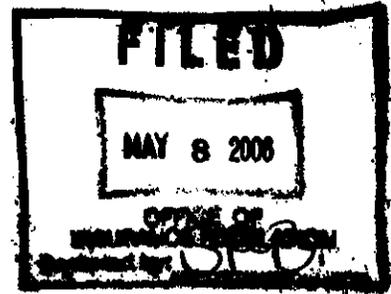




OFFICE OF INSURANCE REGULATION

KEVIN M. McCARTY  
COMMISSIONER



IN THE MATTER OF:

PINNACLECHOICE, INC.  
2006 Market Conduct Examination

CASE NO.: 93480-07

CONSENT ORDER

THIS CAUSE came on for consideration upon the agreement between PINNACLECHOICE, INC. (hereinafter referred to as "PINNACLECHOICE") and the OFFICE OF INSURANCE REGULATION (hereinafter referred to as the "OFFICE"). Following a complete review of the entire record, and upon consideration thereof, and being otherwise fully advised in the premises, the OFFICE hereby finds as follows:

1. The OFFICE has jurisdiction over the subject matter of, and parties to, this proceeding.
2. PINNACLECHOICE is a foreign discount medical plan organization authorized to transact discount medical plan business in Florida and is subject to the jurisdiction and regulation of the OFFICE pursuant to Chapter 636, Part II, Florida Statutes.
3. The OFFICE conducted a market conduct examination of PINNACLECHOICE in 2006 pursuant to Section 636.206, Florida Statutes. As a result of such examination, the OFFICE has determined that PINNACLECHOICE has violated the following provisions of the Florida Insurance Code and Florida Administrative Code:

- a. Section 636.214(3)(a), Florida Statutes – Failure of the provider network agreements to contain, a list of the services and products to be provided at a discount; the amount of the discounts, or alternatively, a fee schedule which reflects the provider’s discounted rates.
- b. Section 636.214(3)(c), Florida Statutes – Failure of the provider network agreements to require the network to maintain an up-to-date list of its contracted providers and to provide that list on a monthly basis to the discount medical plan organization.
- c. Section 636.216(3), Florida Statutes – Use of forms that have not been filed with and approved by the Office.
- d. Section 636.216(1), Florida Statutes – Use of charges that have not been first filed with and approved by the Office.
- e. Rule 69O-203.202(1)(c), Florida Administrative Code – Failure of the membership agreement to contain the name of the member.
- f. Rule 69O-203.202(1)(d), Florida Administrative Code – Failure of the membership agreement to contain the effective date.
- g. Rule 69O-203.202(2), Florida Administrative Code – Failure of the membership contract to contain the entire agreement with the member.
- h. Section 636.208(2), Florida Statutes – Failure to make full refunds of all periodic charges to members who cancelled their membership in the discount medical plan organization within the first 30 days after the effective date of their enrollment in the plan.
- i. Section 636.208(4), Florida Statutes – Failure to reimburse members for any

portion of a one-time processing fee that exceeds \$30 per year.

- j. Section 636.212(3)-(5), Florida Statutes – Failure to contain the required disclosures on the first page of advertising, marketing materials, or brochures in 12-point type.

4. PINNACLECHOICE expressly waives a hearing in this matter, the making of Findings of Fact and Conclusions of Law by the OFFICE, and all further and other proceedings herein to which the parties may be entitled by law or rules of the OFFICE. PINNACLECHOICE hereby knowingly and voluntarily waives all rights to challenge or to contest this Order, in any forum now or in the future available to it, including the right to any administrative proceeding, circuit or federal court action, or any appeal.

5. PINNACLECHOICE agrees that upon the execution of this Consent Order it shall be subject to the following terms and conditions:

- a. PINNACLECHOICE shall pay an administrative penalty of Six Thousand Dollars (\$6,000) and administrative costs of Three Thousand Dollars (\$3,000) on or before the thirtieth (30<sup>th</sup>) day after this Consent Order is executed.
- b. PINNACLECHOICE shall, within thirty (30) days of the execution of this Consent Order, provide to the OFFICE a certification signed by an officer of the Company that the corrective actions outlined in the examination report have been completed. The certification shall include a detailed list of all fees returned, itemized by member name, member number, and the amount refunded.

6. PINNACLECHOICE is hereby placed on notice of the requirements of the above referenced sections of law and rules, and agrees that any future violations of these sections and

rules by PINNACLECHOICE may be deemed willful, subjecting PINNACLECHOICE to appropriate penalties.

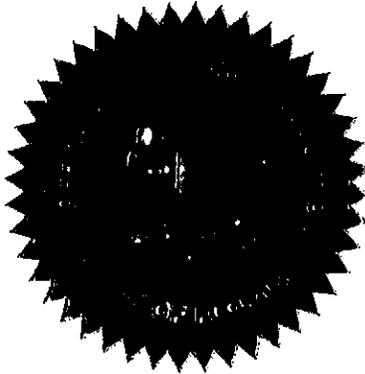
7. PINNACLECHOICE agrees that the failure to adhere to one or more of the above terms and conditions of this Consent Order shall constitute a violation of a lawful order of the OFFICE, and shall subject PINNACLECHOICE to such administrative action as the OFFICE may deem appropriate.

8. Except as noted above, each party to this action shall bear its own costs and attorney's fees.

THEREFORE, the agreement between PINNACLECHOICE and the OFFICE, the terms and conditions of which are set forth above, is APPROVED.

FURTHER, all terms and conditions above are hereby ORDERED.

DONE AND ORDERED this 8<sup>th</sup> day of MAY 2008.



\_\_\_\_\_  
KEVIN M. McCARTY  
Commissioner  
Office of Insurance Regulation

By execution hereof, PINNACLECHOICE, INC. consents to entry of this Order, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. The undersigned represents that he or she has the authority to bind PINNACLECHOICE, INC. to the terms and conditions of this Consent Order.

PINNACLECHOICE, INC.

Corporate Seal

By: \_\_\_\_\_

Title: President

Date: 4-29-08

STATE OF New Jersey  
COUNTY OF Essex

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of April, 2008,  
by Henry Kolbe as President for  
(Name of person) (Type of authority.... e.g. officer, trustee, attorney in fact)

Pinnacle Choice Inc  
(Company name)

Personally Known  or Produced Identification \_\_\_\_\_

Type of Identification Produced \_\_\_\_\_

Notarial Seal

(Signature of the Notary)  
**KRISTIN GARDNER-VIGLIOTTI**  
**NOTARY PUBLIC OF NEW JERSEY**  
**Commission Expires 10/10/2012**  
\_\_\_\_\_  
(Print, Type or Stamp Commissioned Name of Notary)

My Commission Expires: