

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA, and THE STATE OF WISCONSIN,  
*ex rel.* DR. TOBY TYLER WATSON,

Plaintiffs,

v.

Case No. 11-CV-236-JPS

JENNIFER KING VASSEL,

Defendant.

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**CIVIL L.R. 7(h) EXPEDITED NON-  
DISPOSITIVE MOTION FOR ENTRY OF  
HIPAA QUALIFIED PROTECTIVE ORDER FOR  
CUSTODIANS OF DR. KING-VASSEL PATIENT  
RECORDS**

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Pursuant to Civil L.R. 7(h), *Qui tam relator* Dr. Toby Watson (Dr. Watson) moves for the expedited entry of a qualified protective order under 45 CFR §164.512(e) to authorize custodians of records of patients of Defendant Jennifer King-Vassel (Dr. King) to whom Dr. King wrote prescriptions when they were under the age of 18, from March 3, 2005, to date, to disclose protected health information limited to identifying off-label prescriptions written by Dr. King-Vassel and presented to Medicaid for payment for uses that Dr. Watson claims do not have support in any of the compendia listed in 42 U.S.C. §1396r-8(k)(6), §1396r-8(g)(1)(B)(i).

Dated this 22nd day of October, 2013.

LAW PROJECT FOR PSYCHIATRIC  
RIGHTS, INC.

s/ James B. Gottstein

James B. Gottstein (Alaska Bar # 7811100)  
Attorney for *relator* Dr. Toby Tyler Watson

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA, and  
THE STATE OF WISCONSIN,

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ex rel. DR. TOBY TYLER WATSON,

Relator,

v.

JENNIFER KING VASSEL, *et al.*,  
Defendant.

Case No. 11-CV-236-JPS

**PROTECTIVE ORDER**

Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure and 45 C.F.R. § 164.512(e)(1), promulgated under the Health Insurance Portability and Accountability Act of 1996, Pub.L. No. 104-191, §264, 110 Stat. 1936 (HIPAA), the Court finds good cause for the issuance of a qualified protective order. Accordingly,

IT IS HEREBY ORDERED that:

(1) The parties (and their attorneys) to the above-captioned matter are hereby authorized to receive, subpoena, and transmit “protected health information” pertaining to minor patients of defendant, Jennifer King Vassel (“King Vassel”), who submitted for Medicaid reimbursement prescriptions from King Vassel for uses that *Relator*, Dr. Watson, claims are not supported by the American Hospital Formulary Service Drug Information (AHFS); the United States Pharmacopeia–Drug Information or its successor publications (US Pharmacopeia); or the DRUGDEX Information System (DRUGDEX).

(2) For the purposes of this order, subject to the restrictions contained in paragraph 1, above, protected health information shall have the same scope and definition as set forth in 45 C.F.R. §§ 160.103 and 160.501. Protected health information includes, but is not limited to, health information, including demographic information, relating to either: (a) the past, present or future physical or mental condition of an individual; (b) the provision of care to an individual; or (c) the payment for care provided to an individual, which identifies the individual or which reasonably could be expected to identify the individual. **However, any records produced should be redacted so as: (1) not to reflect any patient's Social Security number; and, (2) to reflect only the patient's first and last initials (i.e. the patient's full name should not appear anywhere in the records).**

(3) For purposes of this protective order and litigation, Watson seeks discovery only from custodians of records of patients of Defendant Jennifer King-Vassel (Dr. King) to whom Dr. King wrote prescriptions when they were under the age of 18, from March 3, 2005, to date. As those entities are all "covered entities" (as defined by 45 C.F.R. § 160.13), the Court has power to authorize them to disclose protected health information for purposes of this litigation. Thus, the above-named entities are hereby authorized, subject to the restrictions set forth in paragraphs 1. and 2., above, to disclose to the attorneys in this matter protected health information pertaining to minor patients (under 18 years old at the time of the prescriptions) who received Medicaid benefits since March 3, 2005, including under the Wisconsin Medical Assistance Program, Wisconsin BadgerCare System, and/or Wisconsin Forward Health, and who received prescriptions from King Vassel for uses that Watson claims are not supported by the AHFS, the US Pharmacopeia, or the DRUGDEX.

(4) The parties and their attorneys shall be permitted to use or disclose the protected health information that they receive in this matter only for purposes of prosecuting or defending this action and any appeals of this case. To be clear, this means that the protected health information that the parties gather in this case *may be used only for this case and not any other*.

(5) This includes, but is not necessarily limited to, disclosure to their attorneys, experts, consultants, court personnel, court reporters, copy services, trial consultants, and other entities or persons involved in the litigation. Prior to disclosing the protected health information to entities or persons involved in this litigation, counsel shall inform each such entity or person that the protected health information may not be used or disclosed for any purpose other than this litigation. Counsel shall take all other reasonable steps to ensure that entities or persons receiving the protected health information do not use or disclose such information for any purpose other than this litigation.

(6) Within 45 days after the conclusion of the litigation including appeals, the parties, their attorneys, and any other person or entity in possession of protected health information received from counsel pursuant to paragraph 5 of this Order, shall return the protected health information to the covered entity or destroy any and all copies of protected health information.

(7) This Order does not control or limit the use of protected health information that comes into the possession of the parties or their attorneys from a source other than a “covered entity,” as that term is defined in 45 C.F.R. § 160.103.

(8) Nothing in this Order authorizes the parties to obtain medical records or information through means other than formal discovery requests, subpoenas, depositions, pursuant to a patient authorization, or other lawful process.

(9) This order does not authorize either party to seal court filings or court proceedings. The Court will make a good cause determination for filing under seal if and when the parties seek to file protected health information or other materials under seal.

Dated at Milwaukee, Wisconsin, this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

BY THE COURT:

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J.P. Stadtmueller  
U.S. District Judge

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA, and THE STATE OF WISCONSIN,  
*ex rel.* DR. TOBY TYLER WATSON,

Plaintiffs,

v.

Case No. 11-CV-236-JPS

JENNIFER KING VASSEL,

Defendant.

