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BEFORE THE BOARD OF HEALING ARTS OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of )
)
CARL L. WOOFER, P.A. )
Kansas License No. 15-00765 )

KSBHA Docket No. 11-HA\_00069

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts ("Board") by and through Julia A. Mowers, Associate Litigation Counsel ("Petitioner"), and Carl L. Woofter, P.A. ("Licensee"), pro se, 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 current mailing address as provided to the Board is 340 West 8th, Colby, Kansas 67701.

2. Licensee is or has been entitled to actively engage in the practice as a physician assistant in the State of Kansas, having been issued License No. 15-00765 on approximately June 23, 2001. Licensee holds an active current license, having last renewed his license on or about January 1, 2010.

3. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of physician assistant. K.S.A. 65-28a01 et seq., and K.S.A. 65-28a02 et seq.

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. 65-2838. Upon approval, these stipulations shall 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 this case.

6. Licensee agrees that, in considering this matter, the Board is not beyond its jurisdiction as provided by law.

7. Licensee voluntarily and knowingly waives his right to a hearing. Licensee voluntarily and knowingly waives his 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.

8. 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.

9. At all relevant times hereto, Licensee has held an active current license to practice as a physician assistant in the State of Kansas.

10. The investigative information and status of the pending action in this matter were fully reviewed and considered by the Board members who served on Disciplinary Panel No. 25. Disciplinary Panel No. 25 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

11. On or about December 14, 2009, Licensee answered “yes” to disciplinary question “G” in his on-line Kansas license renewal form. Disciplinary question “G” stated as follows: In the past 12 months do you know of any investigation by or any allegations, complaints, or charges concerning you made to any licensing agency or state or government agency?”

12. In regards to the “yes” answer, Licensee provided the following information to the Kansas State Board of Healing Arts through his attorney.

13. On or about May 11, 2010, Licensee entered into an Agreed Settlement with the Nebraska Department of Health and Human Services, Division of Public Health.

14. The Agreed Settlement was entered into to resolve allegations that Licensee wrote 5 (five) prescriptions for his supervising physician. Licensee did not examine this patient, keep records of this patient’s treatment, or establish a physician/patient relationship. Additionally, the Agreed Settlement alleges that a Depo-Testosterone injection was drawn up in error and Licensee told the nurse to give it to him and it was administered to him.

15. Pursuant to the terms of the Agreed Settlement in Nebraska, Licensee agreed to (1) one year of probation with the following conditions:

- a. The Licensee shall provide notification to this disciplinary action and any probation violations and subsequent disciplinary action to all employers, practice partners, hospitals with whom he has staff privileges and to the licensing authority in any state where he has or obtains an active physician’s assistant license within five (5) days of the entry of the Order on Agreed Settlement by the Chief Medical Officer and within five (5) days of any change in employment or any subsequent out-of-state-licensure. Such notification shall include providing copies of the Petition for Disciplinary Action, this Agreed Settlement, and the Order on Agreed Settlement entered by the Chief Medical Officer. Written confirmation of this notification shall be provided by the Licensee to

the Department within thirty (30) days of the entry of the Order on Agreed Settlement by the Chief Medical Officer or change in employment or any subsequent out-of-state licensure.

- b. The Licensee shall submit written notification to the Department within seven (7) days of any change in employment, employment status, residence, or telephone;
- c. All reports, notices, and other documentation requested by the Department shall be provided using report forms provided by the Department;
- d. The Licensee shall promptly respond to all requests and inquiries by the Department concerning the Licensee's compliance with the terms of probation.
- e. The Licensee shall obey all state and federal laws and rules and regulations regarding the practice of medicine;
- f. The Licensee shall pay any costs associated with insuring compliance with this Agreed Settlement;
- g. The Licensee shall appear at any meetings of the Board of Medicine and Surgery when requested;
- h. Any period the Licensee may hold an inactive Nebraska license or any period that he is not working as a physician assistant for a minimum of one hundred and thirty (130) hours per quarter shall not reduce the probationary period or satisfy the terms and conditions of the probation;
- i. The Licensee shall attend and successfully complete a prescribing course pre-approved by the Nebraska Board of Medicine and Surgery at his own expense prior to the completion of his probation. Upon successful completion of the course the Licensee shall provide verification of completion to the Board of Medicine;
- j. The Licensee shall attend and successfully complete an ethics course pre-approved by the Nebraska Board of Medicine and Surgery at his own expense prior to the completion of his probation. Upon successful completion of the course the Licensee shall provide verification of completion to the Board of Medicine;
- k. The Licensee shall attend and successfully complete a documentation course pre-approved by the Nebraska Board of Medicine and Surgery at his own expense prior to the completion of

his probation. Upon successful completion of the course the Licensee shall provide verification of completion to the Board of Medicine;

- i. The Licensee shall continue treatment with a psychiatrist and shall comply with all treatment recommendations. Said provider shall provide the Department with quarterly reports until such time as the provider determines the Licensee no longer needs treatment or needs less frequent treatment;
- m. The Licensee shall continue treatment with his physician(s) and shall comply with all treatment recommendations. Said provider(s) shall provide the Department with an annual report;
- n. The Licensee shall only be supervised by a physician who is willing to provide quarterly reports to the Department. The quarterly reports shall be submitted to the Department by the Physician. Reports shall include a description of the Licensee's work habits to include appropriate patient record charting, accurate assessments, accurate diagnosis and treatment as well as the percentage of supervising time spent with the Licensee. Reports shall be due no later than the 10<sup>th</sup> day of the month following the end of each quarter. An initial physician report shall be submitted as directed by the Department. A final physician report shall be due not less than thirty (30) days before the expiration of the probationary period;

16. Licensee has committed an act of unprofessional conduct, pursuant to K.S.A. 65-28a05(a), in violation of the Physician Assistant Licensure Act, as further defined by K.A.R. 100-28a-8(h) in that, Licensee has had a license disciplined by another state licensing agency

17. Pursuant to K.S.A. 65-28a05, the Board may revoke, suspend, limit, censure or otherwise deny a Licensee's license for violations of the Physician Assistant Licensure Act.

