



OHIO STATE BOARD OF PHARMACY

77 South High Street, Room 1702; Columbus, OH 43215-6126

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-080414-042)

In The Matter Of:

GREGORY THOMAS FISHER, R.Ph.

1610 Piper Lane, Apt. #208

Centerville, Ohio 45440

(R.Ph. No. 03-2-21259)

INTRODUCTION

The matter of Gregory Thomas Fisher came for hearing on March 3, 2009, before the following members of the Board: Nathan S. Lipsyc, R.Ph. (presiding); Gregory Braylock, R.Ph.; Donald M. Casar, R.Ph.; Elizabeth I. Gregg, R.Ph.; Barton G. Kaderly, Public Member; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

Heather Pasquale, R.Ph., Board Member, absent

Gregory Thomas Fisher was represented by Harry B. Plotnick. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

None

Respondent's Witness:

1. Gregory Thomas Fisher, R.Ph., Respondent

State's Exhibits:

1. Reinstatement Hearing Request Letter from Harry B. Plotnick [09-10-08]
1A-1E. Procedurals
2. State Board of Pharmacy Order In Re Gregory Thomas Fisher, R.Ph. [09-14-07]

Respondent's Exhibits:

- A. PRO Pharmacist's Recovery Contract for Gregory T. Fisher [10-03-07]
- B. Lab Test History Reports [08-28-07 to 08-06-08]
- C. First Lab Test History Reports [08-28-07 to 06-06-08]
- D. Support Group Attendance Records [08-11-07 to 07-30-08]
- E. Continuing Pharmaceutical Education Credits and Certificates [01-10-05 to 04-20-08]
- G. Restitution Documentation [not provided]

H. Letter from Suzanne M. Schmidt to Harry Plotnick [02-19-08]; One Letter of Support [08-07-08]

FINDING OF FACT

After having heard the testimony, observed the demeanor of the witness, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds that Gregory Thomas Fisher has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-070403-037, effective September 14, 2007.

DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-2-21259, held by Gregory Thomas Fisher to practice pharmacy in Ohio and places Gregory Thomas Fisher on probation for five years beginning on the effective date of this Order, with the following conditions:

(A) Gregory Thomas Fisher must enter into a new contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) approved treatment provider or a 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 before his pharmacist identification card is issued. The contract must provide that:

(1) Random, observed urine drug screens shall be conducted at least once each month for the first year and then at least once every three months for the remaining four years.

(a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.

(b) Results of all drug screens must be negative. Refusal of a urine screen or a diluted urine screen is equivalent to a positive result. 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.

(2) The intervener/sponsor shall submit reports to the Board, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.

(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 Board any violations of the contract and/or lack of cooperation.

Gregory Thomas Fisher, R.Ph.

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Order of the Board

(B) Gregory Thomas 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 Gregory Thomas Fisher's progress towards recovery and what Gregory Thomas Fisher has been doing during the previous three months.

(C) Gregory Thomas Fisher must make an effort toward outstanding restitution.

(D) Other terms of probation are as follows:

(1) The State Board of Pharmacy hereby declares that Gregory Thomas 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) Gregory Thomas Fisher may not serve as a responsible pharmacist.

(3) Gregory Thomas Fisher may not destroy, assist in, or witness the destruction of controlled substances.

(4) Gregory Thomas Fisher must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.

(5) Gregory Thomas Fisher must not violate the drug laws of Ohio, any other state, or the federal government.

(6) Gregory Thomas Fisher must abide by the rules of the State Board of Pharmacy.

(7) Gregory Thomas Fisher must comply with the terms of this Order.

(8) Gregory Thomas Fisher's license is deemed not in good standing until successful completion of the probationary period.

(E) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

Gregory Thomas 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.

Elizabeth Gregg moved for the Findings of Fact and the Decision of the Board; Jerome Wiesenbahn seconded the motion. Motion passed (Aye-7/Nay-0).

SO ORDERED.

Gregory Thomas Fisher, R.Ph.

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Order of the Board

It is hereby certified by this Board that the above language is a copy of the Order entered upon its journal in this case.

Section 119.12 of the Ohio Revised Code authorizes an appeal from this Order. An order that denied admission to an examination, or denied the issuance or renewal of a license or registration, or revoked or suspended a license, may be appealed to the court of common pleas in the Ohio county of your place of business or in your Ohio county of residence. Any other order may be appealed to the Court of Common Pleas of Franklin County, Ohio.

