

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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

Plaintiffs,

v.

JENNIFER KING VASSEL, *et al.*,

Defendant.

Case No. 11-CV-236-JPS

**ORDER GRANTING HIPAA QUALIFIED  
PROTECTIVE ORDER**

In order to provide for the orderly and proper discovery of protected health information under 45 CFR §164.512(e), promulgated under the Health Insurance Portability and Accountability Act of 1996, Pub.L. No. 104-191, §264, 110 Stat. 1936 (HIPAA), and to ensure compliance therewith, pursuant to F.R.C.P §26(c),

**IT IS HEREBY ORDERED:**

(1) The parties (and their attorneys) to the above-captioned matter are hereby authorized to

(a) engage in discovery against defendant King-Vassel, and

(b) allow Wisconsin Medical Assistance Program, Wisconsin BadgerCare System,

and Wisconsin Forward Health pursuant to a discovery request or requests,

to disclose, receive and transmit non-privileged "protected health information" limited to identifying or seeking to identify off-label prescriptions written by Dr. King-Vassel and presented to Medicaid for payment for uses that do not have support in 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 CFR 160.103 and 160.501. Without limiting the generality of the foregoing, subject again, however, to the restrictions contained in paragraph (1), above, 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.

(3) Dr. King-Vassel, and Wisconsin Medical Assistance Program, Wisconsin BadgerCare System, and Wisconsin Forward Health, are hereby authorized, subject to the restrictions set forth in paragraph (1), above, to disclose protected health information pertaining to children and youth (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 transmit to all attorneys in this matter.

(4) The parties and their attorneys may use the protected health information in any manner that is reasonably connected with the above-captioned litigation. This includes, but is not limited to, disclosure to the parties, their attorneys of record, the attorneys' firm (i.e., attorneys, support staff, agents, and consultants), experts, consultants, court personnel, court reporters, copy services, trial consultants, jurors, venire members, and other entities involved in the litigation process. Other uses of the protected health information are prohibited.

(5) At the conclusion of the litigation any person or entity in possession of protected health information received pursuant to paragraph 6 of this order shall destroy any and all copies of such protected health information.

(6) This order shall only control or limit the use of protected health information that comes into the possession of any party or any party's attorney from Dr. King-Vassel, Wisconsin Medical Assistance Program, Wisconsin BadgerCare System, and Wisconsin Forward Health pursuant to this order through formal discovery requests, subpoenas, or depositions.

(7) Nothing in this order authorizes counsel to obtain medical records or information through means other than formal discovery requests, subpoena, or through depositions, pursuant to a patient authorization, or through attorney-client communications.

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

BY THE COURT:

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J.P. Stadtmueller  
U.S. District Judge