

N24000004376

(Requestor's Name)

(Address)

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(City/State/Zip/Phone #)

☐ PICK-UP

☐ WAIT

☐ MAIL

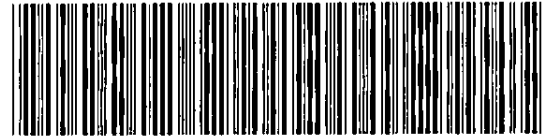
(Business Entity Name)

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Effective date 11-1-24

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10/30/24--01020--008 \*\*120.00

FILED  
2024 OCT 31 AM 9:03  
CLERK OF COURT  
JANUARY 1, 2024

A. RAMSEY

NOV -1 2024

X 000788 00524 00671

Holland & Knight

Requester's Name  
315 South Calhoun Street, suite 600

Address  
Tallahassee, FL 32301 (850)425-5686  
City/State/Zip Phone #

Office Use Only

CORPORATION NAME(S) & DOCUMENT NUMBER(S), (if known):

1. Lee Merge Co, LLC (Document #)  
(Corporation Name)
2. \_\_\_\_\_ (Document #)  
(Corporation Name)
3. \_\_\_\_\_ (Document #)  
(Corporation Name)
4. \_\_\_\_\_ (Document #)  
(Corporation Name)

- ☐ Walk in ☐ Pick up time ☐ Certified Copy  
☐ Mail out ☐ Will wait ☐ Photocopy ☐ Certificate of Status

NEW FILINGS

- ☐ Profit  
☐ Not for Profit  
☐ Limited Liability  
☐ Domestication  
☐ Other

OTHER FILINGS

- ☐ Annual Report  
☐ Fictitious Name

AMENDMENTS

- ☐ Amendment  
☐ Resignation of R.A., Officer/Director  
☐ Change of Registered Agent  
☐ Dissolution/Withdrawal  
☒ Merger

REGISTRATION/QUALIFICATION

- ☐ Foreign  
☐ Limited Partnership  
☐ Reinstatement  
☐ Trademark  
☐ Other

Examiner's Initials



FLORIDA DEPARTMENT OF STATE  
Division of Corporations

October 31, 2024

*Corrected*  
*10/31/2024*

HOLLAND & KNIGHT

TALLAHASSEE, FL 32301

SUBJECT: LEE HEALTH SYSTEM, INC.  
Ref. Number: N24000004376

We have received your document for LEE HEALTH SYSTEM, INC. and your check(s) totaling \$60.00. However, the enclosed document has not been filed and is being returned for the following correction(s):

The articles of merger must contain the provisions of the plan of merger or the plan of merger must be attached.

If a non-profit corporation is involved in a merger the plan of merger must be included.

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

If you have any questions concerning the filing of your document, please call (850) 245-6050.

Annette Ramsey  
OPS

Letter Number: 524A00023980

2024 OCT 31  
TALLAHASSEE, FL  
DIVISION OF CORPORATIONS

FILED

ARTICLES OF MERGER  
FOR  
FLORIDA LIMITED LIABILITY COMPANY

2024 OCT 31 AM 9:05

CLERK OF STATE  
TALLAHASSEE, FLORIDA

October 30, 2024

The following Articles of Merger is submitted to merge the following Florida limited liability company into the following Florida not-for-profit corporation in accordance with Section 605.1025 of the Florida Statutes:

1. The exact name, form/entity type, and jurisdiction of the merging entity is as follows:

<u>Name</u>	<u>Jurisdiction</u>	<u>Form/Entity Type</u>	<u>Florida Doc. No.</u>
<b>Lee MergeCo, LLC</b>	<b>Florida</b>	<b>limited liability company</b>	<b>L24000442784</b>

2. The exact name, jurisdiction and form/entity type of the surviving entity is as follows:

<u>Name</u>	<u>Jurisdiction</u>	<u>Form/Entity Type</u>	<u>Florida Doc. No.</u>
<b>Lee Health System, Inc.</b>	<b>Florida</b>	<b>not-for-profit corporation</b>	<b>N24000004376</b>

3. The merger was approved by each domestic merging entity that is a limited liability company in accordance with Sections 605.1021 - 605.1026 of the Florida Statutes; and by each member of such limited liability company who as a result of the merger will have interest holder liability under Section 605.1023(1)(b) of the Florida Statutes.

