

Division of Corporations

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NO 400000 2700

Florida Department of State
Division of Corporations
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DIVISION OF CORPORATIONS

BASIC AMENDMENT

PHYSICIANS' FOUNDATION FOR HEALTH SYSTEMS EXCELLENCE

Certificate of Status	0
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FLORIDA DEPARTMENT OF STATE

Glenda E. Hood
Secretary of State

April 27, 2005

PHYSICIANS' FOUNDATION FOR HEALTH SYSTEMS EXCELLENCE, I
123 ADAMS STREET
TALLAHASSEE, FL 32301

SUBJECT: PHYSICIANS' FOUNDATION FOR HEALTH SYSTEMS EXCELLENCE, INC.
REF: N04000002700

We received your electronically transmitted document. However, the document has not been filed. Please make the following corrections and refile the complete document, including the electronic filing cover sheet.

Amendments for nonprofit corporations are filed in compliance with section 617.1006, Florida Statutes. Please see the attached information.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

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Carol Mustain
Document Specialist

FAX Aud. #: H05000104813
Letter Number: 405A00029162

**CERTIFICATE OF AMENDMENT AND RESTATEMENT
OF
THE ARTICLES OF INCORPORATION
OF
PHYSICIANS' FOUNDATION FOR HEALTH SYSTEMS EXCELLENCE, INC.
(A Florida Not-For-Profit Corporation)**

FILED
05 APR 26 PM 3:39
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

The undersigned Corporation executes and sets forth the following Certificate of Amendment and Restatement of the Articles of Incorporation of such corporation in accordance with Section 617.1006 of the Florida Not For Profit Corporation Act (the "Act"):

FIRST: The name of the corporation is Physicians' Foundation for Health Systems Excellence, Inc. (the "Corporation").

SECOND: The Amended and Restated Articles of Incorporation of the Corporation are attached to this Certificate as Exhibit A.

THIRD: The Members of the Corporation are not entitled to vote on proposed amendments to the Articles of Incorporation of the Corporation.

FOURTH: The Board of Directors adopted the Amended and Restated Articles of Incorporation of the Corporation in accordance with Section 617.1006 of the Act on April 8, 2005.

{Signature on next page.}

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NO.517 P003/010
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IN WITNESS WHEREOF, the Corporation has caused the execution of this Certificate of Amendment and Restatement of the Articles of Incorporation of Physicians' Foundation for Health Systems Excellence, Inc. on April 8, 2005.

PHYSICIANS' FOUNDATION FOR HEALTH
SYSTEMS EXCELLENCE, INC.

By: Timothy B. Norbeck
Name:
Title: President

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CERTIFICATE OF AMENDMENT AND RESTATEMENT
OF
THE ARTICLES OF INCORPORATION
OF
PHYSICIANS' FOUNDATION FOR HEALTH SYSTEMS EXCELLENCE, INC.
(A Florida Not-For-Profit Corporation)

EXHIBIT A
AMENDED AND RESTATED ARTICLES OF INCORPORATION
(See attached.)

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NO.517 P005/010

AMENDED AND RESTATED ARTICLES OF INCORPORATION
OF
PHYSICIANS' FOUNDATION FOR HEALTH SYSTEMS EXCELLENCE, INC.
(A Florida Not-For-Profit Corporation)

ARTICLE I.
NAME

The name of this Corporation is **PHYSICIANS' FOUNDATION FOR HEALTH SYSTEMS EXCELLENCE, INC.**, (hereinafter called the "Corporation").

ARTICLE II.
Corporate Nature

The Corporation is a corporation not for profit organized pursuant to the Florida Not For Profit Corporation Act set forth in Chapter 617 of the Florida Statutes.

ARTICLE III.
ADDRESS

The address of the principal office and the mailing address of the Corporation shall be: c/o Florida Medical Association, 123 Adams Street, Tallahassee, FL 32301.

ARTICLE IV.
DURATION

The period of the duration of the Corporation is perpetual unless dissolved according to law.

ARTICLE V.
PURPOSES

A. The Corporation is a not for profit corporation incorporated and operated exclusively for charitable, educational, and scientific purposes within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code") (all references to sections of the Code include the corresponding provision of any subsequent federal tax law). Further, the Corporation shall be organized exclusively for purposes described in section 509(a)(3)(A) of the Code.

