VERMONT DEPARTMENT OF HEALTH
BOARD OF MEDICAL PRACTICE
108 Cherry Street, PO Box 70
Burlington, VT 05402-0070
(802) 657-4220

COMPLAINT FORM

Please Print

Your information: Vermonters for Criminal Justice Reform
Last name Dalton First Name Thomas
Street address 255 South Champlain St.
City, State, Zip code Burlington, VT 05401
Business/Daytime phone (802) 355-1685 Cell/Home phone (802) 355-1685
Email tom@vcjr.org

This is a complaint against a:
Physician (MD) ✓
Physician Assistant (PA) _____
Podiatrist (DPM) _____

Full name of Physician, Physician Assistant, or Podiatrist:
Steven Fisher, M.D.
Name of health care facility (if known) Centurion/VT Dept. of Corrections
Address _____
City, State, Zip code _____
Business phone of Physician, Physician Assistant, or Podiatrist _____

NATURE OF COMPLAINT: Please describe, in detail, the nature of your complaint against this professional. Use the space on the reverse side and additional sheets, if necessary.

please see attached

Please turn over and complete other side

Continue your complaint here please see attached

Please attach copies of any materials you think will help us review your complaint, such as medical, pharmacy, or insurance records.

We need to be able to review the medical records that relate to this complaint. The patient or the patient's legally authorized representative must sign the release form (attached). We will send you a confirmation letter when we receive your signed Authorization for Release of Medical Records and Complaint Form.

We will likely be sending a copy of your Complaint Form, the information attached to it, and the Authorization form to the professional who is the subject of this complaint. If this investigation results in formal disciplinary action against the professional, the name and other information about the person filing the complaint may become public. Please call us if you have any questions or concerns.

[redacted] 9-10-18

Your Signature Today's Date

Mail this form to: **VERMONT DEPARTMENT OF HEALTH**
BOARD OF MEDICAL PRACTICE
108 Cherry Street, PO Box 70
Burlington, VT 05402-0070

Vermont Department of Health
Board of Medical Practice

September 10, 2018

Re: Steven Fisher, M.D.

Nature of Complaint

1. Dr. Steven Fisher, M.D. (Provider) has failed to use and exercise on repeated occasions that degree of care, skill and proficiency that is commonly exercised by the ordinary skillful, careful and prudent physician engaged in the treatment of opioid use disorder in that he has repeatedly denied timely medication-assisted treatment for opioid use disorder with buprenorphine, methadone and naltrexone to patients who meet criteria for treatment and are requesting care (MAT). Provider has performed unsafe and unacceptable patient care that has placed patients at increased risk for fatal drug overdose and other harm and has failed to conform to the essential standards of acceptable, legally mandated and prevailing practice. In some cases, Provider has abandoned his patients resulting in harm.

2. Provider is practicing in Vermont correctional facilities where MAT has been provided to incarcerated patients for over 10 years. Incarcerated patients do not have access to other medical care providers while incarcerated and this creates a special responsibility to provide needed care. He is practicing in a state in which the rate of fatal opioid overdose is at the highest in recent state history. He is or should be aware of research that indicates that risk of fatal overdose is up to 10 times higher soon after release from incarceration than for the same individual weeks or months later, and 100 times higher than the general population. He is or should be aware of research that indicates that MAT reduces this risk by 50 percent or more, and that those who participate in MAT while incarcerated are more likely to participate in treatment after release from incarceration.

3. Provider is practicing in the State of Vermont, which enacted new legislation effective July 1, 2018 that mandates expanded access to MAT in Vermont correctional facilities. Act 176 states in part, "If at any time an inmate screens positive as having an opioid use disorder, the inmate may elect to commence buprenorphine-specific medication-assisted treatment if it is deemed medically necessary by a provider authorized to prescribe buprenorphine. The inmate shall be authorized to receive the medication as soon as possible and for as long as medically necessary." Under the legislative intent section, Act 176 says, "It is the legislative intent of the General Assembly that medication-assisted treatment offered at or facilitated by a correctional facility is a medically necessary component of treatment for inmates diagnosed with opioid use disorder." Legislators have also said they intended parity between MAT access in correctional facilities and MAT access in the community, where MAT is provided without delay.

4. The American Medical Association and the Vermont Medical Society submitted a letter to Vermont legislators in "strong support" of the provision of medication-assisted treatment for

opioid use disorder to inmates. They cited "broad medical and public health policy support," and said the value of such treatment is "unequivocally established," "cost-effective" and "reduces illicit drug use, disease rates, overdoses and criminal activity."