4. The surviving entity, Lee Health System, Inc., exists before the merger and is a domestic corporation, and its Articles of Incorporation are being amended as attached hereto as Exhibit A.

5. The surviving entity agrees to pay any member with appraisal rights the amount to which members are entitled under Sections 605.1006 and 605.1061 - 605.1072 of the Florida Statutes.

6. The effective time and date of the merger shall be 12:00:02 a.m. Eastern Time on November 1, 2024.


7. Signature for each party appears on following pages.

*[Signature Page Follows]*

**MERGING ENTITY:**

**LEE MERGECO, LLC**

By: Lee Memorial Health System, its sole member

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

Name: Donna Clarke

Title: Board Chair

**SURVIVING ENTITY:**

**LEE HEALTH SYSTEM, INC.**

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

Name: Lawrence Antonucci, M.D.

Title: President

**MERGING ENTITY:**

**LEE MERGECO, LLC**

By: Lee Memorial Health System, its sole member

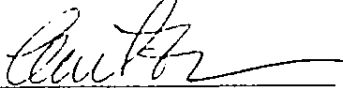
By: \_\_\_\_\_

Name: Donna Clarke

Title: Board Chair

**SURVIVING ENTITY:**

**LEE HEALTH SYSTEM, INC.**

By: 

Name: Lawrence Antonucci, M.D.

Title: President

## **AGREEMENT AND PLAN OF MERGER**

THIS AGREEMENT AND PLAN OF MERGER (this "Agreement") is dated as of October 31, 2024, by and among Lee Memorial Health System, a Florida independent special healthcare district ("LMHS"), Lee Health System, Inc., a Florida not-for-profit corporation (the "Surviving Company"), and Lee MergeCo, LLC, a Florida limited liability company (the "Merging Company").

### **WITNESSETH:**

**WHEREAS**, the Surviving Company is a not-for-profit corporation duly incorporated and validly existing under the laws of the State of Florida and is exempt from federal income taxation under Section 501(a) of the Code, as an organization described in Section 501(c)(3) of the Code;

**WHEREAS**, the Merging Company is a limited liability company duly formed and validly existing under the laws of the State of Florida and is treated as a disregarded entity for U.S. federal income tax purposes;

**WHEREAS**, LMHS is a Florida independent special district and is exempt from federal income taxation under Section 501(a) of the Code, as an organization described in Section 501(c)(3) of the Code;

**WHEREAS**, LMHS is the sole member of the Merging Company; and

**WHEREAS**, the all of the members of the Board of Directors of the Surviving Company (the "Board") and LMHS, as the sole member of the Merging Company, deem it advisable and in the best interests of their respective companies to effect the Merger (as defined below), upon the terms and conditions as set forth herein.

**NOW, THEREFORE**, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, LMHS, the Surviving Company and the Merging Company, intending to be legally bound, agree as follows:

1. **MERGER; SURVIVING COMPANY.** On and as of the Effective Time (as defined below), the Merging Company shall be merged with and into the Surviving Company, and the separate existence of Merging Company shall thereupon cease (the "Merger"). The identity, existence, powers, rights and immunities of the Surviving Company shall continue unimpaired by the Merger, and the Surviving Company shall succeed to and shall possess all the assets, properties, rights, privileges, powers, franchises, immunities and purposes, and be subject to all the debts, liabilities, obligations, restrictions and duties of the Merging Company, except to the extent such liabilities against LMHS and its officers, employees and agents are precluded or limited due to LMHS's sovereign immunity or any other available defense, all without further act or deed. The Surviving Company shall continue to be governed by the laws of the State of Florida.