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**BRIEF IN SUPPORT OF  
CIVIL L.R. 7(h) EXPEDITED NON-  
DISPOSITIVE MOTION FOR ENTRY OF  
HIPAA QUALIFIED PROTECTIVE ORDER FOR  
CUSTODIANS OF DR. KING-VASSEL PATIENT  
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Pursuant to Civil L.R. 7(h), *Qui tam relator* Dr. Toby Watson (Dr. Watson) has moved for the expedited entry of a qualified protective order under 45 CFR §164.512(e) to authorize custodians of records of patients of Defendant Jennifer King-Vassel (Dr. King) to whom Dr. King wrote prescriptions when they were under the age of 18, from March 3, 2005, to date, to disclose protected health information limited to identifying off-label prescriptions written by Dr. King-Vassel and presented to Medicaid for payment for uses that Dr. Watson claims do not have support in any of the compendia listed in 42 U.S.C. §1396r-8(k)(6), §1396r-8(g)(1)(B)(i).<sup>1</sup>

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<sup>1</sup> The reason, "Dr. Watson claims" is included is because, technically, this is the only way for the person(s) from whom discovery is sought can determine which information is responsive. Interrogatory No 4 of *Relator's* First Discovery Requests to Defendant Jennifer King-Vassel, set forth below, describes exactly which prescriptions are included. The "Medically Accepted Indications Chart," referenced in Interrogatory No. 4 follows page 11 of Exhibit 1. Citations to Exhibit page numbers do not count the cover page.

### **A. Background and Purpose**

On September 18, 2013, Dr. Watson served *Relator's* First Discovery Requests to Defendant Jennifer King-Vassel. Exhibit 1. Interrogatory No. 4, and Request for Production No. 4 are as follows:

#### **INTERROGATORY NO. 4.**

Please identify every person who is a Medicaid recipient to whom you, since March 3, 2005, when the person was under 18 years of age, prescribed at least one of the drugs listed in the attached chart of Medically Accepted Indications for Pediatric Use of Certain Psychotropic Medications (Medically Accepted Indications Chart) where the row for the diagnosis for which the drug was prescribed does not have a white background in the Medically Accepted Indications Chart. For purposes of this Interrogatory, "identify" means to provide the person's (a) full name, (b) parent(s) or guardian(s), (c) date of birth, and (d) Medicaid Identification Number. It is acceptable that the person's full name and parent(s) or guardian(s) be omitted, PROVIDED the person's Medicaid Identification Number is provided.

#### **REQUEST FOR PRODUCTION NO. 4.**

Please produce all mental health, prescription, and billing records for each person identified in Interrogatory No. 4. It is acceptable that the person's full name and parent(s) or guardian(s) be redacted so long as his or her date of birth and Medicaid Identification Number is included.

Exhibit 1, pp. 9 & 10.

On October 2, 2013, through Dockets No. 116, and 117, this Court granted Dr. Watson's Second Motion For Entry Of HIPAA Qualified Protective Order (King-Vassel & Wisconsin), Docket No. 104, with modifications to further restrict the information to be provided.<sup>2</sup> Dr. Watson's motion only sought authorization for Dr. King and Wisconsin Medical Assistance Program, Wisconsin BadgerCare System, and Wisconsin Forward Health to disclose protected

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<sup>2</sup> This Court denied Dr. Watson's first Motion for HIPAA Qualified Protective Order, Docket No. 25, because "The Court concluded that, as submitted, it allowed almost unfettered access to records regarding King Vassel's patients." Docket No. 116, p. 6.

health information and the Qualified Protective Order this Court granted was so restricted.  
Docket No. 117, page 2.

Dr. Watson's restriction to Dr. King and Wisconsin Medical Assistance Program, Wisconsin BadgerCare System, and Wisconsin Forward Health was based on the assumption that Dr. King would have possession, custody, or control of her patients' records. However, Dr. King's responses to Interrogatory No. 4 and Request for Production No. 4 state otherwise:

**Response to Interrogatory No.4:** . . . Dr. King is not a records custodian for any such patients and thus does not have custody or control of medical records for such patients. . . . Thus, the information requested cannot be provided.

**Response to Request for Production No. 4:** See response to Interrogatory No. 4.  
Exhibit 2, pp. 5 & 6.

### **B. Argument**

Dr. Watson's argument is simple and short. In its October 2, 2013, Order, Docket No. 116, p. 5, this Court held:

[T]he Court must grant Watson's request for a HIPAA protective order that will allow him to gather additional evidence regarding King Vassel's patients. Watson's complaint includes claims against King Vassel for issuing off-label prescriptions to Medicaid and Medical Assistance recipient minors. Thus, the Court cannot confine Watson's discovery only to his claims against N.B. In other words, information regarding King Vassel's non-FDCA, non-compensia prescriptions to Medicaid-recipient minors is directly relevant to Watson's claims.

Since Dr. King has served a sworn response to Interrogatory No. 4 that she does not have custody or control of responsive records and therefore "the information requested cannot be provided," Dr. Watson is entitled to expand the parties from whom such information is sought to the records custodians of such information.

### C. Conclusion

For the foregoing reasons *Relator*, Dr. Toby Watson's Civil L.R. 7(h) Expedited Non-Dispositive Motion For Entry Of HIPAA Qualified Protective Order For Custodians Of Dr. King-Vassel Patient Records should be **GRANTED**.

Dated this 22nd day of October, 2013.

LAW PROJECT FOR PSYCHIATRIC  
RIGHTS, INC.

s/ James B. Gottstein

James B. Gottstein (Alaska Bar # 7811100)  
Attorney for *relator* Dr. Toby Tyler Watson

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# Exhibit 1

to

Civil L.R. 7(h) Expedited Non-Dispositive Motion For Entry Of HIPAA  
Qualified Protective Order For Custodians Of Dr. King-Vassel Patient Records

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA, and THE STATE OF WISCONSIN,  
ex rel. DR. TOBY TYLER WATSON,

Plaintiffs,

v.

Case No. 11-CV-236-JPS

JENNIFER KING-VASSEL, *et al.*,

Defendant.

---

**RELATOR'S FIRST DISCOVERY REQUESTS TO**  
**DEFENDANT JENNIFER KING-VASSEL**

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NOW COMES *Relator* Dr. Toby Tyler Watson, who requests that you produce for inspection and copying the material hereafter described and that you answer the following Requests for Admissions and written Interrogatories, and respond to the Requests for Production. Your answers to the Requests for Admissions, Interrogatories and Requests for Production must be served no later than thirty (30) days after the service of this pleading upon you.

The questions that follow are to be considered as continuing, and you are requested to provide by way of supplemental answers hereto such additional information as you or any person acting on your behalf may hereinafter learn which will augment or otherwise supplement or change your answers to the questions below. Such supplemental responses are to be served upon this party immediately upon receipt of such information.

Where knowledge, information, or documents are requested, such request encompasses knowledge, information or documents in your possession, custody or control, or in the possession, custody or control of your staff, agents, employees, representatives and, unless privileged, attorneys, or any other person who has possession, custody or control of your

proprietary knowledge, information or documents.

