

State Board of Psychology

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BOARD OF PSYCHOLOGY
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CONSENT AGREEMENT
BETWEEN
ROGER H. FISHER, Ph.D.
AND
THE (OHIO) STATE BOARD OF PSYCHOLOGY

This CONSENT AGREEMENT is entered into by and between ROGER H. FISHER, Ph.D. (hereafter "DR. FISHER") and the (OHIO) STATE BOARD OF PSYCHOLOGY (hereafter "BOARD"), the state agency charged with enforcing Chapter 4732 of the Ohio Revised Code and all rules promulgated thereunder.

DR. FISHER hereby acknowledges that he has read and understands this CONSENT AGREEMENT and has voluntarily entered into it without threat or promise by the BOARD or any of its members, employees, or agents.

DR. FISHER is fully aware of his rights, including his right to be advised by counsel and his right to a hearing pursuant to Chapter 119 of the Ohio Revised Code, on the issues that are the subject of this CONSENT AGREEMENT.

This CONSENT AGREEMENT contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this CONSENT AGREEMENT.

This CONSENT AGREEMENT is entered into on the basis of the following STATEMENTS and UNDERSTANDINGS:

1. DR. FISHER is a psychologist licensed to practice psychology in the State of Ohio, holding Psychologist License #149, and is subject to all laws and rules of Ohio regulating the practice of psychology.
2. On September 1, 2000, the BOARD received a formal complaint against DR. FISHER filed by Mother W. The complaint alleged that DR. FISHER performed a brief, single-session, single-party evaluation of her 5-year, 9-month old son, at the behest of the child's Father. The complaint further alleged that DR. FISHER then authored a report attributing a number of significant and negative psychological attributes to Mother W, based only upon information provided by Father and Son.
3. The report was dated April 21, 2000, and was addressed to Father's attorney with the knowledge that it would be presented to the Domestic Relations Court in pending litigation concerning parental rights and responsibilities. The report included a number of strong statements regarding custody, and questioned Mother's fitness or ability to parent by remarking

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upon her psychological stability, "personality changes," "mood swings," allegedly bizarre behavior, and emotional capacity to be a positive parent in a divorced family.

4. DR. FISHER had no direct contact with Mother W before formulating his report and opinions, and made no attempt to seek such direct contact or to seek substantial independent information in this regard.

5. On November 8, 2000, the BOARD notified DR. FISHER of the formal complaint. DR. FISHER timely responded in writing, and subsequently agreed to and did attend an informal meeting at the BOARD's offices on February 14, 2001.

Based upon the above STATEMENTS and UNDERSTANDINGS, the BOARD and DR. FISHER agree as follows:

A. DR. FISHER admits that his professional conduct in this matter violated the following provisions of the Rules of Professional Conduct (Ohio Administrative Code 4732-17-01)

(B) Negligence:

(1) A psychologist or school psychologist shall be considered negligent if his/her behaviors toward his/her clients, supervisees, employees or students, in the judgment of the board, clearly fall below the standards for acceptable practice of psychology or school psychology.

(H) Competence:

(2) Specialty standard of care. A psychologist or school psychologist shall exercise sound judgment and care in determining what constitutes his/her area(s) of competence. A guiding principle is that one who undertakes practice in a given specialty area will be held to the standard of care within that specialty while he/she is practicing in that area.

B. DR. FISHER agrees to discontinue offering or rendering, and he shall disclaim sufficient expertise to offer or render, services to families, parents and/or children as an expert or evaluator for matters in Domestic Relations Court regarding parenting, custody, or visitation.

C. DR. FISHER further agrees that he will prepare an informed consent document to be provided to clients in divorced or divorcing families. This document shall be signed by the client with a copy provided to the client and the original retained in the client file. This document shall include, but need not necessarily be limited to, the following information:

- (1) a statement reflecting the practice restriction set forth in Paragraph B above;
- (2) a statement advising that DR. FISHER will not provide any opinions, formal reports, or testimony regarding parenting recommendations; and

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(3) a statement advising that if subpoenaed to provide such testimony, DR. FISHER will take appropriate and responsible professional measures to have the subpoena quashed. Should DR. FISHER's appearance be nonetheless compelled by court order, DR. FISHER has an affirmative duty to advise the Court that he cannot provide an expert opinion regarding parenting recommendations.

