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OCT 19 2009

**BEFORE THE BOARD OF HEALING ARTS  
OF THE STATE OF KANSAS**

KS State Board of Healing Arts

In the Matter of	)	
	)	Docket No. 10-HA 00051
Carrie Ann Wixson, P.A.	)	
Kansas License No. 15-01229	)	

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**CONSENT ORDER**

COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through Kathleen Selzler Lippert, Litigation Counsel ("Petitioner"), and Carrie Ann Wixson, P.A. ("Licensee"), by and through her counsel, Mark Stafford, and move the Board for approval of a Consent Order affecting Licensee's license to practice as a physician assistant in the State of Kansas. The Parties stipulate and agree to the following:

1. Licensee's last known mailing address to the Board is: 909 Walnut, #2802, Kansas City, Missouri 64106.
2. Licensee is or has been entitled to engage in the practice as a physician assistant in the State of Kansas, having been issued License No. 15-01229 on approximately February 26, 2008. Licensee's license is active.
3. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of the healing arts, specifically the practice of as a physician assistant. K.S.A. 65-28a01 et seq. and K.S.A. 65-2869.
4. This Consent Order and the filing of such document are in accordance with applicable law and the Board has jurisdiction to enter into the Consent Order as provided by K.S.A. 77-505 and 65-2838. Upon approval, these stipulations shall

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Consent Order  
Carrie Ann Wixson, PA

constitute the findings of the Board, and this Consent Order shall constitute the Board's Final Order.

5. The Kansas Physician Assistant Licensure Act is constitutional on its face and as applied in the case. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
6. Licensee voluntarily and knowingly waives her right to a hearing. Licensee voluntarily and knowingly waives her right to present a defense by oral testimony and documentary evidence, to submit rebuttal evidence, and to conduct cross-examination of witnesses. Licensee voluntarily and knowingly agrees to waive all possible substantive and procedural motions and defenses that could be raised if an administrative hearing were held.
7. The terms and conditions of the Consent Order are entered into between the undersigned parties and are submitted for the purpose of allowing these terms and conditions to become an Order of the Board. This Consent Order shall not be binding on the Board until an authorized signature is affixed at the end of this document. Licensee specifically acknowledges that counsel for the Board is not authorized to sign this Consent Order on behalf of the Board.
8. The Board has received information and investigated the same, and has reason to believe there are grounds pursuant to K.S.A. 65-28a05 *et seq.*, to take action with respect to Licensee's license under the Physician Assistant Licensure Act, K.S.A. 65-28a01, *et seq.*
9. Licensee is an employee of Johnson County Spine, P.A. and is supervised by Harold A. Hess, M.D. since approximately January or February 2008.

10. In approximately September 2008, a pharmacist expressed a concern about a prescription for Vicodin that Licensee had called into the pharmacy for patient 1.
11. Upon further inquiry, it was discovered that patient 1 was not a patient in the Licensee's or her supervising physician's practice. Rather, patient 1 was a friend of Licensee and Licensee had called in the prescription as a favor because he had undergone a prior back surgery and was now in pain again.
12. Licensee called in six prescriptions for Hydrocodone and Oxycodone, between May 2008 and August 2008 for patient 1.
13. Licensee failed to fully evaluate patient 1 or create and maintain any medical record for the prescription(s) she authorized for him. Licensee's conduct exceeded the scope of authority given by her supervising physician.
14. Additional investigation revealed that Licensee's inappropriate prescribing for patient 1 was not an isolated event. Licensee had authorized other prescriptions for patients 2 through 5 in a similar fashion between May 2008 and November 2008.
15. Licensee authorized one prescription for patient 2 for Hydrocodone in June 2008. Licensee did not have a formal medical relationship with patient 2. Licensee failed to fully evaluate patient 2 or create and maintain any medical record for the prescription she authorized for him. Licensee's conduct exceeded the scope of authority given by her supervising physician.
16. Licensee authorized one prescription for patient 3 for Allegra in August 2008. Licensee did not have a formal medical relationship with patient 3. Licensee failed to fully evaluate patient 3 or create and maintain any medical record for the

prescription she authorized for him. Licensee's conduct exceeded the scope of authority given by her supervising physician.

