

Certified True Copy

By D. Fowler
Virginia Board of Nursing



COMMONWEALTH of VIRGINIA

David E. Brown, D.C.
Director

Department of Health Professions

Perimeter Center
9960 Mayland Drive, Suite 300
Henrico, Virginia 23233-1463

www.dhp.virginia.gov
TEL (804) 367-4400
FAX (804) 527-4475

July 12, 2016

Eric James Fisher, R.N.
1206 E. Mallard Dr.
Madison, OH 44057

DUPLICATE COPY
VIA FIRST CLASS MAIL

RE: License Number: 0001-241237
Case Number: 174645

DATE 7/12/16
RECEIVED

JUL 14 2016

Dear Mr. Fisher:

VA BD OF NURSING

Pursuant to Virginia Code § 54.1-2409, you are hereby given notice that your license to practice professional nursing in the Commonwealth of Virginia has been mandatorily suspended by the enclosed Order entered July 16, 2016. You are hereby advised that you may not practice professional nursing or hold yourself out as a licensed professional nurse in Virginia unless and until the Board of Nursing has informed you in writing that your license has been reinstated. Please return your license to Jay P. Douglas, Executive Director of the Virginia Board of Nursing ("Board"), at the above address, immediately upon receipt of this letter.

You may apply to the Board for reinstatement of your license, and you shall be entitled to a formal administrative hearing not later than the next regular meeting of the Board after the expiration of 60 days from the Board's receipt of your reinstatement application. You have the following rights, among others: to be represented by counsel, to have witnesses subpoenaed on your behalf, to present documentary evidence and to cross-examine adverse witnesses. The reinstatement of your license shall require the affirmative vote of three-fourths of the members of the Board present at the hearing.

The reinstatement application can be found at www.dhp.virginia.gov/nursing.

Sincerely,

David E. Brown, D.C., Director
Virginia Department of Health Professions

cc: Jay P. Douglas, Executive Director, Board of Nursing
Enclosures

BEFORE THE VIRGINIA DEPARTMENT OF HEALTH PROFESSIONS

IN RE: ERIC JAMES FISHER, R.N.
License Number: 0001-241237
Case Number: 174645

ORDER OF MANDATORY SUSPENSION


In accordance with Virginia Code § 54.1-2409, I, David E. Brown, D.C., Director of the Virginia Department of Health Professions, received and acted upon evidence that the California Board of Registered Nursing revoked the license of Eric James Fisher, R.N., to practice as a registered nurse in the State of California. A certified copy of the Decision and Order is attached to this Order and is marked as Commonwealth's Exhibit No. 1.

WHEREUPON, by the authority vested in the Director of the Department of Health Professions pursuant to Virginia Code § 54.1-2409, it is hereby ORDERED that the license of Eric James Fisher to practice professional nursing in the Commonwealth of Virginia is hereby SUSPENDED.

Upon entry of this Order, the license of Mr. Fisher will be recorded as suspended and no longer current and valid. Should Mr. Fisher seek reinstatement of his license pursuant to Virginia Code § 54.1-2409, he shall be responsible for any fees that may be required for the reinstatement of the license prior to issuance of the license to resume practice.

This Order shall be applicable to Mr. Fisher's multistate licensure privilege, if any, to practice Profession in the Commonwealth of Virginia.

Pursuant to Virginia Code § 2.2-4023 and § 54.1-2400.2(G), the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record and shall be made available for public inspection or copying on request.



David E. Brown, D.C., Director
Virginia Department of Health Professions

ENTERED AND MAILED ON:

7/12/16

CERTIFICATION OF DUPLICATE RECORDS

I, David E. Brown, D.C., Director of the Department of Health Professions, hereby certify that the attached Decision and Order entered June 7, 2016, regarding Eric J. Fisher, R.N., is a true copy of the records received from the California State Board of Registered Nursing.



David E. Brown, D.C.

Date: _____

7/12/16

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

ERIC JAMES FISHER
1206 East Mallard Drive
Madison, OH 44057

Registered Nurse License No. 691142
Nurse Anesthetist Certificate No. 4377

Respondent.

Case No. 2016-267

OAH No. 2015110224

DECISION AND ORDER

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

This Decision shall become effective on July 7, 2016.

IT IS SO ORDERED June 7, 2016.

Michael D. Jackson, MSN, RN, CEN

Michael D. Jackson, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

I hereby certify the
foregoing to be a true copy
of the documents on file in our office.