DR. FISHER will forward a proposed form and/or the language to be utilized in the form to the BOARD for approval by July 16, 2001.

D. DR. FISHER further agrees that he will not offer or render, in writing or by testimony, any hypothesis, impression, or diagnostic supposition regarding any party or individual with whom he has not been engaged directly in a professional relationship, and with whom he has not had direct contact. Nothing in this agreement shall otherwise prevent DR. FISHER from testifying on behalf of a client as to the client's presentation, progress or attributes.

E. In exchange for the agreements of DR. FISHER set forth in this CONSENT AGREEMENT, the BOARD agrees not to proceed further with any disciplinary action against DR. FISHER for the matters enumerated under STATEMENTS and UNDERSTANDINGS of this CONSENT AGREEMENT.

F. By his signature on this agreement, DR. FISHER agrees that in the event the BOARD, in its discretion, does not approve this CONSENT AGREEMENT, this settlement offer is withdrawn and shall be of no evidentiary value and shall not be relied upon or introduced in any disciplinary action or appeal by either party. DR. FISHER agrees that should the BOARD reject this CONSENT AGREEMENT and if this case proceeds to hearing, he will assert no claim that the BOARD was prejudiced by its review and discussion of this CONSENT AGREEMENT or of any information relating thereto.

G. DR. FISHER waives any and all claims or causes of action he may have against the BOARD, and members, officers, employees and/or agents of the BOARD, arising out of the matters which are the subject of this CONSENT AGREEMENT.

H. The BOARD shall incorporate this CONSENT AGREEMENT into a formal Journal Entry at the June 28 - 29, 2001, meeting of the BOARD.

I. This CONSENT AGREEMENT shall be considered a public record as that term is used in Section 149.43 of the Ohio Revised Code. For purposes of this CONSENT AGREEMENT, formal notification consists of written notice to the following: (1) the Association of State and Provincial Psychology Boards (ASPPB); (2) Ohio licensees receiving any newsletter issued by the BOARD; (3) individuals/organizations who have requested formal notification of Board actions; and (4) the Healthcare Integrity Protection Data Bank (HIPDB), and/or any reporting required by the federal legislation creating HIPDB or any similar state or federal legislation. Further, DR. FISHER agrees to cooperate with the BOARD in providing any information required for the BOARD to complete such a mandated report within the required time period(s).

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J. DR. FISHER agrees that the BOARD may release his social security number to the ASPPB Disciplinary Data Bank and other organizations that may request it for tracking or monitoring purposes. DR. FISHER acknowledges that by signing this CONSENT AGREEMENT he knowingly and voluntarily waives any expectation of privacy or constitutional privacy interests that he may have in maintaining the confidentiality of his social security number. DR. FISHER understands and does not contest that the BOARD is required to collect and report his SSN pursuant to 42 U.S.C. sec. 1320a-7e(b), 5 U.S.C. sec. 552a, and 45 C.F.R. pt. 61 for compliance with the U.S. Department of Health and Human Services' Healthcare Integrity and Protection Data Bank (HIPDB).

K. This CONSENT AGREEMENT is not an adjudication order within the meaning of Section 119.01(D) of the Ohio Revised Code.

L. Upon consent of DR. FISHER and the BOARD, the terms and conditions of this CONSENT AGREEMENT may be modified or terminated in writing.

M. This CONSENT AGREEMENT shall take effect when it has been signed by the parties and their representatives as indicated below.

THE (OHIO) STATE BOARD OF PSYCHOLOGY BY:

Roger H. Fisher, Ph.D. 6-15-01
ROGER H. FISHER, Ph.D. Date

Barbara A. Garwood, Ph.D. 6/29/01
BARBARA A. GARWOOD, Ph.D. Date
President

Date
Attorney at Law
Counsel to DR. FISHER

Kelley R. Haddox 6-29-01
KELLEY R. HADDOX Date
Assistant Attorney General for
the State Board of Psychology