B. More specifically, the Corporation shall be organized and operated exclusively to support, benefit or carry out the charitable purposes of publicly supported organizations

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whose purposes include promoting high quality medical care, including, without limitation, assisting physicians and the public to improve the quality of care received by patients in the evolving healthcare environment, in a manner that constitutes charitable, scientific or educational purposes within the meaning of Section 501(c)(3) of the Code. The Corporation shall not engage in any activities or exercise any powers that are not in furtherance of the charitable purposes set forth in this sub-paragraph B.

C. The Corporation shall expend during each twelve month period commencing on January 1, 2005, for such purposes in accordance with the provisions of these Articles of Incorporation, (i) not less than twenty-five percent (25%) of the aggregate amount paid to the Corporation in connection with the settlement of In re Managed Care Litigation, MDL Docket No. 1334 (the "Settlement") by Aetna, Inc., provided, however, that such expenditure requirement may be waived upon the consent of the Aetna Director, as hereinafter defined, and (ii) not less than ten percent (10%) of any additional amounts paid by other persons to the Corporation in connection with the Settlement.

ARTICLE VI. POWERS

A. The Corporation shall have all of the powers, privileges, rights, and immunities necessary or convenient for carrying out the purposes set forth in Article V hereof, and all the benefits, privileges, rights and powers created, given, extended or conferred now or hereafter, by the provisions of all applicable laws of the State of Florida pertaining to corporations not for profit, including any additions or amendments thereto, consistent with maintaining its tax-exempt status under section 501(c)(3), its status as a public charity under section 509(a)(3), and its qualification to receive contributions deductible under section 170(c)(2) of the Code.

B. The Corporation shall expressly have no power to engage in, or to make contributions or grants or to provide support to any person or entity for the purpose of engaging in, any of the following activities:

- i. Lobbying any legislative or executive branch of the federal, state or local governments;
- ii. Litigation, arbitration or other dispute resolution, other than to the extent such activities are directly related to the other activities of the Corporation;
- iii. Laboratory research or animal research;
- iv. Research and/or development of drugs or medical devices; or
- v. Any activity that is inconsistent with the purposes of the Corporation as described in Article V of these Articles of Incorporation.

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ARTICLE VII. MEMBERS

The Corporation shall have two (2) classes of members (the "Members," or individually each a "Member"): the Signatory Societies Members (the "Signatory Societies") and the Aetna Member. The Signatory Societies shall consist of the following entities: Alaska State Medical Association, California Medical Association, Connecticut State Medical Society, Denton County Medical Society (Texas), El Paso County Medical Society (Colorado), Florida Medical Association, Hawaii Medical Association, Louisiana State Medical Society, Medical Association of Georgia, Medical Society of New Jersey, Medical Society of the State of New York, Nebraska Medical Association, New Hampshire Medical Society, North Carolina Medical Society, Northern Virginia Medical Societies, South Carolina Medical Association, Tennessee Medical Association, Texas Medical Association, and Washington State Medical Association. Aetna Inc., shall be the sole Aetna Member. The designation of classes of members, the qualifications and rights of the members of each class, any quorum and voting requirements for meetings and activities of the members, and notice requirements sufficient to provide notice of meetings and activities of the members of the Corporation shall be as provided in these Articles of Incorporation and the Bylaws of the Corporation. The Board of Directors may create additional classes of Members in accordance with the provisions of these Articles of Incorporation and the Corporation's Bylaws.

ARTICLE VIII. MANAGEMENT

A. All power and authority of the Corporation shall be vested in and exercised by its Board of Directors, which shall manage and direct the affairs of the Corporation in accordance with applicable law and as provided in the Bylaws of the Corporation. The number of directors of the Corporation shall be eleven (11) persons. Ten (10) directors shall be designated "Societies Directors." The Societies Directors shall be eligible to vote on all matters considered by the Board of Directors. The eleventh director (the "Aetna Director") shall have the right to vote only in the case of matters requiring unanimous approval of all of the directors ("Unanimous Consent Matters"), as defined below. The rights, powers and duties of the members of the Board of Directors, including without limitation, the terms of each of the directors, shall be as provided in the Bylaws of the Corporation.

B. Each Societies Director shall appoint his or her own successor at the annual meeting. Each such Societies Director shall select that individual successor Societies Director designated by the Signatory Society that originally designated such vacating Societies Director. In the event a Societies Director is removed or is unable to continue to serve (because of death or disability), then a successor Societies Director to fill the open position shall be designated by the Signatory Society that originally designated that Societies Director. In addition, the Signatory Society that designated a Societies Director may remove such Societies Director and designate a new Societies Director.