BOARD OF REGISTERED NURSING

Louise R. Bailey, M. Ed., RN
Louise R. Bailey, M. Ed., RN
Executive Officer



PENGAD 800-951-8888

COMMONWEALTH'S
EXHIBIT

1

1 KAMALA D. HARRIS
Attorney General of California
2 ANTOINETTE B. CINCOTTA
Supervising Deputy Attorney General
3 MANUEL ARAMBULA
Deputy Attorney General
4 State Bar No. 289718
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2098
7 Facsimile: (619) 645-2061
8 *Attorneys for Complainant*

9
10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:
13 **ERIC JAMES FISHER**
1206 East Mallard Drive
14 Madison, OH 44057
15 Registered Nurse License No. 691142
Nurse Anesthetist Certificate No. 4377
16
17 Respondent.

Case No. 2016-267

OAH No. 2015110224

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

20 PARTIES

21 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of
22 Registered Nursing (Board). She brought this action solely in her official capacity and is
23 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
24 Manuel Arambula, Deputy Attorney General.

25 2. Respondent Eric James Fisher (Respondent) is represented in this proceeding by
26 attorney Paul Chan, Esq., whose address is: Law Offices of Paul Chan, 2311 Capitol Avenue,
27 Sacramento, CA 95816.
28

1 CULPABILITY

2 10. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 2016-267, if proven at a hearing, constitute cause for imposing discipline upon his Registered
4 Nurse License and his Nurse Anesthetist Certificate.

5 11. For the purpose of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
7 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
8 those charges.

9 12. Respondent agrees that his Registered Nurse License and Nurse Anesthetist
10 Certificate are subject to discipline and he agrees to be bound by the Board's probationary terms
11 as set forth in the Disciplinary Order below.

12 CIRCUMSTANCES IN MITIGATION

13 13. Respondent Eric James Fisher has never been the subject of any disciplinary action.

14 CONTINGENCY

15 14. This stipulation shall be subject to approval by the Board. Respondent understands
16 and agrees that counsel for Complainant and the staff of the Board may communicate directly
17 with the Board regarding this stipulation and settlement, without notice to or participation by
18 Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he
19 may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board
20 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
21 the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this
22 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
23 be disqualified from further action by having considered this matter.

24 15. The parties understand and agree that Portable Document Format (PDF) and facsimile
25 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
26 signatures, shall have the same force and effect as the originals.

27 16. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
28 integrated writing representing the complete, final, and exclusive embodiment of their agreement.

1 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
2 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
3 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
4 writing executed by an authorized representative of each of the parties.

5 17. In consideration of the foregoing admissions and stipulations, the parties agree that
6 the Board may, without further notice or formal proceeding, issue and enter the following
7 Disciplinary Order:

8 DISCIPLINARY ORDER

9 IT IS HEREBY ORDERED that Registered Nurse License No. 691142 and Nurse
10 Anesthetist Certificate No. 4377 issued to Respondent Eric James Fisher are revoked. However,
11 the revocation is stayed and Respondent is placed on probation for three (3) years on the
12 following conditions. Any new certification(s) issued after the effective date of this decision and
13 while Respondent remains on probation shall be revoked, revocation stayed, and such
14 certification(s) placed on probation subject to the same terms and conditions applicable to
15 Respondent's Registered Nurse license.

16 Severability Clause. Each condition of probation contained herein is a separate and
17 distinct condition. If any condition of this Order, or any application thereof, is declared
18 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
19 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
20 and enforceable to the fullest extent permitted by law.

21 1. Obey All Laws. Respondent shall obey all federal, state and local laws. A full and
22 detailed account of any and all violations of law shall be reported by Respondent to the Board in
23 writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with
24 this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within
25 45 days of the effective date of the decision, unless previously submitted as part of the licensure
26 application process.

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28 ///

1 **Criminal Court Orders:** If Respondent is under criminal court orders, including probation
2 or parole, and the order is violated, this shall be deemed a violation of these probation conditions,
3 and may result in the filing of an accusation or petition to revoke probation.

4 **2. Comply with the Board's Probation Program.** Respondent shall fully comply with
5 the conditions of the Probation Program established by the Board and cooperate with
6 representatives of the Board in its monitoring and investigation of the Respondent's compliance
7 with the Board's Probation Program. Respondent shall inform the Board in writing within no
8 more than 15 days of any address change and shall at all times maintain an active, current license
9 status with the Board, including during any period of suspension. Upon successful completion of
10 probation, Respondent's license shall be fully restored.

