New York State Board for Professional Medical Conduct
433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863

Antonia C. Novello, M.D.,M.P.H., Dr. P.H.
Commissioner
NYS Department of Health

Dennis P. Whalen
Executive Deputy Commissioner
NYS Department of Health

Dennis J. Graziano, Director
Office of Professional Medical Conduct

William P. Dillon, M.D.
Chair

Denise M. Bolan, R.P.A.
Vice Chair

Ansel R. Marks, M.D., J.D.
Executive Secretary

August 28, 2002

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Alan R. Cohen, M.D.
67 Cherry Street
Milford, CT 06460

RE: Professional Corporations

Dear Dr. Cohen:

Enclosed please find Orders #BPMC 02-262 – 02-272 of the New York State Board for Professional Medical Conduct. These Orders and any penalty provided therein go into effect August 28, 2002.

If the penalty imposed by these Orders is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order to Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure
cc: Allan Kuslansky, Esq.
321 Main Street
Cornwall, NY 12518

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER OF TOTAL CARE MEDICAL HEALTH & DIAGNOSTIC, P.C.	CONSENT AGREEMENT AND ORDER 02-272

The Respondent, Total Care Medical Health & Diagnostic, P.C., says:

The Respondent is a professional service corporation duly authorized to practice medicine in the State of New York pursuant to Article 15 of the Business Corporation Law.

The Respondent is subject to the jurisdiction of the State Board for Professional Medical Conduct, and the prehearing and hearing procedures of Title II-A of Article 2 of the New York Public Health Law, pursuant to Section 1503(d) of the New York Business Corporation Law.

The Respondent is applying to the State Board for Professional Medical Conduct for a Consent Agreement and Order imposing a penalty, pursuant to Section 230-a of the Public Health Law and Section 1503(d) of the Business Corporation Law, of revocation of its certificate of incorporation such that the revocation shall be effective immediately and shall be self-executing, and this Consent Agreement and Order shall

be deemed automatically to be the final and operative document revoking the Respondent's certificate of incorporation, and the Respondent requests that the Board issue this Consent Agreement and Order.

The Respondent acknowledges that it has been charged with professional misconduct as set forth in the Statement of Charges, annexed hereto, made a part hereof, and marked as Exhibit "A."

Subject to the terms, conditions and limitations of this Consent Agreement and Order, the Respondent admits the allegations and specification set forth in the First Specification of the Statement of Charges in full satisfaction of all such allegations and specifications.

The Respondent agrees that, in the event the State Board for Professional Medical Conduct agrees with its proposal, this Consent Agreement and Order shall be issued revoking its certificate of incorporation. The Respondent agrees that such revocation shall be effective immediately and shall be self-executing, and this Consent Agreement and Order shall be deemed automatically to be the final and operative document revoking the Respondent's certificate of incorporation. The Respondent agrees, notwithstanding the above, nothing herein shall be construed to absolve the Respondent in any way from paying to the Departments of State, Education, and Taxation and Finance any outstanding taxes, fines and penalties.

effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of this Consent Agreement and Order to it in care of Alan R. Cohen, M.D., 67 Cherry Street, Milford, CT 06460, or to its attorney, or upon transmission via facsimile to it or its attorney, whichever is earliest.

The Respondent shall fully cooperate in every respect with the Office of Professional Medical Conduct in its administration and enforcement of this Consent Agreement and Order by providing written responses, attending meetings or providing documentation concerning verification of its compliance with the terms of this Consent Agreement and Order.

The Respondent agrees that in the event it is charged with professional misconduct in the future for violation or non-compliance with any provision of this Consent Agreement and Order, or in the event that it is charged with professional misconduct in the future for any other type of misconduct, this Consent Agreement and Order shall be admitted into evidence in that proceeding.

The Respondent acknowledges that, in the event that this proposed agreement is not granted by the State Board for Professional Medical Conduct, nothing contained herein shall be binding upon it or construed to be an admission of any act of misconduct alleged or charged against it, such proposed agreement shall not be used against it in any way, and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the State Board for Professional Medical

professional misconduct disciplinary proceeding; and such denial by the State Board for Professional Medical Conduct shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by a Committee on Professional Medical Conduct pursuant to the provisions of the Public Health Law.

The Respondent is making this application of its own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the value to it of the acceptance by the Board of this application allowing it to resolve this matter without the various risks and burdens of a hearing on the merits, the Respondent knowingly waives any right it may have to contest, whether administratively or judicially, the Consent Agreement and Order issued hereunder for which it hereby applies and the respondent asks that the application be granted.

The Respondent is making this application through its President, Alan R. Cohen, M.D., and the Respondent and Alan R. Cohen, M.D., warrant that he has the necessary corporate authority to enter into this Consent Agreement and Order on behalf of the Respondent and to consent on behalf of the Respondent to the revocation of the Respondent's certificate of incorporation.

