



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-980820-008)

In The Matter Of:

MATTHEW EARL FISHER, R.Ph.

100 Winding Way, Apt. B
Kenton Hills, Kentucky 41011
(R.Ph. No. 03-2-12681)

INTRODUCTION

THE MATTER OF MATTHEW EARL FISHER CAME TO HEARING ON APRIL 6, 1999, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ROBERT B. CAVENDISH, R.Ph. (presiding); ANN D. ABELE, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; SUZANNE L. NEUBER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

MATTHEW EARL FISHER WAS REPRESENTED BY DOUGLAS E. GRAFF, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) None

Respondent's Witnesses:

- (1) Matthew E. Fisher, R.Ph., Respondent
(2) Jerome Bayer, Parenthesis Family Advocates
(3) Wayne C. Miller, R.Ph.

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of five-page Settlement Agreement with the State Board of Pharmacy, in the matter of Matthew Earl Fisher, Docket No. D-971210-025, effective April 6, 1998.

- (2) Exhibit 1A--Hearing Request letter of Matthew Earl Fisher submitted by Douglas E. Graff, Esquire dated August 5, 1998.
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated August 20, 1998.
- (4) Exhibit 1C--Copy of Hearing Schedule letter dated November 25, 1998.

Respondent's Exhibits:

- (1) Exhibit A--Copy of three Weekly Record of Meeting Attendance sheets dated from March 27, 1999, through April 3, 1999.
- (2) Exhibit B--Copy of handwritten summary of Additional Hours Located After March 24, 1999, listed as follows: 332-000-96-005-H01, 322-000-96-006-H01, 014-999-97-057-H01, and 049-999-96-005-L04. Copies of three continuing pharmacy education certificates of participation of Matthew Earl Fisher as follows: 049-999-96-005-L04 dated July 30, 1996; 014-999-97-057-H01 dated August 31, 1997; 057-999-96-088-H01 dated April 3, 1997. Copy of Certificate of Completion for Bone Marrow Transplant Overview dated April 16, 1996.
- (3) Exhibit C--Binder with subsections containing the following: Copy of unfinalized five-page Settlement Agreement With The State Board of Pharmacy in the matter of Matthew Earl Fisher, Docket No. D-971210-025. Section 1: Copies of three letters from Gloria J. Bryan dated March 24, 1999; December 16, 1998, and December 15, 1998. Copy of Talbot Recovery Services at Park Medical Center Release Of Information Concerning Alcohol/Drug Treatment of Matthew Earl Fisher dated March 23, 1999. Copy of two-page Park Medical Center Talbot Recovery Services Policy No. 59 dated for the period August 25, 1995, to August 21, 1997. Copies of seven Talbot Recovery Services at Park Medical Center Continuing Care Program reports of Matthew Earl Fisher dated February 23, 1999; December 9, 1998; October 21, 1998; September 1, 1998; July 28, 1998; June 16, 1998; April 28, 1998. Copy of two-page Talbot Recovery Services at Park Medical Center Continuing Care Plan dated March 3, 1998. Section 2: Copy of Memorandum from Kevin B. Hawkins dated March 25, 1999. Copy of sixteen urine drug screen reports of Matthew Earl Fisher dated March 17, 1999; March 4, 1999; January 27, 1999; December 29, 1998; December 16, 1998; November 25, 1998; November 17, 1998; November 11, 1998; September 3, 1998; August 21, 1998; August 19, 1998; July 27, 1998; June 12, 1998; May 22, 1998; April 29, 1998, and March 17, 1998. Copy of completed Breath Alcohol Testing Form dated November 16, 1998. Section 3: Copies of two letters as follows: from David W. Baker dated March 28, 1999 and from Wayne C. Miller dated March 22, 1999. Copy of two-page Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of Matthew Earl Fisher dated April 6, 1998. Copy of Pharmacists Helping Fellow Pharmacists Rehabilitation Contract of Matthew Earl Fisher dated October 31, 1998. Section 4: Copy of thirty-four pages of meeting attendance records dated from December 13, 1997, through March 23, 1999. Section 5: Copy of three-page handwritten summary of continuing pharmacy education courses listed as follows: 014-999-96-122-H04, 022-00098128-L01, 022-00098140-L03, 022-00098159-L04, 022-0098139-L01, 057-999-96-009-H01, 057-999-97-077-H01, 057-999-96-088-H01, 424-999-97-010-H01, 071-000-96-007-H01,

332-000-96-001-H03, 332-000-96-002-H01, 057-999-96-016-H01, 332-000-96-003-H01, 332-000-96-004-H01, 202-000-96-010-H01, 415-000-98-006-H01, 032-999-98-008-H01, 202-000-96-027-H04, 202-000-96-026-H04, and 202-000-96-025-H04. Copies of three pages of continuing education certificates of Matthew Earl Fisher as follows: C.H.S. No. 1100-479-S dated August 3, 1998; Certificate No. 136059 listing A.C.P.E. Program Nos. 022-00098128L01 dated September 10, 1998, 022-00098140L03 dated September 11, 1998, 022-00098159L04 dated September 10, 1998, and 022-00098139L01 dated September 10, 1998; and three copies of A.C.P.E. I.D. No. 014-999-96-122-H04 dated

June 30, 1997. Section 6: Copy of six letters as follows: from Thomas W. Ashleman dated March 19, 1999; Jerome Bayer dated March 22, 1999; John F. Richard, not dated; Greg Jacob dated March 22, 1999; Thomas L. Geraci dated March 23, 1999; and Doug Ingle, not dated. Section 7: Copy of Letter from Michael A. Moné dated July 29, 1998 and copy of five-page Kentucky Board of Pharmacy Order on Reinstatement of Matthew E. Fisher dated September 11, 1998. Section 8: Copy of three letters as follows: from Robert J. Dougherty dated August 19, 1998; Benjamin P. Kelch dated August 19, 1998; and Thomas C. Harris, not dated. Section 9: Copy of letter from Matthew Earl Fisher addressed to Rosanne Markin dated September 25, 1998.

FINDING OF FACT

After having heard the testimony, considered the evidence, observed the demeanor of the witnesses, and weighed their credibility, the State Board of Pharmacy finds the following to be fact:

- (1) Matthew Earl Fisher has not complied with the terms set forth in the Settlement Agreement with the Ohio State Board of Pharmacy, Docket No. D-971210-025, effective April 6, 1998.

ACTION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy denies the reinstatement petition of Matthew Earl Fisher. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Matthew Earl Fisher may not be employed by or work in a facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs while his license is suspended.

- (A) December 1, 1999, or thereafter, the Board will consider any petition filed by Matthew Earl Fisher for a hearing, pursuant to Revised Code Chapter 119., upon the question of the reinstatement of his license to practice pharmacy in Ohio.
- (B) The Board will consider the reinstatement of the license only if the following conditions have been met:

- (1) Matthew Earl Fisher must maintain his current contract with the Pharmacists Rehabilitation Organization, Inc.
 - (a) **Random, observed** urine drug screens shall be conducted at least every month. The urine sample must be given within eight hours of notification. The urine drug screen must report testing for alcohol, hydrocodone, and other drugs of abuse; and, the testing must be performed within 48 hours from the time the sample is given. The urine drug screen must also report testing for creatinine or specific gravity of the sample as the dilutional standard;
 - (b) Regular attendance, at least three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meetings, and at meetings of a professional support group, is required during outpatient treatment and/or during aftercare; and
 - (c) The program shall immediately report to the Board of Pharmacy any positive urine screens and/or other violations of the contract.
- (2) Matthew Earl Fisher, upon petitioning the Board for reinstatement, must provide written documentation from the treatment provider(s) regarding compliance with the program(s), and copies of all urine screen reports.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY.

MOTION CARRIED.

SO ORDERED.



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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-990527-050)

In The Matter Of:

MATTHEW EARL FISHER, R.Ph.