11 **3. Report in Person.** Respondent, during the period of probation, shall appear in person
12 at interviews or meetings as directed by the Board or its designated representatives.

13 **4. Residency, Practice, or Licensure Outside of State.** Periods of residency or practice
14 as a registered nurse outside of California shall not apply toward a reduction of this probation
15 time period. Respondent's probation is tolled, if and when he resides outside of California.
16 Respondent must provide written notice to the Board within 15 days of any change of residency
17 or practice outside the state, and within 30 days prior to re-establishing residency or returning to
18 practice in this state.

19 Respondent shall provide a list of all states and territories where he has ever been licensed
20 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
21 information regarding the status of each license and any changes in such license status during the
22 term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing
23 license during the term of probation.

24 **5. Submit Written Reports.** Respondent, during the period of probation, shall submit
25 or cause to be submitted such written reports or declarations and verification of actions under
26 penalty of perjury, as required by the Board. These reports or declarations shall contain
27 statements relative to Respondent's compliance with all the conditions of the Board's Probation
28 Program. Respondent shall immediately execute all release of information forms as may be

1 required by the Board or its representatives. Respondent shall provide a copy of this Decision to
2 the nursing regulatory agency in every state and territory in which he has a registered nurse
3 license.

4 6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall
5 engage in the practice of registered nursing in California for a minimum of 24 hours per week for
6 6 consecutive months or as determined by the Board. For purposes of compliance with the
7 section, "engage in the practice of registered nursing" may include, when approved by the Board,
8 volunteer work as a registered nurse, or work in any non-direct patient care position that requires
9 licensure as a registered nurse. The Board may require that advanced practice nurses engage in
10 advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as
11 determined by the Board.

12 If Respondent has not complied with this condition during the probationary term, and
13 Respondent has presented sufficient documentation of his good faith efforts to comply with this
14 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
15 extension of Respondent's probation period up to one year without further hearing in order to
16 comply with this condition. During the one year extension, all original conditions of probation
17 shall apply.

18 7. **Employment Approval and Reporting Requirements.** Respondent shall obtain
19 prior approval from the Board before commencing or continuing any employment, paid or
20 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
21 performance evaluations and other employment related reports as a registered nurse upon request
22 of the Board. Respondent shall provide a copy of this Decision to his employer and immediate
23 supervisors prior to commencement of any nursing or other health care related employment.

24 In addition to the above, Respondent shall notify the Board in writing within seventy-two
25 (72) hours after he obtains any nursing or other health care related employment. Respondent shall
26 notify the Board in writing within seventy-two (72) hours after he is terminated or separated,
27 regardless of cause, from any nursing, or other health care related employment with a full
28 explanation of the circumstances surrounding the termination or separation.

1 8. **Supervision.** Respondent shall obtain prior approval from the Board regarding
2 Respondent's level of supervision or collaboration before commencing or continuing any
3 employment as a registered nurse, or education and training that includes patient care.

4 Respondent shall practice only under the direct supervision of a registered nurse in good
5 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
6 of supervision or collaboration (e.g., with an advanced practice nurse or physician) are approved.

7 Respondent's level of supervision or collaboration may include, but is not limited to the
8 following:

9 (a) **Maximum** - The individual providing supervision or collaboration is present in the
10 patient care area or in any other work setting at all times.

11 (b) **Moderate** - The individual providing supervision or collaboration is in the patient care
12 unit or in any other work setting at least half the hours Respondent works.

13 (c) **Minimum** - The individual providing supervision or collaboration has person-to-
14 person communication with Respondent at least twice during each shift worked.

15 (d) **Home Health Care** - If Respondent is approved to work in the home health care
16 setting, the individual providing supervision or collaboration shall have person-to-person
17 communication with Respondent as required by the Board each work day. Respondent shall
18 maintain telephone or other telecommunication contact with the individual providing supervision
19 or collaboration as required by the Board during each work day. The individual providing
20 supervision or collaboration shall conduct, as required by the Board, periodic, on-site visits to
21 patients' homes visited by Respondent with or without Respondent present.

22 9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any
23 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,
24 or for an in-house nursing pool.

25 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
26 registered nursing supervision and other protections for home visits have been approved by the
27 Board. Respondent shall not work in any other registered nursing occupation where home visits
28 are required.