Such an appeal, setting forth the order appealed from and the grounds of the appeal, must be commenced by the filing of the ORIGINAL Notice of Appeal with the State Board of Pharmacy and a copy with the appropriate court within fifteen (15) days after the mailing of this Order and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED & EFFECTIVE: APRIL 9, 2009

By: _____
William T. Winsley, M.S., R.Ph., Executive Director

WTW/lp

CERTIFIED MAIL/Return Receipt
7004 2510 0001 7344 9577

c: Tracy Marie Greuel, Assistant Attorney General
Harry B. Plotnick, Attorney for Respondent; 810 Sycamore Street; Sixth Floor; Cincinnati,
Ohio 45202



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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-070403-037)

In The Matter Of:

GREGORY THOMAS FISHER, R.Ph.

204 Laura Avenue

Washington Township, Ohio 45458

(R.Ph. No. 03-2-21259)

INTRODUCTION

THE MATTER OF GREGORY THOMAS FISHER CAME FOR HEARING ON AUGUST 8, 2007, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: GREGORY BRAYLOCK, R.Ph. (presiding); ELIZABETH I. GREGG, R.Ph.; RICHARD F. KOLEZYNSKI, R.Ph.; NATHAN S. LIPSYC, R.Ph.; KEVIN J. MITCHELL, R.Ph.; HEATHER L. PASQUALE, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; JAMES E. TURNER, R.Ph.; AND JEROME J. WIESENHAHN, R.Ph.

GREGORY THOMAS FISHER WAS NOT REPRESENTED BY COUNSEL. THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses

1. Jesse Wimberly, Ohio State Board of Pharmacy
2. Gregory Thomas Fisher, R.Ph., Respondent

Respondent's Witnesses

None

State's Exhibits

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [04-03-07]
1A-1D. Procedurals
2. Notarized Statement of Jason Briscoe [01-30-07]
3. Letter from Tom Nameth, R.Ph. to Ohio State Board of Pharmacy [02-05-07]; Report of Theft or Loss of Controlled Substances at Discount Drug Mart #57 [02-05-07]
4. Notarized Statement of Greg Fisher, R.Ph. [02-20-07]
5. Discount Drug Mart Store #57 Inventory for Vicodin ES, Hydroc/APAP 7.5/750, Tylenol #3, APAP #3 [not dated]

Respondent's Exhibits

- A. Turning Point Certificate of Achievement [05-24-07]
- B. PRO Pharmacist's Recovery Contract for Gregory T. Fisher [07-20-07]
- C. Support Group Attendance Records [07-21-07 to 08-04-07]

FINDINGS 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) Records of the Board of Pharmacy indicate that Gregory Thomas Fisher was originally licensed by the State of Ohio as a pharmacist on July 27, 1995, pursuant to examination, and that his license to practice pharmacy in Ohio was summarily suspended effective April 3, 2007.

(2) Gregory Thomas Fisher is addicted to or abusing drugs and/or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Gregory Thomas Fisher has admitted to Board agents that he is addicted to the use of hydrocodone; Gregory Thomas Fisher indicated that he began stealing the drug in May of 2003 after having been prescribed Vicodin for foot pain. Gregory Thomas Fisher further indicated that he consumed between 35 and 40 tablets per day. Gregory Thomas Fisher admitted that he sought treatment for his addiction. Such conduct indicates that Gregory Thomas Fisher is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.

(3) Gregory Thomas Fisher did, from May, 2003, through July, 2006, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of The Medicine Shoppe Pharmacy in Xenia, Ohio, beyond the express or implied consent of the owner, to wit: Gregory Thomas Fisher admittedly stole various strengths and quantities of hydrocodone/APAP, a Schedule III Controlled Substance, to support his addiction. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(4) Gregory Thomas Fisher did, from November, 2006, through January, 2007, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Discount Drug Mart, Bellbrook, Ohio, beyond the express or implied consent of the owner, to wit: Gregory Thomas Fisher admittedly stole various strengths and quantities of hydrocodone/APAP, a Schedule III Controlled Substance to support his addiction. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraphs (3) and (4) of the Findings of Fact constitute being guilty of gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.

(2) The State Board of Pharmacy concludes that paragraphs (3) and (4) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

(3) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Gregory Thomas Fisher on April 3, 2007.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-2-21259, held by Gregory Thomas Fisher and such suspension is effective as of the date of the mailing of this Order.