## I. DEFINITIONS

Unless the question conclusively indicates otherwise, the following definitions apply to the words used in these interrogatories:

A. Person: The term "person" includes a corporation, partnership, other business association or entity, a natural person, and any government or government body, commission, board or agency.

B. Document or Record: The term "document" or "record" are defined to mean and include any and all graphic or physical representations, including without limitation all handwritten, typed or printed material, photographs, copies of all the foregoing, and material stored on tape, computer or any other electronic medium, including e-mail and sound recordings.

C. Identification of Documents: When you are requested to "identify" a document or record, you are requested to provide the following with regard to each document:

- (1) A description of the document with sufficient particularity to enable the custodian of the document to respond to a request for production or subpoena *duces tecum* for the document;
- (2) The name, business address, residence address, telephone number and occupation of the present custodian of the document;
- (3) The date on which such document was first prepared; and
- (4) The name, business address, residence address, telephone number and occupation of each person who prepared or signed the document.

D. Identification of Natural Person: When you are requested to "identify" a natural person, you are requested to provide the following with regard to each such person:

- (1) The name of the person;
- (2) person's date of birth;
- (3) The residence address of the person;
- (4) The business telephone number of the person;
- (5) The residence telephone number of the person;
- (6) The e-mail address of the person;
- (7) The occupation of the person and the name of the employer of the person, if any.

E. Identification of Business Entity: When you are requested to "identify" any corporation, partnership, joint venture or other business entity, you are requested to provide the following with regard to each such entity:

- (1) Whether the entity is a corporation, partnership, joint venture or other type of entity;
- (2) If the entity is a partnership or joint venture:
  - (i) identify each partner or joint venturer;
  - (ii) state whether he or she is a limited or general partner; and
  - (iii) specify the date on which the partnership or joint venture was formed;
- (3) If the entity is a corporation:
  - (i) identify each of the current officers of the corporation;
  - (ii) state the date of incorporation;
  - (iii) state the State in which the corporation is incorporated.

F. The words "you" and "your," refer to Jennifer King-Vassel, M.D., her employees and agents and anyone acting by, for or through Jennifer King-Vassel, M.D.

G. Relate: The words "relate" or "relating to" mean referring to, concerning, alluding to, responding to, connected with, commenting on, in respect of, about, regarding, discussing,

showing, describing, mentioning, reflecting, analyzing, constituting, evidencing, or pertaining to, directly or indirectly, in whole or in part.

## II. CLAIMS OF PRIVILEGE:

(a) If the response to any Interrogatory is withheld on grounds of privilege, the basis for such claim shall be stated with particularity.

(b) If any document(s) or other item(s) identified or requested herein are withheld for any reasons under a claim of privilege or any other claim, the particular document or other item(s) withheld are to be described as follows:

- (1) The date of the document or other item;
- (2) The author or addressor of the document or other item;
- (3) The recipient or addressee of the document or other item;
- (4) The number of pages of the document;
- (5) The general subject matter of the document or other item;
- (6) Each person who sent, received and obtained copies of the document or other item;
- (7) A general description of the document or other item (i.e., letter, report, memoranda, audio or video recording); and
- (8) The basis of the privilege asserted with respect to the alleged grounds for non-production of the document or other item.

### REQUEST FOR ADMISSION NO. 1.

Please admit under F.R.C.P. 36 that each of the prescriptions identified

1. in ¶ 24 of the Complaint in this matter, Docket No. 1, and
2. Docket Nos. 46-1, 46-2, and 46-3,

were not issued for a use approved under the Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq. (off-label).

**RESPONSE**

INTERROGATORY NO. 1.

If the response to Request for Admission No. 1 is anything other than an unqualified admission, please (a) set forth in detail the facts upon which you base, support or justify your denial or qualification, including the use and diagnosis or diagnoses for which each of the prescriptions was issued, and (b) identify the specific document(s) and passage(s) that support or justify your denial or qualification, including any such document(s) and passages that support your denial that the prescription was off-label.

**RESPONSE**

REQUEST FOR PRODUCTION NO. 1.

If the response to Request for Admission No. 1 is anything other than an unqualified admission, please produce:

- (a) all documents relating to N.B.'s diagnosis or diagnoses for each of the prescriptions; and

(b) all documents identified in Interrogatory No. 1 or otherwise, relating to a contention that the prescription was for a use approved under the Food, Drug, and Cosmetic Act.

**RESPONSE**

REQUEST FOR ADMISSION NO. 2.

Please admit under F.R.C.P. 36 that each of the prescriptions identified

(a) in ¶ 24 of the Complaint in this matter, Docket No. 1, and

(b) Docket Nos. 46-1, 46-2, and 46-3,

were not issued for a use supported by (i) the American Hospital Formulary Service Drug Information (AHFS), (ii) the United States Pharmacopeia–Drug Information (or its successor publications) (US Pharmacopeia), or (iii) the DRUGDEX Information System (DRUGDEX), or (iv) any combination thereof, hereinafter referred to as "compendia."

**RESPONSE**

INTERROGATORY NO. 2.

If the response to Request for Admission No. 2 is anything other than an unqualified admission, please (a) set forth in detail the facts upon which you base, support or justify your denial or qualification, including the use and diagnosis or diagnoses for which each of the prescriptions was issued, and (b) identify the specific document(s) and passage(s) that support or justify your denial or qualification, including any such document(s) and passages that support your contention that the prescription was for a use supported by one or more of the compendia.

**RESPONSE**

REQUEST FOR PRODUCTION NO. 2.

If the response to Request for Admission No. 2 is anything other than an unqualified admission, please produce:

- (a) all documents relating to N.B.'s diagnosis or diagnoses for each of the prescriptions which you assert was issued for a use supported by one or more of the compendia; and
- (b) for each and every prescription that you contend is for a use supported by one or more of the compendia, all documents identified in your response to Interrogatory

No. 2, or otherwise, relating to your contention that the prescription was issued for a use supported by one or more of the compendia.

**RESPONSE**

REQUEST FOR ADMISSION NO. 3.

Please admit under F.R.C.P. 36 that you knew from your initial meeting with NB in 2004 that NB was a recipient of Medical Assistance/Medicaid.

**RESPONSE**

INTERROGATORY NO. 3.

If the response to Request for Admission No. 3, is anything other than an unqualified admission, please (a) set forth in detail the facts upon which you base, support or justify your denial or qualification in light of you billing Medicaid/Medical Assistance for your services, and (b) state when you first became aware that NB was a recipient of Medical Assistance / Medicaid.