5. Opioid use disorder is characterized by compulsive opioid use and a marked difficulty in reducing or eliminating use of non-prescribed opioids. Absent access to treatment, individuals with opioid use disorder are often unable to discontinue use of non-prescribed opioids. Provider knows or should know that individuals living with opioid use disorder in Vermont correctional facilities who are denied access to MAT often use non-prescribed opioids, some daily. Provider's denial of timely access to care subjects these patients to the risks of the illicit drug market in Vermont correctional facilities including threats of violence, violence, sexual exploitation, injection drug use, increases in racial tensions, punitive responses to use, corruption, overdose risk, high risk of relapse, economic hardship and depression. Those who test positive for non-prescribed opioids are subject to disciplinary action that sometimes results in significantly longer periods of incarceration. Provider's failure to provide appropriate treatment means patients who are asking for treatment for opioid use disorder are being denied treatment and are being punished instead. Some patients are experiencing harm while incarcerated and some are being released from incarceration untreated and are experiencing harm in the community.

6. Provider has failed to respond to requests for screening, assessment and treatment in a timely way for many patients in need of immediate treatment and care. According to the Vermont Department of Corrections, as of August 30, 2018 (two months after the new law took effect), about 500 incarcerated patients had requested treatment for opioid use disorder, 170 had been screened and 45 had been inducted. Over 100 grievances related to MAT access issues had been filed by incarcerated patients.

7. Provider has systematically limited access to MAT for many patients to a two-week window (treatment is often withheld until 30 days prior to release from incarceration but the patient must have at least 14 days left before release or Provider says there is not enough time to initiate treatment). And even within this tiny window patients are only eligible if they have an exact, confirmed release date (most do not have an exact release date because they have pending charges, are waiting for a residence approval, are waiting for a case staffing or for other reasons).

8. Provider's practice of withholding or delaying treatment is not evidence-based. It does not consider the needs of individual patients (for example, even patients who report daily use of non-prescribed opioids and who are experiencing significant harm as a result are denied access to treatment based on restrictive practices). And it has resulted in harm to patients while incarcerated and after release from incarceration.

9. Provider is using the existence or non-existence of an exact, confirmed release date as the dispositive medical criteria in determining if and when MAT is medically necessary and/or

available to patients. In effect, Provider is saying that MAT is not medically necessary and/or available to patients one minute but is medically necessary and/or available a minute later when a confirmed release date is identified. Provider's use of legal status information to make clinical decisions (while excluding compelling clinical information clearly indicating a need for immediate treatment) is inappropriate in this context, and Provider's failure to provide appropriate and timely medical care is unprofessional conduct.

10. By determining that a patient has opioid use disorder and that treatment is necessary and then withholding treatment, Provider is abandoning his patients. For some, treatment is delayed. For other, treatment is not happening at all and they are being released back into their families and communities untreated. Many suffer significant harm while incarcerated and/or after they are released untreated, and this harm could have and should have been prevented through timely provision of MAT.

11. Vermonters for Criminal Justice Reform has a list of more than 25 patients who have been denied timely access to care and is ready to provide the Board of Medical Practice with support in contacting these patients. For example,

Patient A: Has a long-term history of opioid use disorder and participated in MAT while in the community. He "met medical necessity" for MAT August 1, 2018, according to the Vermont Department of Corrections, but Provider is refusing to provide treatment until several months later when the patient is "30 days before release." As a result, the patient has continued to use illicit opioids while incarcerated and has been subject to disciplinary action and other harm that could have been prevented if he was provided with timely access to care.

Patient B: Has a long-term history of opioid use disorder, including a history of drug overdose that resulted in hospitalization. He requested MAT while incarcerated but was released untreated and began using non-prescribed opioids within 24 hours of release.

12. The Vermont Department of Corrections (DOC) advised Vermonters for Criminal Justice Reform that Provider's failure to provide timely access to care, including by refusing to provide treatment to many patients until 30 to 14 days prior to an exact confirmed release date, is not based on any DOC policy or requirement but is instead a medical decision made by this Provider. DOC advised that the appropriate mechanism to address concerns is a complaint to the Vermont Department of Health Board of Medical Practice.

13. Given the large number of vulnerable patients with no access to alternative care who are currently being denied access to urgently needed medical treatment, and given the associated risk for fatal drug overdose, Vermonters for Criminal Justice Reform respectfully requests that the Vermont Department of Health Board of Medical Practice investigate and address these concerns on an urgent and expedited basis.