1 Respondent shall not work in any health care setting as a supervisor of registered nurses.
2 The Board may additionally restrict Respondent from supervising licensed vocational nurses or
3 unlicensed assistive personnel on a case-by-case basis.

4 Respondent shall not work as a faculty member in an approved school of nursing or as an
5 instructor in a Board approved continuing education program.

6 Respondent shall work only on a regularly assigned, identified and predetermined
7 worksite(s) and shall not work in a float capacity.

8 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
9 request documentation to determine whether there should be restrictions on the hours of work.

10 10. Complete a Nursing Course(s). Respondent, at his own expense, shall enroll and
11 successfully complete a course(s) relevant to the practice of registered nursing no later than six
12 months prior to the end of his probationary term.

13 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
14 Respondent shall submit to the Board the original transcripts or certificates of completion for the
15 above required course(s). The Board shall return the original documents to Respondent after
16 photocopying them for its records.

17 11. Cost Recovery. Respondent shall pay to the Board costs associated with its
18 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
19 amount of \$10,085.20. Respondent shall be permitted to pay these costs in a payment plan
20 approved by the Board, with payments to be completed no later than three months prior to the end
21 of the probation term.

22 If Respondent has not complied with this condition during the probationary term, and
23 Respondent has presented sufficient documentation of his good faith efforts to comply with this
24 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
25 extension of Respondent's probation period up to one year without further hearing in order to
26 comply with this condition. During the one-year extension, all original conditions of probation
27 will apply.

28 ///

1 12. **Violation of Probation.** If Respondent violates the conditions of his probation, the
2 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order
3 and impose the stayed discipline (revocation/suspension) of Respondent's license.

4 If during the period of probation, an accusation or petition to revoke probation has been
5 filed against Respondent's license or the Attorney General's Office has been requested to prepare
6 an accusation or petition to revoke probation against Respondent's license, the probationary
7 period shall automatically be extended and shall not expire until the accusation or petition has
8 been acted upon by the Board, and all charges and allegations set for in Accusation No. 2016-267
9 shall be deemed true and correct.

10 13. **License Surrender.** During Respondent's term of probation, if he ceases practicing
11 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,
12 Respondent may surrender his license to the Board. The Board reserves the right to evaluate
13 Respondent's request and to exercise its discretion whether to grant the request, or to take any
14 other action deemed appropriate and reasonable under the circumstances, without further hearing.
15 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be
16 subject to the conditions of probation.

17 Surrender of Respondent's license shall be considered a disciplinary action and shall
18 become a part of Respondent's license history with the Board. A registered nurse whose license
19 has been surrendered may petition the Board for reinstatement no sooner than the following
20 minimum periods from the effective date of the disciplinary decision:

21 (1) Two years for reinstatement of a license that was surrendered for any reason other
22 than a mental or physical illness; or

23 (2) One year for a license surrendered for a mental or physical illness.

24 (3) All charges and allegations set forth in in Accusation No. 2016-267 shall be
25 deemed true and correct at any hearing on a petition for reinstatement.

26 14. **Physical Examination.** Within 45 days of the effective date of this Decision,
27 Respondent, at his expense, shall have a licensed physician, nurse practitioner, or physician
28 assistant, who is approved by the Board before the assessment is performed, submit an

1 assessment of the Respondent's physical condition and capability to perform the duties of a
2 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
3 medically determined, a recommended treatment program will be instituted and followed by the
4 Respondent with the physician, nurse practitioner, or physician assistant providing written reports
5 to the Board on forms provided by the Board.

6 If Respondent is determined to be unable to practice safely as a registered nurse, the
7 licensed physician, nurse practitioner, or physician assistant making this determination shall
8 immediately notify the Board and Respondent by telephone, and the Board shall request that the
9 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
10 immediately cease practice and shall not resume practice until notified by the Board. During this
11 period of suspension, Respondent shall not engage in any practice for which a license issued by
12 the Board is required until the Board has notified Respondent that a medical determination
13 permits Respondent to resume practice. This period of suspension will not apply to the reduction
14 of this probationary time period.

15 If Respondent fails to have the above assessment submitted to the Board within the 45-day
16 requirement, Respondent shall immediately cease practice and shall not resume practice until
17 notified by the Board. This period of suspension will not apply to the reduction of this
18 probationary time period. The Board may waive or postpone this suspension only if significant,
19 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
20 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
21 Only one such waiver or extension may be permitted.