**RESPONSE**

REQUEST FOR PRODUCTION NO. 3.

If the response to Request for Admission No. 3 is anything other than an unqualified admission, please produce all documents relating to such denial or qualification, including but not limited to copies of all records you submitted or caused to be submitted for billing the services you provided to NB.

**RESPONSE**

INTERROGATORY NO. 4.

Please identify every person who is a Medicaid recipient to whom you, since March 3, 2005, when the person was under 18 years of age, prescribed at least one of the drugs listed in the attached chart of Medically Accepted Indications for Pediatric Use of Certain Psychotropic Medications (Medically Accepted Indications Chart) where the row for the diagnosis for which the drug was prescribed does not have a white background in the Medically Accepted Indications Chart. For purposes of this Interrogatory, "identify" means to provide the person's (a) full name, (b) parent(s) or guardian(s), (c) date of birth, and (d) Medicaid Identification Number. It is acceptable that the person's full name and parent(s) or guardian(s) be omitted, PROVIDED the person's Medicaid Identification Number is provided.

**RESPONSE**

REQUEST FOR PRODUCTION NO. 4.

Please produce all mental health, prescription, and billing records for each person identified in Interrogatory No. 4. It is acceptable that the person's full name and parent(s) or guardian(s) be redacted so long as his or her date of birth and Medicaid Identification Number is included.

**RESPONSE**

INTERROGATORY NO. 5.

Identify by name, address and phone number every person who participated in responding to these Admissions, Interrogatories and Requests for Production, and identify what information each person provided.

Dated this 16th day of September, 2013.

LAW PROJECT FOR PSYCHIATRIC  
RIGHTS, INC.

s/ James B. Gottstein

James B. Gottstein (Alaska Bar # 7811100)  
Attorney for *relator* Dr. Toby Tyler Watson

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**VERIFICATION OF RESPONSES**

I, Jennifer King-Vassel, M.D. swear or affirm that I have read the responses to the *Relator's* First Discovery Requests To Defendant Jennifer King-Vassel, M.D., and that they are true and correct to the best of my informed knowledge and belief.

Date: \_\_\_\_\_

STATE OF WISCONSIN )  
 ) ss:  
\_\_\_\_\_ COUNTY )

Subscribed and sworn or affirmed to before me this \_\_\_\_ day of \_\_\_\_\_ 2013, by Jennifer King-Vassel, M.D.

\_\_\_\_\_  
Clerk of Court, Notary Public or other person authorized to administer oaths.

My Commission expires: \_\_\_\_\_

**Medically Accepted Indications for Pediatric Use of Certain Psychotropic Medications  
by  
The Law Project for Psychiatric Rights (PsychRights)**

Drug	Indication (diagnosis)	FDA Approval	DRUGDEX Support for Off-Label Use	DRUGDEX Recommendation Level
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<b>Key:</b>	<b>White Background: Medically Accepted Indication</b>
	<b>Orange Background: Pediatric Indication cited, but not supported by DRUGDEX</b>
	<b>Red Background: No Pediatric FDA Approval or DRUGDEX citation</b>

<b>Abilify</b> (Aripiprazole) - Antipsychotic				
	Autistic disorder-Psychomotor agitation	Yes (6-17)		
	Bipolar I Disorder - Adjunctive therapy with lithium or valproate for Acute Manic or Mixed Episodes	Yes (for 10 yrs old and up)		
	Bipolar I Disorder, monotherapy, Manic or Mixed Episodes	Yes (for 10-17 years old re acute therapy)		
	Schizophrenia	Yes (for 13-17 years old)		
<b>Adderall</b> (amphetamine/dextroamphetamine) - Central Nervous System Agent; CNS Stimulant				
	Attention Deficit Hyperactivity Disorder (ADHD)	Yes (for 3 years old and up re: [immediate-release] and 6 years old and up re: [extended-release] drug)		
	Narcolepsy	Yes (for 6 years old and up (immediate release only))		
<b>Ambien</b> (zolpidem) - nonbarbiturate Hypnotic				
	Insomnia, Short-term treatment	No		Class III
<b>Anafranil</b> (clomipramine) - Antidepressant; Antidepressant, Tricyclic; Central Nervous System Agent				
	Obsessive-Compulsive Disorder	Yes (for 10 years and up)		
	Depression	No		Class IIb
<b>Ativan</b> (lorazepam) - Antianxiety, Anticonvulsant, Benzodiazepine, Short or Intermediate Acting, Skeletal Muscle Relaxant.				
	Anxiety	Yes, oral only, 12 years and older		
	Chemotherapy-induced nausea and vomiting; Prophylaxis	No	Class IIa	
	Insomnia, due to anxiety or situational stress	Yes		
	Seizure	No	Class IIa	
	Status epilepticus	No	Class IIa	
	Premedication for anesthetic procedure	No		Class IIb
	Sedation	No		Class IIb
	Seizure, drug-induced; Prophylaxis	No		Class IIb
<b>Buspar</b> (buspirone) - Antianxiety, Azaspirodeconedione				
	Anxiety	No		Class III
	Autistic disorder	No		Class IIb
	Behavioral syndrome	No		Class IIb
	Pervasive developmental disorder	No		Class IIb
<b>Celexa</b> (citalopram) - Antidepressant, Serotonin Reuptake Inhibitor				
	Depression	No		None
	Obsessive-compulsive disorder	No		Class IIb
	Panic disorder	No		Class IIb
	posttraumatic stress disorder	No		Class IIb

**Medically Accepted Indications for Pediatric Use of Certain Psychotropic Medications  
by  
The Law Project for Psychiatric Rights (PsychRights)**

