in the negotiated amount of Five Thousand, Nine Hundred, Fifty-seven &
81/100 ($5,957.81), not including any cost that may be incurred due to monitoring during
the monitoring period of this Stipulation Agreement (see below regarding same). Payment
shall be made payable to the Nevada State Board of Dental Examiners and
mailed directly to 6010 S. Rainbow Blvd., Suite A1, Las Vegas, Nevada 89118.

F. Respondent agrees during the monitoring period, Respondent shall be responsible for all
costs incurred during the monitoring period relative to monitoring activities and
monitoring costs. Said costs shall not exceed fifty ($50.00) dollars per hour. Respondent
shall reimburse the Board within thirty (30) days of written request for reimbursement of
the same.

G. Respondent agrees to reimburse Patient, Jerry Matherly, in the amount of Six Hundred,
ninety-seven and xx/100 Dollars ($697.00) relative to matters addressed above regarding
Mr. Matherly. Respondent also agrees to waive any balance, if any, and withdraw any
and all collection efforts, if any such efforts have been initiated regarding Mr. Matherly.
Payment of the $1,452.00 shall be made with thirty (30) days of the Board adopting this
Stipulation. Respondent shall deliver/mail to the Board (6010 S. Rainbow Blvd., Suite
A1, Las Vegas, Nevada 89118) check made payable to Jerry Matherly.

H. Respondent agrees to reimburse Patient, Margaret Matherly, in the amount of Six
Hundred Forty and xx/100 Dollars ($640.00) relative to matters addressed above
regarding Mrs. Matherly. Respondent also agrees to waive any balance, if any, and withdraw any and all collection efforts, if any such efforts have been initiated regarding Mrs. Matherly. Payment of the $640.00 shall be made with thirty (30) days of the Board adopting this Stipulation. Respondent shall deliver/mail to the Board (6010 S. Rainbow Blvd., Suite A1, Las Vegas, Nevada 89118) check made payable to Margaret Matherly.

I. In the event Respondent defaults (which includes failure to timely pay) any of the payments set forth in Paragraph 6 and any of its subparts, Respondent agrees her license to practice dentistry in the State of Nevada may be automatically be suspended without any further action of the Board other than issuance of an Order of Suspension by the Board’s Executive Director. Upon curing the default of the applicable defaulted payment contained in Paragraph 6 and paying the reinstatement fee, Respondent’s license to practice dentistry in the State of Nevada will automatically be reinstated by the Board’s Executive Director, assuming there are no other violations by Respondent of any of the provisions contained in this Stipulation Agreement. Respondent shall also be responsible for any costs or attorney’s fees incurred in the event the Board has to seek injunctive relief to prevent Respondent from practicing dentistry during the period in which her license is suspended. Respondent agrees to waive any right to seek injunctive relief from any court of competent jurisdiction, including a Nevada Federal District Court or a Nevada State District Court to reinstate her license prior to curing any default on the amounts due and owing as addressed above.

J. In the event Respondent fails to cure any defaulted payments within forty-five (45) days of the default, Respondent agrees the amount may be reduced to judgment.

K. Respondent waives any right to have any amount(s) owed pursuant to this Stipulation discharged in bankruptcy.

CONSENT

7. Respondent has read all of the provisions contained in this Stipulation Agreement and agrees with them in their entirety. Respondent recognizes and agrees this Stipulation Agreement is the result of voluntary settlement negotiations which involved give and take, and the final agreement (i.e., this Stipulation Agreement) is a voluntary compromise.

8. Respondent is aware by entering into this Stipulation Agreement she is waiving certain valuable due process rights contained in, but not limited to, NRS 631, NAC 631, NRS 233B and NAC 233B.

\[ \text{Signature}\]

Respondent’s initials

\[ \text{Signature}\]

Respondent’s attorney’s initials

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9. Respondent expressly waives any right to challenge the Board for bias in deciding whether or not to adopt this Stipulation Agreement in the event this matter was to proceed to a full Board hearing.

10. Respondent and the Board agree any statements and/or documentation made or considered by the Board during any properly noticed open meeting to determine whether to adopt or reject this Stipulation Agreement are privileged settlement negotiations and, therefore, such statements or documentation may not be used in any subsequent Board hearing or judicial review, whether or not judicial review is sought in either the State or Federal District Court.