22 **15. Participate in Treatment/Rehabilitation Program for Chemical Dependence.**

23 Respondent, at his expense, shall successfully complete during the probationary period or shall
24 have successfully completed prior to commencement of probation a Board-approved
25 treatment/rehabilitation program of at least six months duration. As required, reports shall be
26 submitted by the program on forms provided by the Board. If Respondent has not completed a
27 Board-approved treatment/rehabilitation program prior to commencement of probation,
28 Respondent, within 45 days from the effective date of the decision, shall be enrolled in a program.

1 If a program is not successfully completed within the first nine months of probation, the Board
2 shall consider Respondent in violation of probation.

3 Based on Board recommendation, each week Respondent shall be required to attend at least
4 one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous,
5 Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If
6 a nurse support group is not available, an additional 12-step meeting or equivalent shall be added.
7 Respondent shall submit dated and signed documentation confirming such attendance to the
8 Board during the entire period of probation. Respondent shall continue with the recovery plan
9 recommended by the treatment/rehabilitation program or a licensed mental health examiner or
10 other ongoing recovery groups.

11 16. **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent shall
12 completely abstain from the possession, injection or consumption by any route of all controlled
13 substances and all psychotropic (mood altering) drugs, including alcohol, except when the same
14 are ordered by a health care professional legally authorized to do so as part of documented
15 medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14)
16 days, by the prescribing health professional, a report identifying the medication, dosage, the date
17 the medication was prescribed, the Respondent's prognosis, the date the medication will no
18 longer be required, and the effect on the recovery plan, if appropriate.

19 Respondent shall identify for the Board a single physician, nurse practitioner or physician
20 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and
21 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-
22 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report
23 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances
24 considered addictive have been prescribed, the report shall identify a program for the time limited
25 use of any such substances.

26 The Board may require the single coordinating physician, nurse practitioner, or physician
27 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive
28 medicine.

1 17. **Submit to Tests and Samples.** Respondent, at his expense, shall participate in a
2 random, biological fluid testing or a drug screening program which the Board approves. The
3 length of time and frequency will be subject to approval by the Board. Respondent is responsible
4 for keeping the Board informed of Respondent's current telephone number at all times.
5 Respondent shall also ensure that messages may be left at the telephone number when he is not
6 available and ensure that reports are submitted directly by the testing agency to the Board, as
7 directed. Any confirmed positive finding shall be reported immediately to the Board by the
8 program and Respondent shall be considered in violation of probation.

9 In addition, Respondent, at any time during the period of probation, shall fully cooperate
10 with the Board or any of its representatives, and shall, when requested, submit to such tests and
11 samples as the Board or its representatives may require for the detection of alcohol, narcotics,
12 hypnotics, dangerous drugs, or other controlled substances.

13 If Respondent has a positive drug screen for any substance not legally authorized and not
14 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board
15 files a petition to revoke probation or an accusation, the Board may suspend Respondent from
16 practice pending the final decision on the petition to revoke probation or the accusation. This
17 period of suspension will not apply to the reduction of this probationary time period.

18 If Respondent fails to participate in a random, biological fluid testing or drug screening
19 program within the specified time frame, Respondent shall immediately cease practice and shall
20 not resume practice until notified by the Board. After taking into account documented evidence of
21 mitigation, if the Board files a petition to revoke probation or an accusation, the Board may
22 suspend Respondent from practice pending the final decision on the petition to revoke probation
23 or the accusation. This period of suspension will not apply to the reduction of this probationary
24 time period.

25 18. **Mental Health Examination.** Respondent shall, within 45 days of the effective date
26 of this Decision, have a mental health examination including psychological testing as appropriate
27 to determine his capability to perform the duties of a registered nurse. The examination will be
28 performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by

1 the Board. The examining mental health practitioner will submit a written report of that
2 assessment and recommendations to the Board. All costs are the responsibility of Respondent.
3 Recommendations for treatment, therapy or counseling made as a result of the mental health
4 examination will be instituted and followed by Respondent.

5 If Respondent is determined to be unable to practice safely as a registered nurse, the
6 licensed mental health care practitioner making this determination shall immediately notify the
7 Board and Respondent by telephone, and the Board shall request that the Attorney General's
8 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
9 practice and may not resume practice until notified by the Board. During this period of
10 suspension, Respondent shall not engage in any practice for which a license issued by the Board
11 is required, until the Board has notified Respondent that a mental health determination permits
12 Respondent to resume practice. This period of suspension will not apply to the reduction of this
13 probationary time period.