17. Licensee authorized one prescription for patient 4 for SMZ/TMP in October 2008.

Licensee did not have a formal medical relationship with patient 4. Licensee failed to fully evaluate patient 4 or create and maintain any medical record for the prescription she authorized for her. Licensee's conduct exceeded the scope of authority given by her supervising physician.

18. Licensee authorized prescriptions for patient 5 for Zpack, Doxy/ Proair/Spacer / Nasonex in November 2008. Licensee did not have a formal medical relationship with patient 5. Licensee failed to fully evaluate patient 5 or create and maintain any medical record for the prescription she authorized for him. Licensee's conduct exceeded the scope of authority given by her supervising physician.

19. Licensee acknowledges that if formal hearing proceedings were conducted and Licensee presented no exhibits, witnesses or other evidence, the Board has sufficient evidence to prove that Licensee has violated the Physician Assistant Licensure Act with respect to the above allegations. Licensee further waives her right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.

20. Licensee's acts, if proven, constitute unprofessional conduct as set forth in K.S.A. 65-28a05.

- a. K.S.A. 65-28a05(g), as further defined by K.A.R. 100-28a-6, in that Licensee has exceeded or has acted outside the scope of authority given the physician assistant by the responsible physician or by this act.

- b. K.S.A. 65-28a05(c), as further defined by K.A.R. 100-28a-7(b) and (c), in that Licensee exhibited professional incompetency by repeated instances involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence or by engaging in a pattern of practice or other behavior that demonstrates a manifest incapacity or incompetence to perform professional services as a physician assistant.
  - c. K.S.A. 65-28a05(c), as further defined by K.A.R. 100-28a-8(j), in that Licensee prescribed a prescription drug or substance including a controlled substance, in an excessive, improper, or inappropriate manner or quantity or not in the course of the licensee' professional practice.
  - d. K.S.A. 65-28a05(c), as further defined by K.A.R. 100-28a-8(u), in that Licensee failed to keep written medical records that accurately describe the services rendered to the patient.
21. According to K.S.A.65-2838(b), the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.
22. All pending investigation materials regarding Licensee were fully reviewed and considered by the Board member(s) who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 24 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
23. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action against her license to engage in the practice of as a physician assistant:

### **PROBATION: MONITORING**

- a. Licensee agrees to the monitoring of 100% of her prescribing practices by a Kansas-licensed physician for a period of at least twenty-four (24) consecutive months or until she has successfully completed all terms of her probation. Such monitoring shall be conducted at Licensee's own expense. The monitor must be pre-approved by the Board or the Board's designee. It is anticipated that the monitor will be Licensee's supervising physician.
- b. For each prescription written or authorized by Licensee, Licensee shall document the initial, all refills and subsequent prescriptions in the patient chart and in a separate log to be maintained for each patient. Such log shall be on a form provided by Board staff to Licensee. The log shall serve as a reference to determine all patients who were prescribed medications each month. Licensee shall maintain other forms as necessary to facilitate monitoring and compliance with this Consent Order.
- c. Licensee shall comply with Board requests to verify compliance with the monitoring; including but not limited to producing records for comparison to pharmacy profiles or providing a statement under penalty of perjury that she has not authorized any prescription, either verbally or in writing, contrary to this Consent Order or contrary to the authority delegated by her supervising physician.
- d. Pursuant to the supervising physician protocol with Licensee, all prescriptions will be reviewed at regular and appropriate intervals by the

monitor. The review will include but not be limited to a review of patient charts for every patient for which Licensee wrote or authorized prescriptions. The monitor shall verify that an appropriate and contemporaneous patient record was made, that Licensee has an appropriate physician-patient relationship and that the prescriptions are within the scope of the authority delegated to Licensee. Additionally, the monitor will assess whether such prescribing was within the standard of care.