100 Winding Way, Apt. B
Kenton Hills, Kentucky 41011
(R.Ph. No. 03-2-12681)

INTRODUCTION

THE MATTER OF MATTHEW EARL FISHER CAME TO HEARING ON DECEMBER 13, 1999, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ROBERT B. CAVENDISH, R.Ph. (presiding); ANN D. ABELE, R.Ph.; DIANE C. ADELMAN, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; LAWRENCE J. KOST, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; SUZANNE L. NEUBER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

MATTHEW EARL FISHER WAS REPRESENTED BY DOUGLAS E. GRAFF, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) None

Respondent's Witnesses:

- (1) Matthew Earl Fisher, R.Ph., Respondent
- (2) Wayne Miller, Advocate, Pharmacists Rehabilitation Organization
- (3) David W. Baker, President, Pharmacists Rehabilitation Organization

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of four-page Order of the State Board of Pharmacy, Docket No. D-980820-008, in the matter of Matthew Earl Fisher dated May 5, 1999.

- (2) Exhibit 1A--Copy of five-page Settlement Agreement With The State Board of Pharmacy, Docket No. D-971210-025, in the matter of Matthew Earl Fisher effective April 6, 1998.
- (3) Exhibit 1B--Request For Hearing And Motion To Address The Board submitted by Douglas E. Graff with attached Certificate of Service dated May 24, 1999.
- (4) Exhibit 1C--Copy of Hearing Schedule letter dated May 27, 1999.

Respondent's Exhibits:

- (1) Exhibit A--Binder with subsections containing copies of the following: five-page Settlement Agreement With The State Board of Pharmacy, in the matter of Matthew Earl Fisher, Docket No. D-971210-025, not effective. Section 1-Treatment Records: letter from Gloria J. Bryan, not dated; University Hospitals East Release Of Information Concerning Alcohol/Drug Treatment of Matthew Fisher dated November 9, 1999; Talbot Recovery Services Continuing Care Program report regarding Matt Fisher dated November 1, 1999; Talbot Recovery Services Continuing Care Program report regarding Matt Fisher dated July 27, 1999; Talbot Recovery Services Continuing Care Program report regarding Matt Fisher dated May 20, 1999; two copies of letter from Gloria J. Bryan dated March 24, 1999; Talbot Recovery Services Release Of Information Concerning Alcohol/Drug Treatment of Matthew E. Fisher dated March 23, 1999; letter from Gloria J. Bryan dated December 16, 1998; letter from Gloria J. Bryan dated December 15, 1998; two-page Park Medical Center Talbot Recovery Services Policy No. 59 regarding urine drug screens approved August 25, 1995, and reviewed August 21, 1997; Talbot Recovery Services Continuing Care Program report regarding Matthew Fisher dated February 23, 1999; Talbot Recovery Services Continuing Care Program report regarding Matthew Fisher dated December 9, 1998; Talbot Recovery Services Continuing Care Program report regarding Matthew Fisher dated October 21, 1998; Talbot Recovery Services Continuing Care Program report regarding Matthew Fisher dated September 1, 1998; Talbot Recovery Services Continuing Care Program report regarding Matthew Fisher dated July 28, 1998; Talbot Recovery Services Continuing Care Program report regarding Matthew Fisher dated June 16, 1998; Talbot Recovery Services Continuing Care Program report regarding Matthew Fisher dated April 28, 1998; and two-page Talbot Recovery Services Continuing Care Plan of Matthew Fisher dated March 3, 1998. Section 2-Urine Drug Screens: thirty-eight pages consisting of twenty-five urine drug screen reports of Mathew (sic Matthew) Fisher for samples collected between March 13, 1998, and November 9, 1999; memorandum from Kevin B. Hawkins dated March 25, 1999; and St. Elizabeth Medical Center Breath Alcohol Testing Form of Matthew E. Fisher dated November 16, 1998. Section 3-Pharmacist Recovery Organization: letter from Wayne C. Miller dated November 16, 1999; letter from David W. Baker dated March 28, 1999, letter from Wayne C. Miller dated March 22, 1999; page one of Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of Matthew Fisher dated March 7,

1998; and Pharmacists Helping Fellow Pharmacists Rehabilitation Contract of Matthew Earl Fisher dated October 31, 1998. Section 4-AA/NA Attendance: forty-five pages of meeting attendance verification of Matthew E. Fisher dated from December 13, 1997, through November 16, 1999. Section 5-Continuing Education: fourteen pages consisting of fourteen continuing education certificates of Matthew Earl Fisher numbered 424-999-97-010-H01, 071-000-96-007-H01, 332-000-96-001-H03, 332-000-96-006-H01, 332-000-96-002-H01, 332-000-96-005-H01, 202-000-96-027-H04, 202-000-96-026-H04, 202-000-99-074-H04, 202-000-96-010-H01, 032-999-98-008-H01, 049-999-96-005-L04, 057-999-97-077-H01, and 1100-479-S; program notification titled "Recent Advances in Drug Therapy"; three-page handwritten summary of continuing pharmacy education courses of Matthew E. Fisher; Provider Information sheet listing program numbers 022-00098128L01, 022-00098140L03, 022-00098159L04, and 022-00098139L01; and three certificates numbered 014-999-96-122-H04. Section 6-Letters of Support: letter from Gerauld Gismondi dated November 17, 1999; letter from Christina M. Moreland dated November 15, 1999; letter from Greg Jacobs dated November 18, 1999; two letters from Brian Fingerson dated November 3, 1999, and August 13, 1999; letter from Doug Ingle, not dated; letter from Thomas W. Ashelman dated March 19, 1999; letter from Jerome Bayer dated March 22, 1999; letter from John F. Richard, not dated; letter from Greg Jacobs dated March 22, 1999; and letter from Thomas L. Geraci dated March 23, 1999. Section 7-Kentucky Board of Pharmacy: letter from Matthew E. Fisher dated November 8, 1999; three Kentucky Board of Pharmacy invoices dated April 8, 1999; June 21, 1999; and September 27, 1999; letter from Michael A. Moné dated July 29, 1998; five-page Commonwealth of Kentucky, Kentucky Board of Pharmacy Order on Reinstatement of Matthew E. Fisher dated September 11, 1998. Section 8-Letters Submitted to Kentucky Pharmacy Board: letter from Robert J. Dougherty dated August 19, 1998; letter from Benjamin P. Kelch dated August 19, 1998; and letter from Thomas C. Harris, not dated. Section 9-South Carolina Pharmacy Board: letter from Matthew E. Fisher dated September 25, 1998. Section 10-Material on 48 Hour Testing: pages two through nineteen of a facsimile from Charlie Broussard sent on November 16, 1999, regarding urine drug screening.

FINDING OF FACT

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds the following to be fact:

- (1) Matthew Earl Fisher has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-980820-008, effective May 5, 1999.

ACTION OF THE BOARD

On the basis of the Finding of Fact set forth above, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-2-12681, held by Matthew Earl Fisher to practice pharmacy in the state of Ohio and places him on probation for five years from the date the identification card is issued, with the following conditions:

- (A) Matthew Earl Fisher must enter into a new contract, after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) treatment provider acceptable to the Board for a period of not less than five years and submit a copy of the signed contract to the Board office with the renewal application. The contract must provide that:
 - (1) Random, **observed** urine drug screens shall be conducted at least every three months.
 - (a) The urine sample must be given within twelve hours of notification. The urine screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - (b) Alcohol must be added to the standard urine drug screen. A Breathalyzer may be used to test for alcohol, but an appropriately certified individual must conduct the test within twelve hours of notification.
 - (c) Results of all urine screens must be negative. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract and probation.
 - (2) The intervener/sponsor shall provide copies of all urine screen reports to the Ohio Board of Pharmacy in a timely fashion.
 - (3) Attendance is required a minimum of three times per week at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - (4) The program shall immediately report to the Ohio Board of Pharmacy any violations of the contract and/or lack of cooperation.
- (B) Matthew Earl Fisher must submit quarterly progress reports to the Board; due January 10, April 10, July 10, and October 10, of each year of probation; that include:

- (1) The written report and documentation provided by the treatment program pursuant to the contract, and
 - (2) A written description of Matthew Earl Fisher's progress towards recovery and what he has been doing during the previous three months.
- (C) Other terms of probation are as follows:
- (1) The State Board of Pharmacy hereby declares that Matthew Earl Fisher's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
 - (2) Matthew Earl Fisher may not serve as a responsible pharmacist.
 - (3) Matthew Earl Fisher may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) Matthew Earl Fisher must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.
 - (5) Matthew Earl Fisher must not violate the drug laws of the state of Ohio, any other state, or the federal government.
 - (6) Matthew Earl Fisher must abide by the rules of the Ohio State Board of Pharmacy.
 - (7) Matthew Earl Fisher must comply with the terms of this Order.

Matthew Earl Fisher is hereby advised that the Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY.

MOTION CARRIED.

SO ORDERED.



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SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY (Docket No. D-971210-025)

In The Matter Of:

MATTHEW EARL FISHER, R.Ph.

5351 Nectar Lane

Columbus, Ohio 43235

(R.Ph. No. 03-2-12681)

This Settlement Agreement is entered into by and between Matthew Earl Fisher and the Ohio State Board of Pharmacy, a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

Matthew Earl Fisher enters into this Agreement being fully informed of his rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudication hearing on the issues contained herein.

Matthew Earl Fisher is knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges that have been filed by the Board against Matthew Earl Fisher and in order to obviate the need to conduct an administrative hearing to consider possible disciplinary sanctions against Matthew Earl Fisher's license to practice pharmacy in the state of Ohio, this Agreement is entered into on the basis of the following stipulations, admissions, and understandings:

- (A) The Ohio State Board of Pharmacy is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification card, or impose a monetary penalty on the license holder for violation of any of the enumerated grounds.
- (B) Matthew Earl Fisher neither admits nor denies the allegations stated in the Notice; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same:
 - (1) Records of the Board indicate that Matthew Earl Fisher is a pharmacist registered by this Board to practice pharmacy in the state of Ohio. On or about December 12, 1997, Matthew Earl Fisher's license was summarily suspended in accordance with Sections 3719.121(A) and 3719.121(B) of the Ohio Revised Code.

- (2) Matthew Earl Fisher is addicted to or abusing liquor or drugs and/or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as set forth in Division (A)(3) of Section 4729.16 of the Ohio Revised Code, to wit: Matthew Earl Fisher admitted to an agent of the Board that he has a serious problem with the abuse of alcohol; that he has been stealing and abusing two to six tablets per day of hydrocodone with acetaminophen 5/500; that his abuse has escalated over time; and that he is both physically and psychologically dependent on drugs and alcohol.
- (3) Matthew Earl Fisher did, during unknown times between 1988 and 1997, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Rite Aid, beyond the express or implied consent of the owner, to wit: Matthew Earl Fisher admittedly stole approximately 160 tablets of hydrocodone with acetaminophen 5/500 from Rite Aid pharmacies in the state of Oregon and unknown amounts from Rite Aid pharmacies in Ohio. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) Matthew Earl Fisher did, during unknown times between 1991 and 1992, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Bucyrus Community Hospital, beyond the express or implied consent of the owner, to wit: Matthew Earl Fisher admittedly stole an unknown quantity of hydrocodone with acetaminophen 5/500 from his employer. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (5) Matthew Earl Fisher did, on or about November 18, 1997, obtain or possess a controlled substance when the conduct was not in accordance with Chapters 3719. and 4729. of the Ohio Revised Code, to wit: when confronted for theft of merchandise by Rite Aid Loss Prevention in Woodburn, Oregon, Matthew Earl Fisher consented to a search of his brief case, and in it he possessed without a prescription 24 tablets of hydrocodone with acetaminophen 5/500. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Matthew Earl Fisher knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) The removal of the Summary Suspension Order issued December 12, 1997, pursuant to Sections 3719.121(A) and 3719.121(B) of the Ohio Revised Code.
- (B) The indefinite suspension of his pharmacist identification card, No. 03-2-12681.
 - (1) Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Matthew Earl Fisher may not be employed by or work in a facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
 - (2) Division (B) of Section 4729.16 of the Revised Code provides that: "Any individual whose identification card is revoked, suspended, or refused, shall return his identification card and certificate of registration to the

offices of the state board of pharmacy within ten days after receipt of the notice of such action.” The certificate and identification card should be forwarded by certified mail, return receipt requested.

(C) December 1, 1998, or thereafter, the Board will consider any petition filed by Matthew Earl Fisher for a hearing, pursuant to Revised Code Chapter 119. of the Ohio Revised Code, upon the question of the reinstatement of his license to practice pharmacy in Ohio. The Board will consider the reinstatement of the license only if the following conditions have been met:

(1) Matthew Earl Fisher must enter into a new contract with a limited treatment provider acceptable to the Board for a period of not less than five years from the effective date of this Agreement and, upon signing, submit a copy of the contract to the Board office. The contract must provide:

(a) random, **observed** urine drug screens shall be conducted at least every month. The urine sample must be given within eight hours of notification. The urine drug screen must report testing for alcohol, hydrocodone, and other drugs of abuse; and, the testing must be performed within 48 hours from the time the sample is given. The urine drug screen must also report testing for creatinine or specific gravity of the sample as the dilutional standard;

(b) regular attendance, at least three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meetings, and at meetings of a professional support group, is required during outpatient treatment and/or during aftercare; and

(c) the program shall immediately report to the Board of Pharmacy any positive urine screens and/or other violations of the contract.

(2) Matthew Earl Fisher upon petitioning the Board for reinstatement, must provide evidence of at least one year of documented sobriety including:

(a) the results of an examination of his chemical dependency status including a proposed treatment plan;

(b) any testimonials from others;

(c) all contract(s) with treatment providers and written documentation from the treatment provider(s) regarding compliance with the program(s); and

(d) copies of all urine screen reports.

Matthew Earl Fisher is hereby advised that the Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board shall revoke probation for any violation of the terms of this Agreement occurring during the probation period.

If, in the judgment of the Board, Matthew Earl Fisher appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, revoke probation, modify the conditions of probation, and reduce or extend the period of probation, and/or the Board may institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

Matthew Earl Fisher acknowledges that he has had an opportunity to ask questions concerning the terms of this agreement and that all questions asked have been answered in a satisfactory manner. Any action initiated by the Board based on alleged violation of this Agreement shall comply with the Administrative Procedure Act, Chapter 119. of the Ohio Revised Code.

Matthew Earl Fisher waives any and all claims or causes of action he may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. Matthew Earl Fisher waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

In the event the Board, in its discretion, does not adopt this Agreement as its Adjudication, this settlement offer is withdrawn and shall be of no evidentiary value and shall not be relied upon or introduced in any disciplinary action or appeal by either party. Matthew Earl Fisher agrees that should the Board reject this Agreement and if this case proceeds to hearing, he will assert no claim that the Board was prejudiced by its review and discussion of this Agreement or of any information relating thereto.

This Settlement Agreement shall be considered a public record, as that term is used in Section 149.43 of the Ohio Revised Code, and shall become effective upon the date of the Board President's signature below.

/s/ Matthew E Fisher
Matthew Earl Fisher, Respondent

/d/ April 2, 1998
Date of Signature

/s/ Douglas E Graff
Douglas E. Graff, Attorney for Respondent

/d/ 4/2/98
Date of Signature

/s/ Joseph J. Maslak
Joseph J. Maslak, Vice-President, Ohio State Board of Pharmacy

/d/ 4/6/98
Date of Signature

/s/ Sally Ann Steuk
Sally Ann Steuk, Ohio Assistant Attorney General

/d/ 4-6-98
Date of Signature