(A) Gregory Thomas Fisher, pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, may not be employed by or work in a facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.

(B) Gregory Thomas Fisher, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his identification card and license (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Order unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.

Further, after August 2008, the Board will consider any petition filed by Gregory Thomas Fisher for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if the following conditions have been met:

(A) Gregory Thomas Fisher must enter into a **new** contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and, and submit a copy of the signed contract to the Board office. The contract must provide that:

(1) **Random, observed** urine drug screens shall be conducted at least once each month.

(a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.

(b) Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. 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.

(2) The intervener/sponsor shall submit to the Board reports, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.

(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 Board any violations of the contract and/or lack of cooperation.

(B) Gregory Thomas Fisher must demonstrate satisfactory proof to the Board that he is no longer addicted to or abusing drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy.

(C) Gregory Thomas Fisher must provide, at the reinstatement petition hearing, documentation of the following:

(1) Must continue efforts of payment for restitution.

(2) Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug screen reports, meeting attendance records, treatment program reports, etc.);

(3) Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;

(4) Compliance with the terms of this Order.

(D) If reinstatement is not accomplished within three years of the effective date of this Order, Gregory Thomas Fisher must also show successful completion of the NAPLEX and MPJE examinations or equivalent examinations approved by the Board.

Upon such time as the Board may consider reinstatement, Gregory Thomas Fisher will be afforded a Chapter 119. hearing. At such time, the Board may consider reinstatement with or without restrictions and/or conditions as the Board deems appropriate under the circumstances.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-8/Nay-0).

MOTION CARRIED.

SO ORDERED.

It is hereby certified by this Board that the above language is a copy of the Order entered upon its journal in this case.

Section 119.12 of the Ohio Revised Code authorizes an appeal from this Order. An order that denied admission to an examination, or denied the issuance or renewal of a license or registration, or revoked or suspended a license, may be appealed to the court of common pleas in the Ohio county of your place of business or in your Ohio county of residence. Any other order may be appealed to the Court of Common Pleas of Franklin County, Ohio.

Such an appeal, setting forth the order appealed from and the grounds of the appeal, must be commenced by the filing of the ORIGINAL Notice of Appeal with the State Board of Pharmacy and a copy with the appropriate court within fifteen (15) days after the mailing of this Order and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED & EFFECTIVE: SEPTEMBER 14, 2007

By: _____
William T. Winsley, M.S., R.Ph., Executive Director

WTW/lf

CERTIFIED MAIL/Return Receipt
7004 2510 0006 9804 1553

c: Sally Ann Steuk, Assistant Attorney General



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SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

April 3, 2007

Gregory Thomas Fisher, R.Ph.
204 Laura Avenue
Washington Township, Ohio 45458

Re: Ohio Registered Pharmacist
Number 03-2-21259

Dear Mr. Fisher:

In accordance with Section 3719.121(A) of the Ohio Revised Code, the Board has determined that you are addicted to the use of controlled substances. The reasons for the Board's action are that you have committed any and/or all of the following acts:

- (1) Records of the Board of Pharmacy indicate that you were originally licensed in the State of Ohio on July 27, 1995, pursuant to examination, and are currently licensed to practice pharmacy in the State of Ohio.
- (2) You are addicted to or abusing drugs and/or impaired physically or mentally to such a degree as to render you unfit to practice pharmacy, to wit: you have admitted to Board agents that you are addicted to the use of hydrocodone; you indicated that you began stealing the drug in May of 2003 after having been prescribed Vicodin for foot pain. You further indicated that you consumed between 35 and 40 tablets per day. You admitted that you have sought treatment for your addiction. Such conduct indicates that you are within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) You did, from May, 2003, through July, 2006, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of The Medicine Shoppe Pharmacy in Xenia, Ohio, beyond the express or implied consent of the owner, to wit: you admittedly stole various strengths and quantities of hydrocodone/APAP, a Schedule III Controlled Substance, to support your addiction. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) You did, from November, 2006, through January, 2007, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Discount Drug Mart, Bellbrook, Ohio, beyond the express or implied consent of the owner, to

GREGORY THOMAS FISHER, R.Ph.