- e. The monitor shall submit a monthly report to the Board which is due on the 30<sup>th</sup> day of the following month. The report shall be on a form provided by Board staff and shall include the number patient charts reviewed, a brief summary of Licensee's prescribing activity during the month and an opinion as to whether Licensee is prescribing medications within the standard of care, maintaining proper charts and otherwise adhering to proper prescribing practices. The monitor must immediately notify Board staff if he/she believes Licensee is prescribing medications in an inappropriate manner, outside the standard of care, or outside the protocol for the Licensee.
- f. The Board designates Terry H. Webb, D.C. to review and approve/disapprove of the proposed practice supervisor and plan of supervised practice or resolve other issues that arise in the implementation of this Consent Order.

- g. Licensee is responsible for ensuring the monitor's timely submission of the report each month. For any period(s) of time that Licensee is not actively practicing as a physician assistant in Kansas, the monitoring provisions of this Consent Order shall be tolled and not be counted in reducing the required timeframe for monitoring.
- h. Licensee will furnish a copy of this Consent Order to each and every state in which she holds licensure or applies for licensure.
- i. Licensee shall at all times keep Board staff informed of all her current supervising physician(s), practice locations, addresses and telephone numbers. Licensee shall provide the above information in writing to the Board within ten (10) days of any such change.

**PROBATION: EDUCATION**

- j. Licensee shall attend and successful complete a continuing education course for appropriate prescribing of narcotics, by June 30, 2010, at her own expense. The course must be pre-approved by the Board or its designee. Licensee shall provide proof of successful completion by July 15, 2010.
- k. Unless otherwise approved by the Board, said continuing education course(s) shall consist of a formal live lecture format.
- l. All reports required pursuant to this Consent Order shall be submitted to the Board of Healing Arts, Attention: Complaint Coordinator, 235 S.W. Topeka Blvd., Topeka, Kansas 66603-3068.



- m. All expenses associated with the monitoring, education or other terms of this Consent Order are the exclusive responsibility of Licensee.

**PROBATION AND LIMITATION TIMEFRAME**

- n. The above monitoring and education provisions are not self-terminating. After a period of two (2) years, Licensee may request modification or termination of the provisions. For any period of time that Licensee is not actively practicing as a physician assistant in Kansas, the monitoring provisions and limitations will remain in effect but will be tolled and not counted towards reducing the two (2) year timeframe.
24. Licensee's failure to comply with the provisions of the Consent Order may result in the Board taking further disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure Act and Kansas Physician Assistant Licensure Act.
25. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Physician Assistant Licensure Act, or to investigate complaints received under the Risk Management Law, K.S.A. 64-4921 et seq., that are known or unknown and are not covered under this Consent Order, or to initiate formal proceedings based upon known or unknown allegations of violations of the Physician Assistant Licensure Act.
26. Licensee hereby releases the Board, its individual members (in their official and personal capacity), attorneys, employees and agents, hereinafter collectively referred to as "Releasees", from any and all claims, including but not limited to those alleged damages, actions, liabilities, both administrative and civil, including

the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions, K.S.A. 77-601 et seq. arising out of the investigation and acts leading to the execution of this Consent Order. This release shall forever discharge the Releasees of any and all claims or demands of every kind and nature that Licensee has claimed to have had at the time of this release or might have had, either known or unknown, suspected or unsuspected, and Licensee shall not commence to prosecute, cause or permit to be prosecuted, any action or proceeding of any description against the Releasees.

27. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record and shall be reported to any reporting entities authorized to receive disclosure of the Consent Order.
28. This Consent Order, when signed by both parties, constitutes the entire agreement between the parties and may only be modified or amended by a subsequent document executed in the same manner by the parties.
29. Licensee agrees that all information maintained by the Board pertaining to the nature and result of any complaint and/or investigation may be fully disclosed to and considered by the Board in conjunction with the presentation of any offer of settlement, even if Licensee is not present. Licensee further acknowledges that the Board may conduct further inquiry as it deems necessary before the complete or partial acceptance or rejection of any offer of settlement.
30. Licensee, by signature to this document, waives any objection to the participation of the Board members, including the Disciplinary Panel and General Counsel, in the consideration of this offer of settlement and agrees not to seek the

disqualification or recusal of any Board member or General Counsel in any future proceedings on the basis that the Board member or General Counsel has received investigative information from any source which otherwise may not be admissible or admitted as evidence.