Date: July 2, 2002

Total Care Medical Health & Diagnostic, P.C.

By: _____
Alan R. Cohen, M.D.
President

State of New York)

ss.:

County of Orange)

On the 3 day of July 2002, before me personally came Alan R. Cohen, M.D., who being by me duly sworn, did depose and say that he resides in Milford CT ; that he is the President of the Respondent, the professional service corporation described in and which executed the above instrument; and that he signed his name thereto by order of the board of directors of said corporation.

Notary Public
ALLAN KUSLANSKY
Notary Public, State of New York
Qualified in Orange County
Registration No. 02KU5085977
Commission Expires September 29, 2006

AGREED TO:

Date: 7/3, 2002

Allan Kuslansky
Attorney for Respondent
Alan R. Cohen, M.D.
321 Main Street
Cornwall, NY 12518

Date: July 30, 2002

Richard J. Zahnleuter, Esq.
Associate Counsel
Bureau of Professional
Medical Conduct

Date: August 22, 2002

Dennis J. Graziano
Director, Office of
Professional Medical Conduct

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER OF TOTAL CARE MEDICAL HEALTH & DIAGNOSTIC, P.C.	ORDER

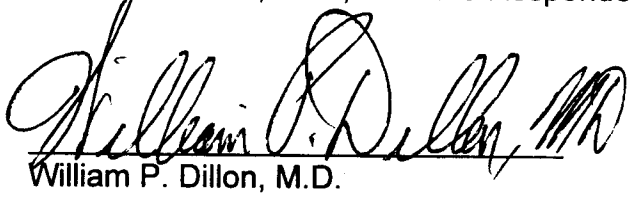
Upon the proposed Consent Agreement and Order of Total Care Medical Health & Diagnostic, P.C. (the Respondent), which proposed agreement is made a part hereof, it is AGREED TO and

ORDERED, that the Respondent's certificate of incorporation is hereby revoked such that the revocation shall be effective immediately and shall be self-executing, and this Order shall be deemed automatically to be the final and operative document revoking the Respondent's certificate of incorporation.

ORDERED, that the proposed agreement and the provisions thereof, are hereby adopted; it is further

ORDERED, that this Order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of this Order to the Respondent's attorney at the address set forth in this agreement or upon transmission via facsimile to the Respondent in care of Alan R. Cohen, M.D., or to the Respondent's attorney, whichever is earliest.

DATED: 8/26/02



William P. Dillon, M.D.
Chair
State Board for Professional
Medical Conduct

EXHIBIT A

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER OF TOTAL CARE MEDICAL HEALTH & DIAGNOSTIC, P.C.	STATEMENT OF CHARGES

The Respondent, Total Care Medical Health & Diagnostic, P.C., is a professional service corporation duly authorized to practice medicine in the State of New York pursuant to Article 15 of the Business Corporation Law.

The Respondent is subject to the jurisdiction of the State Board for Professional Medical Conduct, and the prehearing and hearing procedures of Title II-A of Article 2 of the New York Public Health Law, pursuant to Section 1503(d) of the New York Business Corporation Law.

ALLEGATIONS

A. A professional service corporation may be organized by one or more individuals who are authorized by law to render the same professional service, pursuant to Section 1503(a) of the New York Business Corporation Law.

B. Between January 1994 and the present, Alan R. Cohen, M.D., became the sole shareholder of the Respondent and the Respondent was organized to practice medicine in compliance with Section 1503(a) of the New York Business Corporation Law.

C. Dr. Cohen was the physician who, in compliance with Sections 1503(a) and 1504(a) of the New York Business Corporation Law, was the shareholder, director and officer of the Respondent.

D. Upon organizing, establishing, or owning the Respondent, Dr. Cohen, upon advice of counsel, hired a management company to supervise, administer and oversee every aspect of the business operations of the Respondent, including, but not limited to, procuring physical space, hiring and supervising non-professional employees, billing insurance companies, and handling all of the bookkeeping and accounting.

E. In many instances, Dr. Cohen, per an agreement with each management company, received consideration, in the form of an annual fee, not necessarily to be on-site or to participate in providing medical services to patients, but to be available generally to perform professional services on a consulting basis in his capacity as shareholder, director and officer.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

The Respondent is charged with professional misconduct by reason of DIRECTLY OR INDIRECTLY RECEIVING OR AGREEING TO RECEIVE A FEE OR OTHER CONSIDERATION FROM A THIRD PARTY IN CONNECTION WITH THE PERFORMANCE OF PROFESSIONAL SERVICES, in violation of New York Education Law §6530(18), in that Petitioner charges:

1. The factual allegations in paragraph A, B, C, D, and/or E.

DATED: August 15, 2002
Albany, New York

PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional
Medical Conduct