

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

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In re:	:	CHAPTER 11
	:	
YOUNGSTOWN OSTEOPATHIC	:	JUDGE WILLIAM T. BODOH
HOSPITAL ASSOCIATION,	:	
	:	CASE NO. 99-40663
Debtor.	:	
-----X		

**NOTICE OF FILING OF MOTION OF YOUNGSTOWN OSTEOPATHIC  
HOSPITAL ASSOCIATION FOR ORDER AUTHORIZING  
DISPOSAL OF SURPLUS RECORDS**

**PLEASE TAKE NOTICE** that Youngstown Osteopathic Hospital Association (the "Debtor"), debtor and debtor in possession, has filed its *Motion for Order Authorizing Disposal of Surplus Records* (the "Motion"), a copy of which Motion is annexed hereto;

**PLEASE TAKE FURTHER NOTICE** that, pursuant to Local Bankruptcy Rule 9013-1, any objection or other response to the Motion must be filed with the Clerk of the Court at the United States Bankruptcy Court, 125 Market Street, Youngstown, Ohio 44503 and simultaneously served on counsel for the Debtor, William E. Schonberg, Esq., Benesch, Friedlander, Coplan & Aronoff LLP, 2300 BP Tower, 200 Public Square, Cleveland, Ohio 44114-2378 so as to be filed and received no later than ten (10) days after the date hereof;

**PLEASE TAKE FURTHER NOTICE** that, if no response to the Motion is timely filed and served, the Court may grant the relief requested in the Motion without further notice or a hearing thereon; and


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**PLEASE TAKE FURTHER NOTICE** that, if an objection is timely filed and served, the Court may set a hearing to consider the Motion and the objection(s) thereto, upon notice thereof as shall be determined by the Court.

Dated: Cleveland, Ohio  
April ~~30~~ 2002

Respectfully submitted,

  
William E. Schonberg (OBR #0025140)

David M. Neumann (OBR #0068747)

BENESCH, FRIEDLANDER,  
COPLAN & ARONOFF LLP

2300 BP Building

200 Public Square

Cleveland, Ohio 44114

(216) 363-4500

(216) 363-4588 (Facsimile)

[wschonberg@bfca.com](mailto:wschonberg@bfca.com)

[dneumann@bfca.com](mailto:dneumann@bfca.com)

**Counsel for Youngstown Osteopathic  
Hospital Association, Debtor and Debtor  
in Possession**

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

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In re	:	CHAPTER 11
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YOUNGSTOWN OSTEOPATHIC	:	JUDGE WILLIAM T. BODOH
HOSPITAL ASSOCIATION,	:	
	:	CASE NO. 99-40663
Debtor.	:	
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**MOTION OF YOUNGSTOWN OSTEOPATHIC HOSPITAL ASSOCIATION FOR  
ORDER AUTHORIZING DISPOSAL OF SURPLUS RECORDS**

Youngstown Osteopathic Hospital Association (the "Debtor"), debtor and debtor in possession, hereby requests (the "Motion") entry of an order approving the destruction of certain of the Debtor's surplus, stale and/or duplicative operational, patient and employee records located at the Debtor's former hospital facility. Such surplus records do not constitute stored patient medical records, except to the extent of duplicates of those documents already contained in respective patient medical files, or asset, creditor claims or financial records relevant to the Debtor's financial affairs, the administration of the Debtor's estate or any pending adversary proceedings.

In support of this Motion, the Debtor respectfully represents as follows:

**JURISDICTION**

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. Sections 105 and 363 of Title 11 (the "Bankruptcy Code") of the United States Code provide the basis for the relief requested herein.

## **BACKGROUND**

2. On March 11, 1999 (the "Petition Date"), the Debtor filed with this Court a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtor is managing its remaining assets as a debtor in possession, pursuant to section 1107 of the Bankruptcy Code. No trustee has been appointed in this case.

3. By order of this Court dated November 2, 2001, the court authorized the Debtor to enter into and perform under a hospital facility real estate purchase agreement and, pursuant thereto, approved the sale of the Debtor's hospital facility (the "Premises") to CMD Realty Group, LLC (the "Purchaser"), free and clear of liens, claims, and encumbrances.