Order of the Board

wit: you admittedly stole various strengths and quantities of hydrocodone/APAP, a Schedule III Controlled Substance to support your addiction. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

YOU ARE HEREBY NOTIFIED that Section 3719.121(A) of the Ohio Revised Code states, in pertinent part: "any ... pharmacist, ... who is or becomes addicted to the use of controlled substances, shall be suspended by the board that authorized the person's license, certificate, or registration..."

WHEREFORE, PURSUANT TO SECTION 3719.121(A) OF THE OHIO REVISED CODE, YOU ARE HEREBY NOTIFIED THAT YOUR REGISTRATION AND LICENSE TO PRACTICE PHARMACY IN THE STATE OF OHIO IS HEREBY SUSPENDED. FURTHER, PURSUANT TO RULE 4729-9-01(F) OF THE OHIO ADMINISTRATIVE CODE, DURING THIS TERM OF SUSPENSION YOU MAY NOT BE EMPLOYED BY OR WORK IN ANY FACILITY LICENSED BY THE BOARD OF PHARMACY TO POSSESS OR DISTRIBUTE DANGEROUS DRUGS. This suspension shall remain in effect until an adjudicatory hearing has been held pursuant to Chapter 119. of the Revised Code, and a final Order has been issued, during which time you may not engage in the practice of pharmacy.

YOU ARE FURTHER NOTIFIED that Section 4729.16 of the Ohio Revised Code states, in pertinent part:

(A) The State Board of Pharmacy, after notice and hearing in accordance with Chapter 119. of the Ohio Revised Code, may revoke, suspend, limit, place on probation, or refuse to grant or renew an identification card under this chapter, or may impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Ohio Revised Code for a similar offense, or in the case of a violation of a section of the Ohio Revised Code that does not bear a penalty, a monetary penalty or forfeiture of no more than five hundred dollars, if the Board finds a pharmacist or pharmacy intern:

- (1) Guilty of a felony or gross immorality;
- (2) Guilty of dishonesty or unprofessional conduct in the practice of pharmacy;
- (3) Addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render the pharmacist or pharmacy intern unfit to practice pharmacy;
- (4) Has been convicted of a misdemeanor related to, or committed in, the practice of pharmacy;
- (5) Guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of this chapter, sections 3715.52 to 3715.72 or Chapter 2925. or 3719. of the Revised Code;
- (6) Guilty of permitting anyone other than a pharmacist or pharmacy intern to practice pharmacy;

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(7) Guilty of knowingly lending the pharmacist's or pharmacy intern's name to an illegal practitioner of pharmacy or having professional connection with an illegal practitioner of pharmacy;

(8) Guilty of dividing or agreeing to divide remuneration made in the practice of pharmacy with any other individual, including, but not limited to, any licensed health professional authorized to prescribe drugs or any owner, manager, or employee of a health care facility, residential care facility, or nursing home;

(9) Has violated the terms of a consult agreement entered into pursuant to section 4729.39 of the Revised Code;

(10) Has committed fraud, misrepresentation, or deception in applying for or securing a license or identification card issued by the board under this chapter or under Chapter 3715. or 3719. of the Revised Code.

IF YOU DESIRE A HEARING, such request shall be mailed to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126. YOUR REQUEST MUST BE IN WRITING, AND MUST BE RECEIVED IN THE OFFICE OF THE OHIO STATE BOARD OF PHARMACY ON OR PRIOR TO THE THIRTIETH (30TH) DAY FOLLOWING THE MAILING DATE OF THIS NOTICE. You may appear at such hearing in person, by your attorney, or by such other representative as is permitted to practice before the agency, or you may present your position, arguments or contentions in writing; and, at this hearing, you may also present evidence and examine any witnesses appearing for and against you.

YOU ARE FURTHER ADVISED that if there is no request for such a hearing received by the Board on or prior to the thirtieth (30th) day following the mailing of this notice, the Ohio State Board of Pharmacy, upon consideration of the aforementioned allegations against you, may take action without such a hearing.

Division (B) of Section 4729.16 of the Revised Code provides in pertinent part 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 notice of such action." The certificate and identification card should be forwarded by certified mail, return receipt requested.

BY ORDER OF THE STATE BOARD OF PHARMACY

William T. Winsley, M.S., R.Ph.
Executive Director

WTW: (D-070403-037)

CERTIFIED MAIL / Return Receipt
7004 2510 0006 9805 7653

cc: Sally Ann Steuk, Assistant Attorney General