14 If Respondent fails to have the above assessment submitted to the Board within the 45-day
15 requirement, Respondent shall immediately cease practice and shall not resume practice until
16 notified by the Board. This period of suspension will not apply to the reduction of this
17 probationary time period. The Board may waive or postpone this suspension only if significant,
18 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
19 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
20 Only one such waiver or extension may be permitted.

21 19. **Therapy or Counseling Program.** Respondent, at his expense, shall participate in an
22 on-going counseling program until such time as the Board releases him from this requirement and
23 only upon the recommendation of the counselor. Written progress reports from the counselor will
24 be required at various intervals.

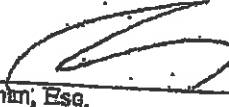
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28 ///

1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Paul Chan. I understand the stipulation and the effect it will have
4 on my Registered Nurse License, and Nurse Anesthetist Certificate. I enter into this Stipulated
5 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
6 bound by the Decision and Order of the Board of Registered Nursing.

7 DATED: 4/1/2016 
8 ERIC JAMES FISHER
9 Respondent

10
11
12 I have read and fully discussed with Respondent Eric James Fisher the terms and conditions
13 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
14 its form and content.


15 DATED: 4/1/16 
16 Paul Chan, Esq.
17 Attorney for Respondent

18 ENDORSEMENT

19 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
20 submitted for consideration by the Board of Registered Nursing.

21 Dated: 4/21/16

22 Respectfully submitted,
23 KAMALA D. HARRIS
24 Attorney General of California
25 ANTOINETTE B. CINCOTTA
26 Supervising Deputy Attorney General

27 
28 MANUEL ARAMBULA
29 Deputy Attorney General
30 Attorneys for Complainant

SD2015801965
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Exhibit A

Accusation No. 2016-267

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 GREGORY J. SALUTE
Supervising Deputy Attorney General
4 State Bar No. 164015
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2617
7 Facsimile: (619) 645-2061
8 *Attorneys for Complainant*

9
10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **ERIC JAMES FISHER**
14 1206 East Mallard Drive
Madison, OH 44057

15 Registered Nurse License No. 691142
16 Nurse Anesthetist Certificate No. 4377

17 Respondent.

Case No. 2016-267
ACCUSATION

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On October 23, 2006, the Board of Registered Nursing issued Registered Nurse
24 License Number 691142 to Eric James Fisher (Respondent). The Registered Nurse License was
25 in full force and effect at all times relevant to the charges brought herein and will expire on May
26 31, 2016, unless renewed.

27 3. On March 21, 2013, the Board of Registered Nursing issued Nurse Anesthetist
28 Certificate Number 4377 to Respondent. The Nurse Anesthetist Certificate was in full force and

1 effect at all times relevant to the charges brought herein and will expire on May 31, 2016, unless
2 renewed.

JURISDICTION

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4 4. This Accusation is brought before the Board of Registered Nursing (Board),
5 Department of Consumer Affairs, under the authority of the following laws. All section
6 references are to the Business and Professions Code unless otherwise indicated.

7 5. Section 2750 of the Business and Professions Code (Code) provides, in pertinent
8 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
9 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
10 Nursing Practice Act.

11 6. Section 2764 of the Code provides, in pertinent part, that the expiration of a
12 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
13 against the licensee or to render a decision imposing discipline on the license.

STATUTORY PROVISIONS

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15 7. Section 2761 of the Code, in pertinent part states:

16 The board may take disciplinary action against a certified or licensed
17 nurse or deny an application for a certificate or license for any of the following:

18 (a) Unprofessional conduct, which includes, but is not limited to, the
19 following:

20

21 8. Section 2762 of the Code, in pertinent part states:

22 In addition to other acts constituting unprofessional conduct within the
23 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct
24 for a person licensed under this chapter to do any of the following:

25 (a) Obtain or possess in violation of law, or prescribe, or except as
26 directed by a licensed physician and surgeon, dentist, or podiatrist administer to
27 himself or herself, or furnish or administer to another, any controlled substance as
28 defined in Division 10 (commencing with Section 11000) of the Health and
Safety Code or any dangerous drug or dangerous device as defined in Section
4022.