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C. The Aetna Director shall be designated by the Aetna Member. The Aetna Member may remove the designated Aetna Director and designate a new Aetna Director.

D. The following Unanimous Consent Matters may be approved only upon the consent of all of the directors of the Corporation, including, without limitation, the Aetna Director:

i. An amendment, modification, revision or restatement of Articles V, VI, VII and VIII, except with respect to the number of Voting Directors, of the Articles of Incorporation or of the Bylaws of the Corporation to the extent provided in the Bylaws;

ii. A change in the federal income tax status of the Corporation;

iii. The admission of additional members to the Corporation;

iv. The dissolution of the Corporation;

v. The Corporation engaging in any activities for which it has no power to engage in accordance with these Articles of Incorporation or the Bylaws of the Corporation; or

vi. Waiver of the obligation to annually expend 25% of certain contributions as required by Article V of these Articles of Incorporation.

ARTICLE IX. INITIAL BOARD OF DIRECTORS

The names and address of the persons who shall serve as the initial Board of Directors of the Corporation are as follows:

Societies Directors: John M. Knight; Louis J. Goodman, PhD; Lawrence Brand, M.D.; Alan Plummer, M.D.; Timothy B. Norbeck; Charles R. Handorf, M.D.; Paul D. Weber; Charles N. Aswad, M.D.; William F. McMahon; and John C. Lewin, M.D.

Aetna Director: Patricia P. Mueller, M.D.

The address for each of the above-named directors is: 123 Adams Street, Tallahassee, FL 32301.

ARTICLE X. PRIVATE FOUNDATION RULES

The Corporation shall at all times be organized and operated so as to qualify as an organization that is not a private foundation, as defined in section 509(a)(3) of the Code. If,

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however, at any time, the Corporation shall be classified as a private foundation under federal tax laws, then at such time or times the Corporation shall be subject to the following restrictions:

1. The Corporation shall not engage in any act of self-dealing as defined in section 4941(d) of the Code.
2. The Corporation shall make distributions for each taxable year at such time and in such manner so as not to become subject to the tax on undistributed income imposed by section 4942 of the Code.
3. The Corporation shall not retain any excess business holdings as defined in section 4943(c) of the Code.
4. The Corporation shall not make any investments in such manner as to subject it to tax under section 4944 of the Code.
5. The Corporation shall not make any taxable expenditures as defined in section 4945(d) of the Code.

ARTICLE XI. DISSOLUTION

Upon the dissolution or winding up of this Corporation, its assets remaining after payment, or provision for payment, of all debts and liabilities of the Corporation, shall be distributed to a not-for-profit fund, foundation, or corporation which is organized and operated exclusively for charitable purposes and which has established its tax exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent federal tax laws.

ARTICLE XII. RESTRICTIONS REQUIRED BY THE CODE

- A. No part of the net earnings of the Corporation shall inure to the benefit of or be distributable to its directors, officers, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article V hereof.
- B. No part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office or engage in political activities of any kind.
- C. Notwithstanding any other provision of these Articles, the Corporation shall not conduct or carry on any other activities not permitted to be carried on (a) by a corporation

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except from federal income tax under Section 501(c)(3) of the Code, (b) by a corporation, contributions to which are deductible under Sections 170(c)(2), 2055, 2106(a)(2) and 2522 of the Code, or (c) an organization described in section 509(a)(3) of the Code.

ARTICLE XIII.

REGISTERED OFFICE; REGISTERED AGENT

The street address of the Corporation's registered office in the State of Florida is 1201 Hays Street, Tallahassee, FL 32301 and the name of its registered agent at such office is Corporation Service Company.

ARTICLE XIV.

INCORPORATOR

The name and address of the sole incorporator is Harry J. Friedman, 2375 East Camelback Road, Phoenix, Arizona 85016 (hereinafter called the "Incorporator").

IN WITNESS WHEREOF, the Corporation has caused the execution of these Amended and Restated Articles of Incorporation of Physicians' Foundation for Health Systems Excellence, Inc. on April __8__, 2005.

PHYSICIANS' FOUNDATION FOR HEALTH
SYSTEMS EXCELLENCE, INC.

By: Timothy B. Norbeck
Name: Timothy B. Norbeck
Title: President