Drug	Indication (diagnosis)	FDA Approval	DRUGDEX Support for Off-Label Use	DRUGDEX Recommendation Level
<b>Clozaril</b> (clozapine) – Antipsychotic; Dibenzodiazepine				
	Bipolar I Disorder	No		Class IIb
	Schizophrenia, Treatment Resistant	No		cited, with no recommendation level
<b>Concerta</b> (methylphenidate) - Amphetamine Related; Central Nervous System Agent; CNS Stimulant				
	Attention Deficit Hyperactivity Disorder (ADHD)	Yes (for 6 years old to 12 years old)		
	Attention Deficit Hyperactivity Disorder (ADHD)	Yes (for 6 years old and up) re ConcertaR		
	Autistic Disorder	No		Class IIb
	Impaired Cognition - inding related to coordination/ in coordination	No		Class IIb
	Schizophrenia	No		Class III
	Traumatic Brain Injury	No		Class IIb
<b>Cymbalta</b> (duloxetine) - Antidepressant; Central Nervous System Agent; Neuropathic Pain Agent; Serotonin/Norepinephrine Reuptake Inhibitor				
<b>Dalmane</b> (flurazepam) - Benzodiazepine, Long Acting, Hypnotic				
	Insomnia	Yes, 15 years and older		
<b>Depakote/Depakene</b> (valproate/valproic acid) – Anticonvulsant; Antimigraine; Valproic Acid (class)				
	Absence Seizure, Simple and Complex	Yes (10 years and older)		
	Complex Partial Epileptic Seizure	Yes (10 years and older)		
	Seizure, Multiple seizure types; Adjunct	Yes (10 years and older)		
	Bipolar I disorder, Maintenance	No		Class IIb
	Bipolar II disorder, Maintenance	No		Class IIb
	Chorea	No		Class IIb
	Febrile Seizure	No		Class IIb
	Mania	No		Class III
	Manic bipolar I disorder	No		Class IIb
	Mental Disorder - Mood Disorder	No		Class IIb
	Migraine; Prophylaxis	No		Class IIb
	Status epilepticus	No		Class IIb
	West syndrome	No		Class IIb
<b>Desyrel</b> (trazodone) - Antidepressant; Triazolopyridine				
	Migraine, Pediatric; Prophylaxis	No		Class III
<b>Dexedrine</b> (dextroamphetamine) - Amphetamine (class); CNS Stimulant				
	Attention Deficit Hyperactivity Disorder (ADHD)	Yes (for 3 years to 16 years old (immediate-release) and age 6 years to 16 years old (sustained-release))		
	Narcolepsy	Yes (for 6 years old and up)		
<b>Effexor</b> (venlafaxine) – Antidepressant; Antidepressant, Bicyclic; Phenethylamine (class); Serotonin/ Norepinephrine Reuptake Inhibitor				
	Attention Deficit Hyperactivity Disorder (ADHD)	No		Class IIb
	Generalized Anxiety Disorder	No		Class IIb
	Major Depressive Disorder	No		Class IIb
	Social Phobia	No		Class IIb
<b>Focalin</b> (dexmethylphenidate) - Amphetamine Related; CNS Stimulant				
	Attention Deficit Hyperactivity Disorder (ADHD)	Yes (for 6 years and older)		
<b>Geodon</b> (ziprasidone) - Antipsychotic; Benzisothiazoyl				

**Medically Accepted Indications for Pediatric Use of Certain Psychotropic Medications  
by  
The Law Project for Psychiatric Rights (PsychRights)**

Drug	Indication (diagnosis)	FDA Approval	DRUGDEX Support for Off-Label Use	DRUGDEX Recommendation Level	
<b>Haldol</b> (haloperidol) - Antipsychotic; Butyrophenone; Dopamine Antagonis	Gilles de la Tourette's syndrome	Yes (for 3 years old and up)	It does not appear the injectible form (decanoate) is FDA approved for any pediatric use, nor is it supported by DRUGDEX for any indication.		
	Hyperactive Behavior, (Short-term treatment) after failure to respond to non-antipsychotic medication and psychotherapy	Yes (for 3 years old and up)			
	Problematic Behavior in Children (Severe), With failure to respond non-antipsychotic medication or psychotherapy	Yes (for 3 years old and up)			
	Psychotic Disorder	Yes (for 3 years old and up but ORAL formulations only)			
	Schizophrenia	Yes (for 3 years old and up but ORAL formulations only)			
	Agitation	No			Class IIb
	Migraine	No			Class III
<b>Invega</b> (paliperidone) - Antipsychotic; Benzisoxazole					
<b>Klonopin</b> (clonazepam) -antianxiety, Anticonvulsant, Benzodiazepine, Short or Intermediate Acting					
	Seizure	Yes, up to 10 years or up to 30 kg			
	Gilles de la Tourette's syndrome	No		Class IIb	
	Hyperreflexia	No		Class IIb	
	Nocturnal epilepsy	No		Class IIb	
	Panic disorder	No		Class IIb	
	Status epilepticus	No		Class IIb	
<b>Lamictal</b> (lamotrigine) - Anticonvulsant; Phenyltriazine					
	Convulsions in the newborn, Intractable	No		Class IIa	
	Epilepsy, Refractory	No		Class IIa	
	Lennox-Gastaut syndrome; Adjunct	yes (2 years and older)			
	Partial seizure, Adjunct or monotherapy	yes (13 years and older, extended-release only; 2 years and older, chewable dispersible)			
	Tonic-clonic seizure, Primary generalized; Adjunct	yes (2 years and older)			
	Absence seizure; Adjunct	No		Class IIb	
	Bipolar Disorder, Depressed Phase	No		Class IIb	
	Infantile neuronal ceroid lipofuscinosis	No		Class IIb	
	Juvenile myoclonic epilepsy	No		Class III	
	Paroxysmal choreoathetosis, Paroxysmal	No		Class IIb	
	Rett's disorder	No		Class IIb	
	Status epilepticus	No		Class IIb	
	West syndrome	No		Class IIb	
<b>Lexapro</b> (escitalopram)- Antianxiety, Antidepressant, Serotonin Reuptake Inhibitor					
	Major Depressive Disorder	Yes (for 12 years old and up)			
<b>Limbitrol</b> (chlordiazepoxide/amitriptyline) - Tricyclic Antidepressant/Benzodiazepine Combination					
<b>Lunesta</b> (eszopiclone) - Nonbarbiturate Hypnotic					
<b>Luvox</b> (fluvoxamine) - Antidepressant; Central Nervous System Agent; Serotonin Reuptake Inhibitor					
	Obsessive-Compulsive Disorder	Yes (for 8 years old and up and immediate release formula only)			
	Asperger's Disorder	No		Class IIb	

**Medically Accepted Indications for Pediatric Use of Certain Psychotropic Medications  
by  
The Law Project for Psychiatric Rights (PsychRights)**