## **RELIEF REQUESTED AND REASONS THEREFOR**

4. The Debtor ceased providing health care services in March, 2000. Prior to that time, over the history of the operation of the hospital, the Debtor accumulated thousands of patient medical records, including charts, x-ray films and related records (collectively, the "Medical Records"), which are all currently indexed and stored at the Premises.

5. With respect to the Medical Records, on April 10, 2002, this Court entered its *Order Granting Motion Of Youngstown Osteopathic Hospital Association For Order Approving Patient Records Disposal Plan* authorizing the Debtor to implement a Patient Records Disposal Plan (as defined therein). The Debtor has commenced implementation of the Patient Records Disposal Plan.

6. Exclusive of the Medical Records, there exist at the Premises collections of documents stored in boxes or binders that are surplus, stale and/or duplicative records that pertain to the Debtor's former daily hospital operations that do not constitute Medical Records, except to the extent of duplicates thereof already contained in the respective patient Medical

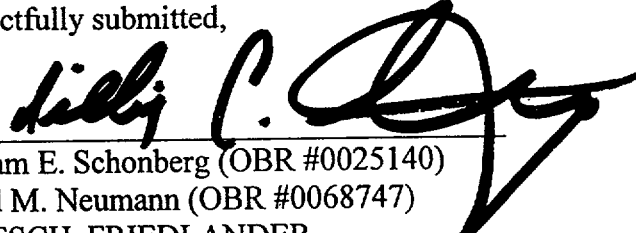
Records files, and do not include asset, creditor claims or financial records relevant to the Debtor's financial affairs, administration of the estate or any pending adversary proceeding(s) (collectively, the "Surplus Records"). A listing of the Surplus Records is attached hereto as Exhibit "A."

7. In light of the Debtor's sale of the Premises, costs attributable to the Debtor's continued storage of the Surplus Records at the Premises are burdensome to the estate. Disposal of the Surplus Records will relieve the estate of storage charges that may be charged to the estate by the Purchaser. The Debtor will continue to maintain the Medical Records consistent with the Patient Records Disposal Plan. Thus, the relief requested herein is appropriate.

WHEREFORE, the Debtor respectfully requests entry of an order authorizing the Debtor to destroy the Surplus Records.

Dated: Cleveland, Ohio  
April 30, 2002

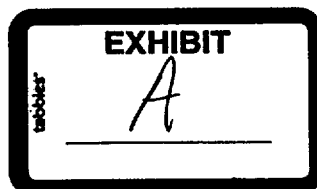
Respectfully submitted,

  
William E. Schonberg (OBR #0025140)  
David M. Neumann (OBR #0068747)  
BENESCH, FRIEDLANDER,  
COPLAN & ARONOFF LLP  
2300 BP America Building  
200 Public Square  
Cleveland, Ohio 44114-2378  
(216) 363-4500

**Attorneys for Youngstown Osteopathic  
Hospital Association, Debtor and Debtor  
in Possession.**

# **Youngstown Osteopathic Hospital** **Proposed Files for Destruction**

<u>Type of File</u>	<u>Description</u>	<u>Quantity (approx)</u>
Daily Charges	Copies of daily charge sheets. Date order - not patient.	200 file boxes
Old Staff Files	Copies of licenses, seminars, requests	10 transfer file boxes
Social Service	filed by date - not patient. Copies of info already in the patient files.	20 transfer file boxes
A/R Reports	Old activity reports multiple patient info on each page - cannot be seperated.	20 file boxes
EEG Reports	Filed by date - not patient	50 file boxes
Hyperbaric Oxy. Reviews	Copies of HBO info already in patients file.	1 transfer file box
Risk Management	Closed cases, incident reports	5 transfer file boxes
X-Ray Index Cards	X-ray dept use only.	5 transfer file boxes
HIV Files	Copies of HIV test results	1 transfer file box
Dr. Orders	Copies	5 transfer file boxes
Maintenance Records	Records for equipment already sold.	2 file boxes
Lab Control logs	Department use.	4 file boxes
Pharmacy Prescriptions	Copies of prescriptions - filed by date.	6 file boxes
Employee Termination Files	Old terminated employee files	10 transfer file boxes
Cytology Charges	Copies	4 transfer file boxes
Time Sheets	Former employee time sheets	10 transfer file boxes
Daily Census Logs	Daily reports - not by individual patient	100 6" thick binders



**CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing *Motion of Youngstown Osteopathic Hospital Association for Order Authorizing Disposal of Surplus Records* was served by first class United States mail, postage prepaid, on the 30<sup>th</sup> day of April, 2002 to all parties on the attached Service List.

  
\_\_\_\_\_  
William E. Schonberg

Askounis & Borst, P.C.  
Attn: Thomas V. Askounis, Esq.  
303 East Wacker Drive  
Ninth Floor  
Chicago, IL 60601

Central States, Southeast and Southwest  
Areas Pension Fund--Legal Dept.  
Attn: Brad R. Berliner, Esq.  
9377 West Higgins Road  
Rosemont, IL 60018-4938

Dubin, Joseph & Shagrin  
Attn: Michael B. Shagrin, Esq.  
75 Public Square, Suite 650  
Cleveland, OH 44113

Friedman & Rummell Co., L.P.A.  
Attn: Carl D. Raforth, Esq.  
300 City Centre One  
Youngstown, OH 44503-1810

Henderson, Covington, Messenger,  
Newman & Thomas Co., L.P.A.  
Attn: Richard J. Thomas & Jerry M. Bryan  
34 Federal Plaza West, #600  
Youngstown, OH 44503

Internal Revenue Service  
Dept. of Treasury  
Attn: Antoinette Ruminski, Insolvency Spec.  
P. O. Box 99183  
Cleveland, OH 44199

Luckhart, Mumaw, Zellers & Robinson  
Attn: Richard G. Zellers, Esq.  
3810 Starrs Centre Drive  
Canfield, OH 44406

Mahoning, County of  
Treasurer's Office  
120 Market Street  
Youngstown, OH 44503

Miller, Canfield, Paddock and Stone, P.L.C.  
Attn: Lori L. Purkey, Esq.  
444 West Michigan Avenue  
Kalamazoo, MI 49007

National City Bank  
One Cascade Plaza  
Akron, OH 44308

Burland & Associates, LLC  
Attn: Bradley D. Burland, Esq.  
23875 Commerce Park Road, Suite 105  
Beachwood, OH 44122

Central States, Southeast and Southwest  
Areas Pension Fund  
Attn: Brad R. Berliner, Esq.  
P. O. Box 5123  
Des Plaines, IL 60017-5123

Fisher Scientific Company LLC  
Attn: Kate Getka, Credit Department  
2000 Park Lane Drive  
Pittsburgh, PA 15275-1126

Great-West Life & Annuity Ins. Co.  
Attn: Kelly S. Noble, Esq.  
8515 East Orchard Road, 7T2  
Englewood, CO 80111

Herzfeld & Rubin, P.C.  
Attn: Ira L. Herman, Esq.  
40 Wall Street  
New York, NY 10005

Kahn, Kleinman, Yanowitz & Arnson  
Co., L.P.A.  
Attn: M. Colette Gibbons, Esq.  
2600 Tower at Erieview  
Cleveland, OH 44114-1824

Mahoning, County of  
50 Westchester Drive, #202  
Youngstown, OH 44515

Manchester, Bennett, Powers & Ullman  
Attn: James W. Ehrman, Esq.  
201 East Commerce Street  
Youngstown, OH 44503-1641

William Anthony Myers, Esq.  
33 Melrose Avenue  
Boardman, OH 44512

National City Bank  
20 Federal Plaza  
Youngstown, OH 44503

Centers for Medicare & Medicaid Services  
Attn: Victoria A. Robey  
Room SL1-12-16  
7500 Security Boulevard  
Baltimore, MD 21244-1850