(b) Use any controlled substance as defined in Division 10
(commencing with Section 11000) of the Health and Safety Code, or any
dangerous drug or dangerous device as defined in Section 4022, or alcoholic

1 beverages, to an extent or in a manner dangerous or injurious to himself or
2 herself, any other person, or the public or to the extent that such use impairs his or
3 her ability to conduct with safety to the public the practice authorized by his or
4 her license.

5
6 **REGULATORY PROVISION**

7 9. California Code of Regulations, title 16, section 1444, states:

8 A conviction or act shall be considered to be substantially related to the
9 qualifications, functions or duties of a registered nurse if to a substantial degree it
10 evidences the present or potential unfitness of a registered nurse to practice in a
11 manner consistent with the public health, safety, or welfare. Such convictions or
12 acts shall include but not be limited to the following:

13 (a) Assaultive or abusive conduct including, but not limited to, those
14 violations listed in subdivision (d) of Penal Code Section 11160.

15 (b) Failure to comply with any mandatory reporting requirements.

16 (c) Theft, dishonesty, fraud, or deceit.

17 (d) Any conviction or act subject to an order of registration pursuant to
18 Section 290 of the Penal Code.

19 **COST RECOVERY**

20 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request
21 the administrative law judge to direct a licentiate found to have committed a violation or
22 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
23 and enforcement of the case, with failure of the licentiate to comply subjecting the license to not
24 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
25 may be included in a stipulated settlement.

26 **DRUG AT ISSUE**

27 11. Oxycodone is a Schedule II controlled substance as designated by Health and
28 Safety Code section 11055, subdivision (b)(1)(M), and a dangerous drug within the meaning of
Code section 4022.

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FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Unfitness to Practice as a Registered Nurse)

12. Respondent has subjected his Registered Nurse License and Nurse Anesthetist Certificate to disciplinary action under Code section 2761, subdivision (a), for unprofessional conduct within the meaning of title 16 of the California Code of Regulations, Section 1444. The circumstances are that on February 2, 2014, while employed as a certified nurse anesthetist at Somnia Anesthesia Provider Group, Inc., doing business as Palm Springs Anesthesia Services, P.C. and contracted to work at Desert Regional Medical Center in Palm Springs, California, Respondent ingested two Percocet¹ pills prescribed to his roommate. On February 3, 2014, Respondent tested positive for opioid, during a drug screen at work following an anonymous report, which evidenced to a substantial degree the present or potential unfitness of Respondent to practice as a registered nurse in a manner consistent with the public health, safety, or welfare.

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SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Unauthorized Possession of Controlled Substances)

13. Respondent has subjected his Registered Nurse License and Nurse Anesthetist Certificate to disciplinary action under Code section 2761, subdivision (a), for unprofessional conduct within the meaning of Code section 2762, subdivision (a), in that on February 2, 2014, Respondent obtained a controlled substance without prescription. The circumstances are as detailed in paragraph 12, above, which are incorporated herein by reference.

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THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Self-Administration of a Controlled Substance)

14. Respondent has subjected his Registered Nurse License and Nurse Anesthetist Certificate to disciplinary action under Code section 2761, subdivision (a), for unprofessional conduct within the meaning of Code section 2762, subdivision (b), in that on February 3, 2014, Respondent tested positive for opioid as a result of self-administration of a controlled substance.

¹ Percocet is a brand for prescribed medication that contains a combination of acetaminophen and oxycodone. Percocet is used to relieve moderate to severe pain.

1 The circumstances are as detailed in paragraph 12, above, which are incorporated herein by
2 reference.

3
4 **PRAYER**

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein
6 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

7 1. Revoking or suspending Registered Nurse License Number 691142, issued to Eric
8 James Fisher;

9 2. Revoking or suspending Nurse Anesthetist Certificate Number 4377, issued to
10 Eric James Fisher;

11 3. Ordering Eric James Fisher to pay the Board of Registered Nursing the reasonable
12 costs of the investigation and enforcement of this case, pursuant to Business and Professions
13 Code section 125.3; and

14 4. Taking such other and further action as deemed necessary and proper.
15
16

17 DATED: September 14, 2015

18 *Stacie Jones*
19 LOUISE R. BAILEY, M.ED., RN
20 Executive Officer
21 Board of Registered Nursing
22 Department of Consumer Affairs
23 State of California
24 Complainant

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