18. As set forth in 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.

19. In lieu of the conclusion of formal proceedings and/or the making of findings by the Board, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to disciplinary action against his license to engage in the practice as a physician assistant as follows:

**CENSURE**

- a. Licensee is hereby publicly censured for violations of the Physician Assistant Licensure Act;

**LIMITATION**

- b. Licensee's license is hereby LIMITED in that must comply and successfully complete all the terms of the Agreed Settlement that the Licensee entered into on May 11, 2010, with the Department of Health and Human Services of the State of Nebraska;
- c. This limitation is not self-terminating. Licensee must petition the Board and appear in person on any request to terminate the limitation.
- d. Licensee must submit proof of his fulfillment of the Nebraska requirements to the Board prior to termination of this Consent Order;
- e. All correspondence to the Board regarding Licensee's compliance and completion of the Nebraska Agreed Settlement's requirements will be provided to **Compliance Coordinator:**

800 SW Jackson  
Lower Level Suite A  
Topeka, KS 66612

20. 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.

21. 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. 65-4921 *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.

22. Licensee hereby releases the Board, its employees and agents, from any and all claims, including but not limited to, those damages, actions, liabilities and causes of action, both administrative and civil, including the Kansas Act for judicial Review and Civil Enforcement of Agency Actions, K.S.A. 77-601 *et seq.* This release shall forever discharge the Board 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 Board, its employees or agents, arising out of acts leading to the execution of this Consent Order or the content of this Consent Order.

23. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record, and shall be reported by the Board to any reporting entities authorized to receive disclosure of this Consent Order.

24. 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.

25. 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.

26. Licensee by signature to this document, waives any objection to the participation of the Board members, or 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 proceeding 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.

27. Licensee acknowledges that he has read this Consent Order and fully understands the contents.

28. All correspondence or communication between Licensee and the Board relating to the terms contained in this Consent Order shall be by certified mail addressed to the Kansas Board of Healing Arts, **Attn: COMPLIANCE COORDINATOR,**

800 SW Jackson  
Lower Level Suite A  
Topeka, KS 66612

29. 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. Any violation will also be considered a violation of this Consent Order and may subject Licensee to further disciplinary action by the Board.

30. 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.

31. 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, and is the Order of the Board.

**IT IS FURTHER ORDERED** that:

**CENSURE**

- a. Licensee is hereby publicly censured for violations of the Physician Assistant Licensure Act;

**LIMITATION**

- b. Licensee's license is hereby LIMITED in that must comply and successfully complete all the terms of the Agreed Settlement that the Licensee entered into on May 11, 2010, with the Department of Health and Human Services of the State of Nebraska;
- c. This limitation is not self-terminating. Licensee must petition the Board and appear in person on any request to terminate the limitation.

- d. Licensee must submit proof of his fulfillment of the Nebraska requirements to the Board prior to termination of this Consent Order;
- e. All correspondence to the Board regarding Licensee's compliance and completion of the Nebraska Agreed Settlement's requirements will be provided to **Compliance Coordinator:**

800 SW Jackson  
Lower Level Suite A  
Topeka, KS 66612

IT IS SO ORDERED on the 8<sup>th</sup> day of March, 2011:

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

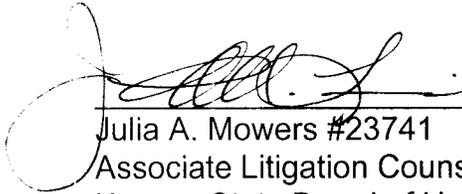
  
Kathleen Selzer Lippert  
Executive Director

3/8/11  
Date

  
Carl L. Woofter, P.A.  
Licensee

11-8-10  
Date

**PREPARED AND APPROVED BY:**

 Julia A. Mowers #23741 *Janith A. Lewis # 18115*  
Julia A. Mowers #23741  
Associate Litigation Counsel  
Kansas State Board of Healing Arts

800 SW Jackson  
Lower Level Suite A  
Topeka, KS 66612  
Telephone

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that a true and correct copy of the foregoing **CONSENT ORDER** was served this 9<sup>th</sup> day of March, 2011, via United States mail, first-class, postage prepaid, and addressed to the following:

Carl L. Woofter, P.A.  
304 West 8<sup>th</sup>  
Colby, Kansas 67701

Robert Kinsey, Jr.  
Kinsey, Rowe, Becker & Kistler, LLP  
121 South 13<sup>th</sup> Street, Suite 601  
P.O. Box 85778  
Lincoln, Nebraska 68501-5778  
*Attorney for Licensee*

and a copy was hand-delivered to:

Janith A. Lewis,  
Associate Litigation Counsel  
Kansas State Board of Healing Arts  
800 SW Jackson  
Lower Level, Suite A  
Topeka, Kansas 66612

Melissa Massey  
Compliance Coordinator  
Kansas State Board of Healing Arts  
800 SW Jackson  
Lower Level, Suite A  
Topeka, Kansas 66612

and the original was filed with the office of:

Kathleen Selzler Lippert  
Executive Director  
Kansas State Board of Healing Arts  
800 SW Jackson  
Lower Level, Suite A  
Topeka, Kansas 66612

  
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Signature