31. Licensee acknowledges that she has read this Consent Order and fully understands the contents.
32. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
33. All correspondence or communication between Licensee and the Board relating to the Consent Order shall be by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Compliance Coordinator, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.
34. Licensee shall obey all federal, state and local laws and rules governing the practice as a physician assistant in the State of Kansas that may be in place at the time of execution of the Consent Order or may become effective subsequent to the execution of this document.
35. Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become an Order under K.S.A. 65-2838. This Consent Order shall constitute the Board's Order when filed with the office of the Executive Director for the Board and no further Order is required.
36. This Consent Order constitutes disciplinary action.

37. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

**IT IS THEREFORE ORDERED** that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact and conclusions of law.

**IT IS FURTHER ORDERED** that:

**PROBATION: MONITORING**

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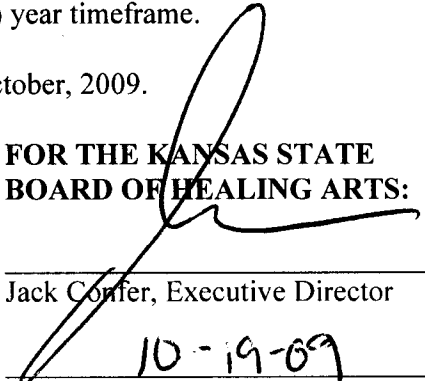
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- l. All reports required pursuant to this Consent Order shall be submitted to the Board of Healing Arts, Attention: Complaint Coordinator, 235 S.W. Topeka Blvd., Topeka, Kansas 66603-3068.
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**PROBATION AND LIMITATION TIMEFRAME**

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IT IS SO ORDERED on this 10<sup>th</sup> day of October, 2009.

**FOR THE KANSAS STATE  
BOARD OF HEALING ARTS:**

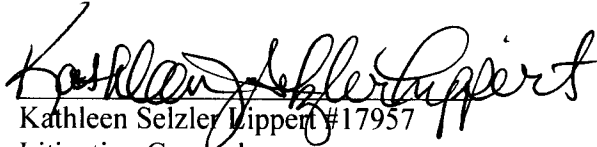
  
\_\_\_\_\_  
Jack Confer, Executive Director

10-19-09  
Date

Carrie Wixson, PA-C  
Carrie Ann Wixson, P.A., Licensee

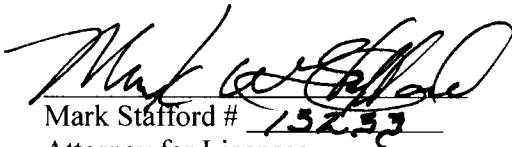
9/22/09  
Date

PREPARED AND APPROVED BY:



Kathleen Seizler Lippert #17957  
Litigation Counsel  
Kansas Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3068  
785-296-0961

AGREED TO BY:



Mark Stafford # 15233  
Attorney for Licensee  
Holbrook & Osborn, P.A.  
214 W. 6<sup>th</sup> Street  
Topeka, Kansas 66603

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I served a true and correct copy of the Consent Order by United States mail, postage prepaid, on this 19<sup>th</sup> day of October, 2009, to the following:

Carrie Ann Wixson, P.A.  
Johnson County Spine  
8575 West, 110<sup>th</sup> Street, Suite 205  
Overland Park, Kansas 66210

Carrie Ann Wixson, P.A.  
909 Walnut 2802  
Kansas City, Missouri 64106

Mark Stafford  
Attorney for Licensee  
Holbrook & Osborn, P.A.  
214 W. 6<sup>th</sup> Street  
Topeka, Kansas 66603

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Consent Order  
Carrie Ann Wixson, PA



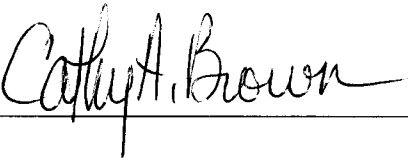
And the original was hand-filed with:

Jack Confer  
Executive Director  
Kansas Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3068

And a copy was hand-delivered to:

Kathleen Selzler Lippert  
Litigation Counsel  
Kansas Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3068

Melissa Massey  
Compliance Coordinator  
Kansas Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3068



Cathy A. Brown