Cloppert, Portman, Sauter, et al.  
Attn: Frederick G. Cloppert, Esq.  
Ronald H. Snyder, Esq.  
225 East Broad Street  
Columbus, OH 43215

Charles W. Fonda, Esq.  
75 Public Square, Suite 730  
Cleveland, OH 44113

Harrington, Hoppe & Mitchell, Ltd.  
Attn: Frederick S. Coombs III, Esq.  
1200 Mahoning Bank Building  
Youngstown, OH 44503

Hewlett-Packard Company  
Attn: FCG-Recovery  
20 Perimeter Summit Blvd.  
Mailstop 507  
Atlanta, GA 30319

Kutlick Platz Realty, LLC  
Attn: William Kutlick  
100 DeBartolo Place  
Youngstown, OH 44513

Mahoning, County of  
Prosecutor's Office  
120 Market Street  
Youngstown, OH 44503

Meyer, Unkovic & Scott, LLP  
Attn: Joel M. Helmrich, Esq.  
1300 Oliver Building  
Pittsburgh, PA 15222-2304

Nadler, Nadler & Burdman Co., L.P.A.  
Attn: Michael A. Gallo, Esq.  
20 Federal Plaza West, Suite 600  
Youngstown, OH 44503-1559

National City Bank  
Attn: Donald A. Omar  
Special Assets Department  
P. O. Box 658  
Youngstown, OH 44501



National City Bank-Bond Trustee  
Attn: Catherine Frug, Administrator  
101 West Washington Street  
Suite 655 South  
Indianapolis, IN 46255

Ohio Bureau of Employment Services  
Attn: Jill A. Whitworth, Esq.,  
Revenue Recovery Section  
101 E. Town Street, Second Floor  
Columbus, OH 43215

Ohio Department of Health  
Attn: Dr. Nick Baird, Director  
246 N. High Street, 7th Floor  
Columbus, OH 43266-0118

Ohio University  
Attn: Charles F. Glander, Esq., Asst. Director  
Office of Legal Affairs  
10 E. Union Street  
Akron, OH 45701

PNC Bank, National Association  
PNC Capital Recovery Corp.  
Attn: Martin E. Mueller, Vice President  
249 Fifth Avenue-18th Floor  
Pittsburgh, PA 15222-2707

Thompson Hine & Flory LLP  
Attn: Richard K. Stovall, Esq.  
One Columbus  
10 West Broad Street  
Columbus, OH 43215-3435

Thompson Hine & Flory LLP  
Attn: Robert C. Folland, Esq.  
3900 Key Center  
127 Public Square  
Cleveland, OH 44114-1216

U.S. Dept. of Health and Human Services  
Attn: A. Prentice Barnes, Sr.  
Room 531-H, Hubert H Humphrey Building  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

U.S. Dept. of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

United States of America  
U.S. Nuclear Regulatory Commission  
Office of the General Counsel  
Attn: Stuart A. Treby, Esq., Asst. General  
Washington, D.C. 20555-0001

United States Trustee  
Attn: Amy L. Good, Esq.  
BP Tower-20th Floor  
200 Public Square, Suite 3300  
Cleveland, OH 44114

Vorys, Sater, Seymour & Pease LLP  
Attn: Robert J. Sidman, Esq.  
52 East Gay Street  
P. O. Box 1008  
Columbus, OH 43216-1008

Weltman, Weinberg & Reis Co., L.P.A.  
Attn: Alan C. Hochheiser, Esq.  
Lakeside Place, Suite 200  
323 Lakeside Avenue, West  
Cleveland, OH 44113-1099

Youngstown, City of  
City Planning Commission and Board of  
Zoning Appeals  
26 South Phelps Street, City Hall  
Youngstown, OH 44503

Youngstown Osteopathic Hospital Assoc.  
Attn: Joseph R. Mortellaro Jr.  
P. O. Box 1258  
Youngstown, OH 44501

Marian C. Nealon, Asst. Regional Counsel  
U.S. Department of Health & Human Services  
Office of the Chief Counsel, Regional V  
233 North Michigan Avenue, Suite 700  
Chicago, IL 60601-5502

February 8, 2002  
12:38pm—klk  
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