Drug	Indication (diagnosis)	FDA Approval	DRUGDEX Support for Off-Label Use	DRUGDEX Recommendation Level
<b>Mellaril</b> (thioridazine) - Antipsychotic; Phenothiazine; Piperidine	Schizophrenia, Refractory	Yes		
	Behavioral Syndrome	No		Class III
<b>Moban</b> (molindone) - antipsychotic, Dihydroindolone	Schizophrenia	Yes, 12 years and older		
	Aggressive behavior, In children	No		Class IIb
<b>Neurontin</b> (gabapentin) anticonvulsant	Partial seizure; Adjunct	Yes (3- 12 years old)		
	Complex Regional Pain Syndrome, Type 1	No		Class IIb
	Neuropathic Pain	No		Class IIb
	Partial Seizure	No		Class IIb
	Partial Seizure, Refractory	No		Class III
	Phantom Limb Syndrome	No		Class IIb
<b>Orap</b> (pimozide) - Antipsychotic; Diphenylbutylpiperidine; Dopamine Antagonist	Gilles de la Tourette's syndrome	Yes (12 years and older)		
	Anorexia Nervosa	No		Class III
<b>Paxil</b> (paroxetine) - Antidepressant; Central Nervous System Agent; Serotonin Reuptake Inhibitor	Panic disorder	No		Class IIb
	Trichotillomania	No		Class IIb
<b>Pristiq</b> (desvenlafaxine) Antidepressant, Serotonin/Norepinephrine Reuptake Inhibitor				
<b>Prozac</b> (fluoxetine) - Antidepressant; Central Nervous System Agent; Serotonin Reuptake Inhibitor	Major Depressive Disorder	Yes (for 8 years old and up)		
	Obsessive-Compulsive Disorder	Yes (for 7 years old and up)		
	Anxiety Disorder of Childhood	No		Class IIb
	Autistic disorder	No		None
	Bulimia nervosa	No		Class IIb
	Vasovagal syncope; Prophylaxis	No		Class III
<b>Restoril</b> (temazepam) - Antianxiety, Benzodiazepine, Short or Intermediate Acting, Hypnotic				
<b>Ritalin</b> (methylphenidate) - Amphetamine Related; Central Nervous System Agent; CNS Stimulant	Attention Deficit Hyperactivity Disorder (ADHD)	Yes (for 6 years to 12 years old)(extended release)		
	Attention Deficit Hyperactivity Disorder (ADHD)	Yes (for 6 years old and up)(immediate release)		
	Narcolepsy	Yes (for 6 years and up, and Ritalin(R) -SR only)		
	Autistic disorder	No		Class IIb
	Finding related to coordination / incoordination - Impaired cognition	No		Class IIb
	Schizophrenia	No		Class III
	Traumatic Brain Injury	No		Class IIb
	<b>Risperdal</b> (risperidone) - Antipsychotic; Benzisoxazole			
	Autistic Disorder – Irritability	Yes (for 5 years old and up)		
	Bipolar I Disorder	Yes (for 10 years old and up)		
	Schizophrenia	Yes (for 13 years old and up, ORALLY)		
	Behavioral syndrome - Mental retardation	No		Class IIb
	Gilles de la Tourette's syndrome	No		Class IIb
	Pervasive developmental disorder	No		Class IIb

**Medically Accepted Indications for Pediatric Use of Certain Psychotropic Medications  
by  
The Law Project for Psychiatric Rights (PsychRights)**

Drug	Indication (diagnosis)	FDA Approval	DRUGDEX Support for Off-Label Use	DRUGDEX Recommendation Level
<b>Rozerem</b> (ramelteon) - Melatonin Receptor Agonist, Nonbarbiturate Hypnotic				
<b>Seroquel</b> (QUETIAPINE) - Antipsychotic; Dibenzothiazepine				
	Bipolar disorder, maintenance	Yes, 10-17 regular release only (12/4/09)		
	Manic bipolar I disorder	Yes, 10-17 regular release only (12/4/09)		
	Schizophrenia	Yes 13-17, regular release only (12/4/09)		
	Gilles de la Tourette's syndrome	No		Class IIb
<b>Sinequan</b> (doxepin) - Antianxiety Antidepressant; Antidepressant, Tricyclic; Antiulcer Dermatological Agent				
	Alcoholism - Anxiety – Depression	Yes (for 12 years old and up)		
	Anxiety – Depression	Yes (for 12 years old and up)		
	Anxiety - Depression - Psychoneurotic personality disorder	Yes (for 12 years old and up)		
	Pruritus (Moderate), Due to atopic dermatitis or lichen simplex chronicus	No		Class IIb
<b>Sonata (zaleplon) - Nonbarbiturate Hypnotic</b>				
<b>Strattera</b> (atomoxetine) - Central Nervous System Agent; Norepinephrine Reuptake Inhibitor				
	Attention Deficit Hyperactivity Disorder (ADHD)	Yes (for 6 years old and up)		
	Attention Deficit Hyperactivity Disorder (ADHD) - Social phobia	No		Class IIb
<b>Symbyax</b> (fluoxetine hydrochloride/olanzapine) - Antidepressant; Antipsychotic				
<b>Tegretol</b> (carbamazepine) - Anticonvulsant; Antimanic; Dibenzazepine Carboxamide; Neuropathic Pain Agent				
	Epilepsy, Partial, Generalized, and Mixed types	Yes		
	Apraxia			None
	Chorea			Class IIb
	Migraine; Prophylaxis			Class IIb
	Myokymia			Class IIb
	Neuropathy, General			Class IIb
	Schwartz-Jampel syndrome			Class IIb
<b>Tofranil</b> (imipramine) - Antidepressant; Antidepressant, Tricyclic; Urinary Enuresis Agent				
	Nocturnal enuresis	Yes (for 6 years old and up)		
	Attention Deficit Hyperactivity Disorder (ADHD), Predominantly Inattentive Type	No		Class III
	Depression	No		Class IIb
	Schizophrenia, Adjunct	No		Class III
	Separation Anxiety Disorder of Childhood	No		Class III
	Trichotillomania	No		Class IIb
	Urinary incontinence	No		Class IIb
<b>Topamax</b> (topiramate) - anticonvulsant, Fructopyranose Sulfamate				
	Lennox-Gastaut syndrome; Adjunct	Yes, 2 years and older		
	Partial seizure, Initial monotherapy	Yes, 10 years and older		
	Partial seizure; Adjunct	Yes, 10 years and older		
	Tonic-clonic seizure, Primary generalized; Adjunct	Yes, 2 to 16 years old		
	Tonic-clonic seizure, Primary generalized (initial monotherapy)	Yes, 10 years and older		
	Angelman syndrome	No		Class IIb
	Migraine; Prophylaxis	No		Class IIb

**Medically Accepted Indications for Pediatric Use of Certain Psychotropic Medications  
by  
The Law Project for Psychiatric Rights (PsychRights)**

