

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 4957

AMY JO FISHER

1025 5th Place
Sibley, IA 51249

Pharmacist License No. RPH 43523

Respondent.

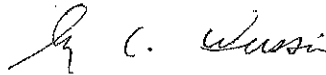
DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Surrender and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on January 9, 2015.

It is so ORDERED on January 2, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:
12 **AMY JO FISHER**
13 **1025 5th Place**
Sibley, IA 51249
14 **Pharmacist License No. RPH 43523**
15 Respondent.

Case No. 4957
OAH No. 2014040251
**STIPULATED SURRENDER OF
LICENSE AND ORDER**

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 PARTIES

20 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
21 She brought this action solely in her official capacity and is represented in this matter by Kamala
22 D. Harris, Attorney General of the State of California, by Karen R. Denvir, Deputy Attorney
23 General.

24 2. Amy Jo Fisher (Respondent) is representing herself in this proceeding and has chosen
25 not to exercise her right to be represented by counsel.

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1 3. On or about July 27, 1990, the Board of Pharmacy issued Pharmacist License No.
2 RPH 43523 to Amy Jo Fisher (Respondent). The Pharmacist License was in full force and effect
3 at all times relevant to the charges brought in Accusation No. 4957 and will expire on December
4 31, 2015, unless renewed.

5 JURISDICTION

6 4. Accusation No. 4957 was filed before the Board of Pharmacy (Board), Department of
7 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
8 statutorily required documents were properly served on Respondent on February 12, 2014.
9 Respondent timely filed her Notice of Defense contesting the Accusation. On September 14,
10 2014, a First Amended Accusation was filed against Respondent. The First Amended Accusation
11 was served on Respondent on October 6, 2014. A copy of First Amended Accusation No. 4957 is
12 attached as Exhibit A and incorporated by reference.

13 ADVISEMENT AND WAIVERS

14 5. Respondent has carefully read, and understands the charges and allegations in First
15 Amended Accusation No. 4957. Respondent also has carefully read, and understands the effects
16 of this Stipulated Surrender of License and Order.

17 6. Respondent is fully aware of her legal rights in this matter, including the right to a
18 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
19 her own expense; the right to confront and cross-examine the witnesses against her; the right to
20 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
21 compel the attendance of witnesses and the production of documents; the right to reconsideration
22 and court review of an adverse decision; and all other rights accorded by the California
23 Administrative Procedure Act and other applicable laws.

24 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
25 every right set forth above.

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1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in First
3 Amended Accusation No. 4957, agrees that cause exists for discipline and hereby surrenders her
4 Pharmacist License No. RPH 43523 for the Board's formal acceptance.

5 9. Respondent understands that by signing this stipulation she enables the Board to issue
6 an order accepting the surrender of her Pharmacist License without further process.

7 CONTINGENCY

8 10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
9 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
10 communicate directly with the Board regarding this stipulation and surrender, without notice to or
11 participation by Respondent. By signing the stipulation, Respondent understands and agrees that
12 she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board
13 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
14 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
15 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
16 be disqualified from further action by having considered this matter.

17 11. The parties understand and agree that Portable Document Format (PDF) and facsimile
18 copies of this Stipulated Surrender of License and Order, including Portable Document Format
19 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

20 12. This Stipulated Surrender of License and Order is intended by the parties to be an
21 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
22 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
23 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
24 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
25 executed by an authorized representative of each of the parties.

26 13. In consideration of the foregoing admissions and stipulations, the parties agree that
27 the Board may, without further notice or formal proceeding, issue and enter the following Order:

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ORDER

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2 IT IS HEREBY ORDERED that Pharmacist License No. RPH 43523, issued to Respondent
3 Amy Jo Fisher, is surrendered and accepted by the Board of Pharmacy.

4 1. The surrender of Respondent's Pharmacist License and the acceptance of the
5 surrendered license by the Board shall constitute the imposition of discipline against Respondent.
6 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
7 license history with the Board of Pharmacy.

8 2. Respondent shall lose all rights and privileges as a Pharmacist in California as of the
9 effective date of the Board's Decision and Order.