11. Respondent acknowledges she has read this Stipulation Agreement. Respondent acknowledges she has been advised he has the right to have this matter reviewed by independent counsel and she has had ample opportunity to seek independent counsel. Respondent has been specifically informed she should seek independent counsel and advice of independent counsel would be in Respondent’s best interest. Having been advised of his right to independent counsel, as well as having the opportunity to seek independent counsel, Respondent has retained PATRICIA EGAN DAEHNKE, ESQ. of the law firm DAEHNKE STEVENS, LLP, as her attorney and has reviewed this Stipulation with her attorney. Respondent specifically acknowledges she understands this Stipulation’s terms and terms and conditions and agrees with the same.

12. Respondent acknowledges she is consenting to this Stipulation Agreement voluntarily, without coercion or duress and in the exercise of her own free will.

13. Respondent acknowledges no other promises in reference to the provisions contained in this Stipulation Agreement have been made by any agent, employee, counsel or any person affiliated with the Nevada State Board of Dental Examiners.

14. Respondent acknowledges the provisions in this Stipulation Agreement contain the entire agreement between Respondent and the Board and the provisions of this Stipulation Agreement
can only be modified, in writing, with Board approval.

15. Respondent agrees in the event the Board adopts this Stipulation Agreement, she hereby waives any and all rights to seek judicial review or otherwise to challenge or contest the validity of the provisions contained herein.

16. Respondent and the Board agree none of the parties shall be deemed the drafter of this Stipulation Agreement. In the event this Stipulation Agreement is construed by a court of law or equity, such court shall not construe it or any provision hereof against any party as the drafter. The parties hereby acknowledge all parties have contributed substantially and materially to the preparation of this Stipulation Agreement.

17. Respondent specifically acknowledges by her signature herein and by her initials at the bottom of each page of this Stipulation Agreement, she has read and understands its terms and acknowledges she has signed and initialed of her own free will and without undue influence, coercion, duress, or intimidation.

18. Respondent acknowledges in consideration of execution of this Stipulation Agreement, Respondent hereby releases, remises, and forever discharges the State of Nevada, the Board, and each of their members, agents, employees and legal counsel in their individual and representative capacities, from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims, and demands whatsoever, known and unknown, in law or equity, that Respondent ever had, now has, may have, or claim to have against any or all of the persons or entities named in this section, arising out the complaint(s) of the above-referenced Patient(s), the investigation of this matter, and/or the negotiation and preparation of this Stipulation.

19. Respondent acknowledges in the event the Board adopts this Stipulation Agreement, it may be considered in any future Board proceeding(s) or judicial review, whether such judicial review is performed by either the State or Federal District Court(s).

20. This Stipulation Agreement will be considered by the Board in an open meeting. It is 

\[\text{Signed:}\]

Respondent’s initials

\[\text{Signed:}\]

Respondent’s attorney’s initials

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understood and stipulated the Board is free to accept or reject this Stipulation Agreement and if it is rejected by the Board, the Board may take other and/or further action as allowed by statute, regulation, and/or appropriate authority. This Stipulation Agreement will only become effective when the Board has approved the same in an open meeting. Should the Board adopt this Disciplinary Stipulation Agreement, such adoption shall be considered a final disposition of a contested case, will become a public record, and will be reported or not reported to the National Practitioner Data Bank in accordance with applicable law. Based upon the current status of the law as understood by the parties, this Correction Action Non-Disciplinary Stipulation Agreement is not reportable to the National Practitioner Data Bank.

DATED this 26 day of May 2016.

By
Suzan Fu, DDS
Respondent

APPROVED AS TO FORM AND CONTENT

By Patricia Daehnke this 26th day of May, 2016.
Patricia Egan Daehnke, Esq.
Daehnke Stevens, LLP
Respondent’s Counsel

APPROVED AS TO FORM AND CONTENT

By John A. Hunt, Esq.
Morris Polich & Purdy, LLP
Board Counsel

APPROVED AS TO FORM AND CONTENT

By Donna Hellwinkel DDS this 26 day of May, 2016.
Donna Hellwinkel, DDS
Disciplinary Screening Officer
BOARD ACTION

This Corrective Action Non-Disciplinary Stipulation Agreement in the matter captioned as Nevada State Board of Dental Examiners vs. Suzan Fu, DDS, case no. 74127-02936 was (check appropriate action):

Approved V Disapproved

by a vote of the Nevada State Board of Dental Examiners at a properly noticed meeting

DATED this 15 day of July, 2016.

[Signature]

Timothy T. Pinther, DDS - President
NEVADA STATE BOARD OF DENTAL EXAMINERS

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