<b>Drug</b>	<b>Indication (diagnosis)</b>	<b>FDA Approval</b>	<b>DRUGDEX Support for Off-Label Use</b>	<b>DRUGDEX Recommendation Level</b>
	Status epilepticus	No		Class IIb
	West syndrome	No		Class IIb
<b>Tranxene</b> (clorazepate) - Antianxiety, Anticonfulsant, Benzodiazepine, Long Acting				
	Partial seizure; Adjunct	Yes, 9 years and older		
	Epilepsy	No		Class IIb
<b>Trileptal</b> (oxcarbazepine) - Anticonvulsant; Dibenzazepine Carboxamide				
	Partial Seizure, monotherapy	Yes (for 4 years old and up)		
	Partial seizure; Adjunct	Yes (for 2 years old and up)		
<b>Vyvanse</b> (lisdexamfetamine) - Amphetamine (class); CNS Stimulant				
	Attention Deficit Hyperactivity Disorder (ADHD)	Yes (for 6 years old to 12 years)		
<b>Wellbutrin</b> (bupropion) - Aminoketone, Antidepressant, Smoking Cessation Agent				
	Attention deficit hyperactivity disorder	No		None
<b>Xanax</b> (alprazolam) - Antianxiety, Benzodiazepine, Short or Intermediate Acting				
<b>Zoloft</b> (sertraline) - Antidepressant; Central Nervous System Agent; Serotonin Reuptake Inhibitor				
	Obsessive-Compulsive Disorder	Yes (6 years old and up)		
	Anorexia nervosa	No		Class III
	Generalized Anxiety Disorder	No		Class IIb
	Major Depressive Disorder	No		Class IIb
<b>Zyprexa</b> (olanzapine) - Antipsychotic; Thienobenzodiazepine				
	Bipolar 1, Disorder, Acute Mixed or Manic Episodes	Yes (ages 13-17), oral only, approved 12/4/09		
	Schizophrenia	Yes (ages 13-17), oral only, approved 12/4/09		
	Schizophrenia, Refractory	No		Class IIb
	Pervasive Developmental Disorder	No		Class IIb

**DRUGDEX® Consults**

**RECOMMENDATION, EVIDENCE AND EFFICACY RATINGS**

**RESPONSE**

The Thomson Efficacy, Strength of Evidence and Strength of Recommendation definitions are outlined below:

Table 1. Strength Of Recommendation		
Class I	Recommended	The given test or treatment has been proven to be useful, and should be performed or administered.
Class IIa	Recommended, In Most Cases	The given test, or treatment is generally considered to be useful, and is indicated in most cases.
Class IIb	Recommended, In Some Cases	The given test, or treatment may be useful, and is indicated in some, but not most, cases.
Class III	Not Recommended	The given test, or treatment is not useful, and should be avoided.
Class Indeterminant	Evidence Inconclusive	

Table 2. Strength Of Evidence	
Category A	Category A evidence is based on data derived from: Meta-analyses of randomized controlled trials with homogeneity with regard to the directions and degrees of results between individual studies. Multiple, well-done randomized clinical trials involving large numbers of patients.
Category B	Category B evidence is based on data derived from: Meta-analyses of randomized controlled trials with conflicting conclusions with regard to the directions and degrees of results between individual studies. Randomized controlled trials that involved small numbers of patients or had significant methodological flaws (e.g., bias, drop-out rate, flawed analysis, etc.). Nonrandomized studies (e.g., cohort studies, case-control studies, observational studies).
Category C	Category C evidence is based on data derived from: Expert opinion or consensus, case reports or case series.
No Evidence	

Table 3. Efficacy		
Class I	Effective	Evidence and/or expert opinion suggests that a given drug treatment for a specific indication is effective
Class IIa	Evidence Favors Efficacy	Evidence and/or expert opinion is conflicting as to whether a given drug treatment for a specific indication is effective, but the weight of evidence and/or expert opinion favors efficacy.
Class IIb	Evidence is Inconclusive	Evidence and/or expert opinion is conflicting as to whether a given drug treatment for a specific indication is effective, but the weight of evidence and/or expert opinion argues against efficacy.
Class III	Ineffective	Evidence and/or expert opinion suggests that a given drug treatment for a specific indication is ineffective.

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA, and THE STATE OF WISCONSIN,  
ex rel. DR. TOBY TYLER WATSON,

Plaintiffs,

v.

Case No. 11-CV-236-JPS

JENNIFER KING VASSEL,

Defendant.

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**CERTIFICATE OF SERVICE**

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The undersigned hereby certifies that on this date I e-mailed *Relator's* First Discovery Requests To Defendant Jennifer King-Vassel, M.D., to Stacy C Gerber Ward at stacy.g.ward@usdoj.gov and snail mailed the same to:

Thomas L Storm  
Wisconsin Department of Justice  
Office of the Attorney General  
PO Box 7857  
Madison, WI 53707-7857

Bradley S. Foley & Mark Larson  
Gutglass Erickson Bonville & Larson SC  
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Milwaukee, WI 53202-4267

Emily I Lonergan, Kathryn A Keppel & Patrick J Knight  
Gimbel Reilly Guerin & Brown  
2 Plaza East  
330 E Kilbourn Ave - 11th Fl  
Milwaukee, WI 53202-6616

Dated this 16th day of September, 2013.

s/ James B. Gottstein  
James B. Gottstein

# Exhibit 2

to

Civil L.R. 7(h) Expedited Non-Dispositive Motion For Entry Of HIPAA  
Qualified Protective Order For Custodians Of Dr. King-Vassel Patient Records

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,  
and THE STATE OF WISCONSIN,  
ex rel. DR. TOBY TYLER WATSON,

Plaintiffs,

v.

Case No. 11-CV-236

JENNIFER KING VASSEL,

Defendant.

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**DEFENDANT'S RESPONSE TO PLAINTIFF'S FIRST SET OF  
INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS**

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Defendant Jennifer King Vassel, by her attorneys, Gutglass, Erickson, Bonville, & Larson, S.C., and as and for a response to the plaintiff's first set of interrogatories and request for production of documents responds as follows:

**Interrogatory No. 1:** If the response to Request for Admission No. 1 is anything other than an unqualified admission, please (a) set forth in detail the facts upon which you base, support or justify your denial or qualification, including the use and diagnosis or diagnoses for which each of the prescriptions was issued, and (b) identify the specific document(s) and passage(s) that support or justify your denial or qualification, including any such document(s) and passages that support your denial that the prescription was off-label.

**Response to Interrogatory No. 1:** Object to the form and foundation for the interrogatory as it is multiple in form, ambiguous, incomplete as to the factual and legal

foundation, and the request assumes that all prescriptions written by Dr. King were submitted to a pharmacy for fulfillment, and not paid for by a means other than through a Medicaid program.