February 21, 2018

The Honorable Peg Flory
Chair
The Honorable John Rodgers
Vice-Chair
The Honorable Dick Mazza
The Honorable Francis K. Brooks
The Honorable David Soucy
Senate Committee on Institutions
Vermont State House
115 State Street
Montpelier, VT 05633-5301

Re: American Medical Association and Vermont Medical Society **strong support** for Senate Bill 166, An act relating to the provision of medication-assisted treatment for inmates

Dear Senate Committee on Institutions Members:

On behalf of the physician and medical student members of the American Medical Association (AMA), our physician and student members and Vermont Medical Society (VMS), we write in **strong support** of Senate Bill 166 (S.B. 166), "An act relating to the provision of medication-assisted treatment for inmates." This bill continues Vermont's leadership in putting forward and implementing policies to reverse the nation's and Vermont's opioid-related overdose and death epidemic. Critically, this bill demonstrates Vermont's unequivocal support to enhance treatment of those with an opioid use disorder, a position that highlights Vermont's national leadership on this issue.

The AMA and VMS specifically support S.B.166 because it will help identify those with an opioid use disorder, including whether the person currently is receiving treatment. Continuity of care is paramount to maintaining long-term recovery for opioid use disorder, and this bill helps ensure that a person currently receiving medication assisted treatment (MAT) remains on MAT; or that a person who has an opioid use disorder can begin treatment with MAT. There is broad medical and public health policy support for MAT:

- Using Medicine To Treat Opioid Use Disorder Reduces Illicit Drug Use, Disease Rates, Over-doses And Criminal Activity. "Patients who use medications to treat their OUD remain in therapy longer than people who don't; they are also less likely to use illicit opioids. In addition, MAT helps to decrease overdose deaths and improve other health outcomes, such as reducing the transmission of infectious diseases,

including HIV and hepatitis C."[1] US Food and Drug Administration (FDA)-approved MAT for Opioid Use Disorder includes buprenorphine (e.g., Suboxone, Sublocade, and Probuphine), naltrexone (e.g. Vivitrol) and methadone.

- Medication-Assisted Treatment Is A Cost-Effective Service For Those With An Opioid Use Disorder. "Results suggest that medication-assisted therapy is associated with reduced general health care expenditures and utilization, such as inpatient hospital admissions and outpatient emergency department visits, for Medicaid beneficiaries with opioid addiction."[2]

- The Value Of Medication-Assisted Treatment Is "Unequivocally Established." "According to the National Institutes of Health, 'the safety and efficacy of medically assisted treatment has been unequivocally established,' adding that 'methadone maintenance coupled with relevant social, medical and psychological services has the highest probability of being the most effective of all available treatments for opioid addiction."[3]

The AMA and VMS are particularly pleased to see that Vermont will further enhance its nationally-recognized "hub and spoke" model for increasing access to treatment for opioid use disorder by working collaboratively with the health care community and opioid treatment programs throughout the state. This type of collaboration has proven elusive for many, and we believe that in passing S.B.166, you will help establish a national model for other states. For the aforementioned reasons, we urge the Vermont Legislature to swiftly enact S.B. 166.

If you have any questions, please contact Daniel Blaney-Koen, JD, Senior Legislative Attorney, AMA, at daniel.blaney-koen@ama-assn.org or (312) 464-4954; and Jessa Barnard, Esq., Executive Director, VMS, at jbarnard@vtmd.org or (802) 223-7898, Ext. 11.

Sincerely,

James L. Madara, MD
Executive Vice President, CEO
American Medical Association

Trey Dobson, MD
President
Vermont Medical Society

cc: Senator Tim Ashe
Senator Claire Ayer
Senator Dick Sears, Jr.

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[1] "The Case for Medication-Assisted Treatment," Pew Charitable Trusts, February 1, 2017. Available at http://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2017/02/the-case-for-medication-assisted- treatment

[2] Mary Mohlman, et al., "Impact of Medication-Assisted Treatment for Opioid Addiction on Medicaid Expenditures and Health Services Utilization Rates in Vermont," Journal of Substance Abuse Treatment, August 2016. Available at http://www.sciencedirect.com/science/article/pii/S0740547215300659

[3] "Effective Medical Treatment of Opiate Addiction," National Institutes of Health, November 17-19, 1997. Available at https://consensus.nih.gov/1997/1998TreatOpiateAddiction108PDF.pdf