10 3. Respondent shall cause to be delivered to the Board her pocket renewal license and, if
11 one was issued, her wall certificate on or before the effective date of the Decision and Order.

12 4. Respondent understands and agrees that if she ever files an application an application
13 for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a
14 new application for licensure.

15 5. Respondent may not apply for any license, permit, or registration from the Board for
16 three years from the effective date of this decision. Respondent stipulates that should she apply
17 for any license from the Board on or after the effective date of this decision, all allegations set
18 forth in the First Amended Accusation shall be deemed to be true, correct and admitted by
19 Respondent when the Board determines whether or not to grant or deny the application.
20 Respondent shall satisfy all requirements applicable to that license as of the date the application is
21 submitted to the Board, including, but not limited to taking and passing the California Pharmacist
22 Licensure Examination prior to the issuance of a new license. Respondent is required to report
23 this surrender as disciplinary action.

24 6. Respondent further stipulates that should she apply for any license from the Board on
25 or after the effective date of this decision the investigation and enforcement costs in the amount
26 of \$2,605.00 shall be paid to the Board prior to issuance of the new reinstated license.

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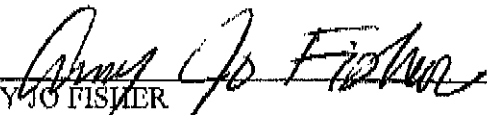
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ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 11-20-2014


AMY JO FISHER
Respondent

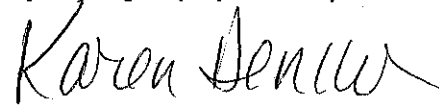
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: 11/24/14

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General


KAREN R. DENVIR
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 4957

1 KAMALA D. HARRIS
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2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 KAREN R. DENVIR
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Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the First Amended Accusation
Against:

Case No. 4957

12 **AMY JO FISHER**
13 **1025 5th Place**
14 **Sibley, IA 51249**

FIRST AMENDED
ACCUSATION

15 **Pharmacist License No. RPH 43523**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

21 2. On or about July 27, 1990, the Board of Pharmacy issued Pharmacist License
22 Number RPH 43523 to Amy Jo Fisher (Respondent). The Pharmacist License was in full force
23 and effect at all times relevant to the charges brought herein and will expire on December 31,
24 2015, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
27 Consumer Affairs, under the authority of the following laws. All section references are to the
28 Business and Professions Code unless otherwise indicated.

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4. Section 4300 of the Code states, in pertinent part:

(a) Every license issued may be suspended or revoked.

(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

(1) Suspending judgment.

(2) Placing him or her upon probation.

(3) Suspending his or her right to practice for a period not exceeding one year.

(4) Revoking his or her license.

(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

5. Section 4300.1 of the Code states:

The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

6. Section 4301 of the Code states, in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

....

(n) The revocation, suspension, or other discipline by another state of a license to practice pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter.

....

COST RECOVERY

7. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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1 **CAUSE FOR DISCIPLINE**

2 **(Out of State Discipline)**

3 8. Respondent is subject to disciplinary action under section 4301, subdivision (n), on
4 the grounds of unprofessional conduct, in that on or about June 20, 2011, in a disciplinary action
5 entitled *In the Matter of the Request for Hearing by Amy Fisher, Pharmacist*, pursuant to
6 *Findings of Fact, Conclusions of Law and Order No. 11-708* (attached hereto as **Exhibit A** and
7 incorporated herein by reference and hereafter referred to as "Order"), the State of Nebraska
8 Department of Health and Human Services, Division of Public Health ("Nebraska Board"),
9 ordered that Respondent be offered reinstatement of her Nebraska pharmacist license #10368 for
10 a period of five (5) years with terms and conditions related to chemical dependency. The *Order*
11 was issued after a hearing on the matter was held, and the Nebraska Board found that Respondent
12 was diagnosed in 2009 with Alcohol Dependence with Physiological Dependence; Amphetamine
13 Dependence with Physiological Dependence; Sedative, Hypnotic or Anxiolytic Dependence with
14 Physiological Dependence; Substance Induced Mood and Anxiety Disorder; and Depression,
15 NOS, and that grounds existed to discipline Respondent through the issuance of a probationary
16 license. Respondent declined the offer to reinstate her license on probation.

17 **PRAYER**

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
19 and that following the hearing, the Board of Pharmacy issue a decision:

- 20 1. Revoking or suspending Pharmacist License Number RPH 43523, issued to Amy Jo
21 Fisher
- 22 2. Ordering Amy Jo Fisher to pay the Board of Pharmacy the reasonable costs of the
23 investigation and enforcement of this case, pursuant to Business and Professions Code section
24 125.3;

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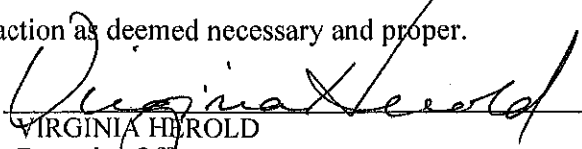
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3. Taking such other and further action as deemed necessary and proper.

DATED: 9/14/14



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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EXHIBIT A
Findings of Fact, Conclusions of Law and Order No. 11-708
In the Matter of the Request for Hearing by Amy Fisher, Pharmacist
State of Nebraska Department of Health and Human Services, Division of Public Health

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA**

IN THE MATTER OF)	
THE REQUEST FOR HEARING BY)	11-708
)	
AMY FISHER)	FINDINGS OF FACT
Pharmacist)	CONCLUSIONS OF LAW
)	AND ORDER

On August 11, 2010, Amy Fisher (Appellant) filed an application for reinstatement of a Nebraska license to practice pharmacy. On March 1, 2011, the Department of Health and Human Services Division of Public Health (Department) offered to reinstate Appellant's pharmacist license on probation for five (5) years. Appellant declined to accept the probationary license and requested a formal hearing. On March 10, 2011, a Notice of Hearing was issued setting forth the date, time and location for hearing on this matter. The Notice of Hearing set forth the appropriate statutes and regulations related to the hearing.

SUMMARY OF THE HEARING

The hearing was held on April 28, 2011. Appearing on behalf of the Department was Lisa K. Anderson. Appellant appeared and was represented by Steven E. Achelpohl. In addition to the testimony of three (3) witnesses, nineteen (19) exhibits were offered and received.

FINDINGS OF FACT

1. Appellant is 44 years old. On July 7, 2005, she was arrested for Operating a Vehicle While Intoxicated (OWI). On December 9, 2005, the Iowa District Court for Osceola County, Iowa, entered an Order Deferring Judgment and placed Appellant on probation for one (1) year. On December 8, 2006, Appellant was discharged from probation and no Judgment was entered. The Clerk of Court was ordered to expunge the Court's criminal record in Appellant's case. Appellant provided copies of the court records to the Department. (Ex. 4).

2. On June 26, 2009, Appellant was admitted to Keystone Treatment Center, Canton, South Dakota. She was referred to Keystone for inpatient treatment by Connie Nelson, Family Services of Sioux Falls, South Dakota. Appellant came to treatment with a chief complaint of alcohol dependence as well as Amphetamine and Anxiolytic Dependence. On July 26, 2009, she completed the inpatient treatment program and was discharged. Appellant's discharge diagnosis included, in relevant part, Alcohol Dependence with Physiological Dependence; Amphetamine Dependence with Physiological Dependence; Sedative, Hypnotic or Anxiolytic Dependence with Physiological Dependence; Substance Induced Mood and Anxiety Disorder; and, Depression, NOS. (Ex. 5).

3. On August 11, 2010, Appellant filed an application for reinstatement of her Nebraska license #10368 to practice pharmacy. Appellant provided the Department with an explanation of her 2005 Iowa OWI offense and her 2009 Keystone chemical dependency treatment. She also submitted the Iowa court records and authorized the release of the Keystone treatment records. (Ex. 1, 3, 4, and 5).

4. On January 24, 2011, the Nebraska Board of Pharmacy (Board) reviewed Appellant's application with her explanations and the Iowa court records and Keystone treatment records. The Department also provided the Board an email from the National Association of Boards of Pharmacy (NABP) indicating no disciplinary actions had been reported to NABP for Appellant. The Board recommended reinstating Appellant's pharmacist license on probation for five (5) years. The recommended terms and conditions were the usual terms and conditions related to chemical dependency. The Board's basis for the probationary license was Appellant's diagnosis of alcohol dependence. (Ex. 1-6).

5. On March 1, 2011, the Department offered to reinstate Appellant's pharmacist license on probation for five (5) years with terms and conditions consistent with the Board's recommendations. The Department's stated reasons for the probationary terms and conditions were the Keystone treatment discharge diagnoses. (Ex. 7).

6. On March 7, 2011, Appellant declined to accept the probationary license and requested a formal hearing.

7. At her hearing Appellant provided additional evidence regarding her case. She submitted notes and testimony from her supervisor, an affidavit with three (3) exhibits from her psychiatrist, a certificate of completion of an Iowa Drinking and Driving Course, a 2005 Substance Abuse Assessment related to her 2005 OWI, her resume, and her handwritten list of her medication prescriptions. (Ex. 10-19). This additional evidence had not been presented to the Board or the Department.

8. Appellant's psychiatrist has been treating Appellant since August 31, 2006. His affidavit dated April 26, 2011 states that Appellant's alcohol addiction is in a state of full sustained remission. He also states that he has never encountered any issues with Appellant abusing her prescribed stimulants or other prescribed medications. He concludes that her prognosis over time has substantially improved, and he believes this will result in her fulfilling her duties as a pharmacist with professionalism and competence. (Ex. 15).

9. Appellant testified that she graduated from Creighton University with a Bachelor of Science Degree in Pharmacy in 1990. She has worked in several states and holds active pharmacist licenses in Iowa, South Dakota, and California. None of her licenses are restricted in any fashion. She currently works for CIGNA Tel-Drug Home Delivery Pharmacy and has been there for five (5) years. She has never failed a drug test at CIGNA and her performance ratings have been satisfactory. Her supervisor provided supportive testimony and documentary evidence. (Ex. 11)

10. Appellant stated she has been sober since she completed Keystone treatment in 2009, but she drank alcohol on four (4) occasions in 2010. She attends AA meetings approximately once a month. She also detailed her significant history of health issues related to depression and anxiety. (T: 78-87).

CONCLUSIONS OF LAW

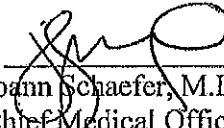
Appellant was diagnosed in 2009 with Alcohol Dependence with Physiological Dependence; Amphetamine Dependence with Physiological Dependence; Sedative, Hypnotic or Anxiolytic Dependence with Physiological Dependence; Substance Induced Mood and Anxiety Disorder; and, Depression, NOS. The Department has grounds to discipline Appellant through the issuance of a probationary license. Neb. Rev. Stat. § 38-178(3).

While Appellant has made good progress in overcoming her alcohol and prescription drug dependence, too little time has passed to ensure that she can be trusted as a pharmacist without the structure of a Department monitored period of probation.

ORDER

Appellant will be offered reinstatement of Nebraska pharmacist license #10368 on probation for five (5) years with the probationary terms and conditions listed in the Department's March 1, 2011 letter to Appellant. The probation will be effective for five (5) years from the date of issuance of the license.

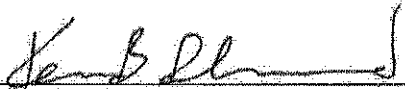
DATED this 20 day of June 2011.



Joann Schaefer, M.D.
Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 20th day of June 2011, a copy of the foregoing **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER** was sent by certified United States mail, postage prepaid, return receipt requested, to **Steven Achelpohl, Attorney at Law, 1010 Historic Library Plaza, 1823 Harney St., Omaha, NE 68102** and interagency mail to **Lisa K. Anderson, Assistant Attorney General, 2115 State Capitol, Lincoln, Nebraska.**



Keith B. Roland
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