Subject to the objections, Dr. King wrote the prescriptions consistent with the formularies of the third party payors that paid for N.B.'s prescriptions, or for which Dr. King obtained prior authorization approval. Dr. King never submitted any prescription medications for reimbursement. Dr. King never was compensated for writing any prescriptions.

**Request for Production No. 1:** If the response to Request for Admission No. 1 is anything other than an unqualified admission, please produce:

(a) all documents relating to N.B.'s diagnosis or diagnoses for each of the prescriptions; and

(b) all documents identified in Interrogatory No. 1 or otherwise, relating to a contention that the prescription was for a use approved under the Food, Drug, and Cosmetic Act.

**Response to Request for Production No. 1:** Object to the form and foundation for the interrogatory as it is multiple in form, ambiguous, incomplete as to the factual and legal foundation, and that the request assumes that all prescriptions written by Dr. King were submitted to a pharmacy for fulfillment, and not paid for by a means other than through a Medicaid program. Subject to the objections, see the response to Interrogatory No. 1. The plaintiff has already obtained records from Encompass. See forward to the applicable PDR.

**Interrogatory No. 2:** If the response to Request for Admission No. 2 is anything other than an unqualified admission, please (a) set forth in detail the facts upon which you base, support or justify you denial or qualification, including the use and diagnosis or diagnoses for which each of the prescriptions was issued, and (b) identify the specific document(s) and passages that support your contention that the prescription was for a use supported by one or more of the compendia.

**Response to Interrogatory No. 2:** Object to the form and foundation for the interrogatory as it is multiple in form, ambiguous, incomplete as to the factual and legal foundation, the request assumes that all prescriptions written by Dr. King were submitted to a pharmacy for fulfillment, and not paid for by a means other than through a Medicaid program. Subject to the objections, see the response to Interrogatory No. 1.

**Request for Production No. 2:** If the response to Request for Admission No. 2 is anything other than an unqualified admission, please produce:

(a) all documents relating to N.B.'s diagnosis or diagnoses for each of the prescriptions which you assert was issued for a use supported by one or more of the compendia; and

(b) for each and every prescription that you contend is for a use supported by one or more of the compendia, all documents identified in your response to Interrogatory No. 2, or otherwise, relating to your contention that the prescription was issued for a use supported by one or more of the compendia.

**Response to Request for Production No. 2:** Object to the form and foundation for the interrogatory as it is multiple in form, ambiguous, incomplete as to the factual and legal foundation, and the request assumes that all prescriptions written by Dr. King were submitted to a pharmacy for fulfillment, and not paid for by a means other than through a Medicaid program. Subject to the objections, see response to Request for Production No. 1.

**Interrogatory No. 3:** If the response to Request for Admission No. 3 is anything other than an unqualified admission, please (a) set forth in detail the facts upon which you base, support or justify your denial or qualification in light of you billing Medicaid/Medical Assistance for your services, and (b) state when you first became aware that NB was a recipient of Medical Assistance/Medicaid.

**Response to Interrogatory No. 3:** Object to the form and foundation for the interrogatory as it is multiple in form, ambiguous, and incomplete as to the factual and legal foundation. Subject to the objections, N. B. was covered by an HMO, Managed Health Services, that had its own distinct formulary. Dr. King prescribed medications that were either listed in the formulary or for which she received prior authorization from the managing entity. See the Encompass medical records and Managed Health Services formulary. Dr. King's diagnosis as well as N.B.'s age and history were fully disclosed to any third party payor. Dr. King never billed Medicaid/Medical Assistance.

**Request for Production No. 3:** If the response to Request for Admission No. 3 is anything other than an unqualified admission, please produce all documents relating to such denial or

qualification, including but not limited to copies of all records you submitted or caused to be submitted for billing the services you provided to NB.

**Response to Request for Production No. 3:** See response to Interrogatory No. 3.

**Interrogatory No. 4:** Please identify every person who is a Medicaid recipient to whom you, since March 3, 2005, when the person was under 18 years of age, prescribed at least one of the drugs listed in the attached chart of Medically Accepted Indications for Pediatric Use of Certain Psychotropic Medications (Medically Accepted Indications chart) where the row for the diagnosis for which the drug was prescribed does not have a white background in the Medically Accepted Indications Chart. For purposes of this Interrogatory, Identify means to provide the person's (a) full name, (b) parent(s) or guardian(s), (c) date of birth, and (d) Medicaid Identification Number. It is acceptable that the person's full name and parent(s) or guardian(s) be omitted, PROVIDED the person's Medicaid Identification Number is provided.

**Response to Interrogatory No. 4:** Objection, form, foundation, and the request does not comply with the restrictions imposed by the Court's October 2, 2013 protective order. Subject to those objections, Dr. King is not a records custodian for any such patients and thus does not have custody or control of medical records for such patients. When she provided services to N.B., she did not personally submit billing or receive reimbursement from any third party payor.

Moreover, Dr. King prescribed medications that were either listed in the applicable formulary or for which she received prior authorization from the third party payor. Dr. King's diagnosis as well as N.B.'s age and history were fully disclosed to the third party payor. Thus, the information requested cannot be provided.

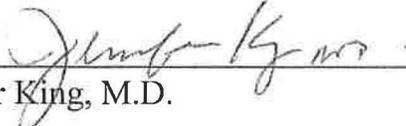
**Request for Production No. 4:** Please produce all mental health, prescription, and billing records for each person identified in Interrogatory No. 4. It is acceptable that the person's full name and parent(s) or guardian(s) be redacted so long as his or her date of birth and Medicaid Identification Number is included.

**Response to Request for Production No. 4:** See response to Interrogatory No. 4.

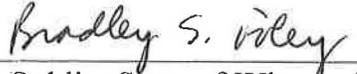
**Interrogatory No. 5:** Identify by name, address and phone number every person who participated in responding to these Admissions, Interrogatories and Requests for Production, and identify what information each person provided.

**Response to Interrogatory No. 5:** Object to the Request as it improperly seeks attorney client communication and attorney work product.

As to the interrogatories:

  
\_\_\_\_\_  
Jennifer King, M.D.

Subscribed and sworn to before me  
this 18th day of October, 2013.

  
\_\_\_\_\_  
Notary Public, State of Wisconsin  
My Commission expires: is perm.

As to Objections to the Interrogatories and  
Responses to the Requests for Production of  
Documents:

Dated at Milwaukee, Wisconsin this 21st day of October, 2013.

**GUTGLASS, ERICKSON, BONVILLE,  
& LARSON, S.C.**

*Bradley S. Foley*

---

Mark E. Larson (#1016423)

Bradley S. Foley (#1026871)

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