2. **EFFECTIVE TIME.** The Merger shall become effective immediately after the consummation of the transactions described in Sections 1.1 and 1.2 of that certain Contribution and Conveyance Agreement, dated as of October 31, 2024, by and among the Surviving Company,

Cape Memorial Hospital, Inc. and LMHS at 12:00:02 a.m. Eastern Time on November 1, 2024 (the "Effective Time").

3. **ORGANIZATIONAL DOCUMENTS OF SURVIVING COMPANY.** At the Effective Time:

(a) the Articles of Incorporation of the Surviving Company in effect immediately prior to the Effective Time shall be amended and restated as of the Effective Time in the form attached hereto as Exhibit A, and as so amended shall be the Amended and Restated Articles of Incorporation of the Surviving Company until thereafter amended as provided by applicable law; and

(b) the Bylaws of the Surviving Company in effect immediately prior to the Effective Time shall be the Bylaws of the Surviving Company until thereafter amended as provided by applicable law; and

4. **Approval.** This Agreement and Plan of Merger has been approved by the Board of the Surviving Company and by LMHS, as the sole member of the Merging Company, and the Merging Company and Surviving Company hereby stipulate that each will cause to be executed and filed or recorded any document or documents prescribed under the laws of the State of Florida, and that they will cause to be performed all necessary acts therein and elsewhere to effectuate the Merger.

5. **Tax Treatment.** It is the intent of the parties hereto that the Merger shall be treated for U.S. federal income tax purposes and applicable state and local income tax purposes as a transfer by LMHS of all of the assets and liabilities of the Merging Company to the Surviving Company.

[SIGNATURE PAGE FOLLOWS]



IN WITNESS WHEREOF, each of the parties hereto have caused this Agreement and Plan of Merger to be executed as of the date first above written.

**MERGING COMPANY:**

LEE MERGFCO, LLC

By: Lee Memorial Health System, its sole member

By: 

Name: Donna Clarke

Title: Board Chair

**SURVIVING COMPANY:**

LEE HEALTH SYSTEM, INC.

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

Name: Lawrence Antonucci, M.D.

Title: President

**LMHS:**

LEE MEMORIAL HEALTH SYSTEM

By: 

Name: Donna Clarke

Title: Board Chair

IN WITNESS WHEREOF, each of the parties hereto have caused this Agreement and Plan of Merger to be executed as of the date first above written.

**MERGING COMPANY:**


LEE MERGECO, LLC

By: Lee Memorial Health System, its sole member

By: \_\_\_\_\_  
Name: Donna Clarke  
Title: Board Chair

**SURVIVING COMPANY:**

LEE HEALTH SYSTEM, INC.

By:  \_\_\_\_\_  
Name: Lawrence Antonucci, M.D.  
Title: President

**LMHS:**

LEE MEMORIAL HEALTH SYSTEM

By: \_\_\_\_\_  
Name: Donna Clarke  
Title: Board Chair

**Exhibit A**

**Amended and Restated Articles of Incorporation of Lee Health System, Inc.**

See attached.

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**AMENDED AND RESTATED ARTICLES OF INCORPORATION  
OF  
LEE HEALTH SYSTEM, INC.**

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**November 1, 2024**

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The undersigned, acting as an officer of Lee Health System, Inc., under Chapter 617 of the Florida Statutes, and Section 501(c)(3) of the Internal Revenue Code of 1986, including its regulations, all as amended from time to time (the "Internal Revenue Code"), hereby adopts the following Amended and Restated Articles of Incorporation (the "Articles of Incorporation"):

**ARTICLE 1  
NAME**

The name of this corporation is Lee Health System, Inc. (the "Corporation").

**ARTICLE 2  
PRINCIPAL PLACE OF BUSINESS AND MAILING ADDRESS**

The initial principal place of business and mailing address of the Corporation is:

4211 Metro Parkway, Fort Myers, Florida 33916.

**ARTICLE 3  
DURATION AND COMMENCEMENT OF EXISTENCE**

The Corporation will have perpetual existence, commencing with the filing of these Articles of Incorporation with the Florida Department of State.

**ARTICLE 4  
PURPOSES**

The Corporation is irrevocably dedicated to, and is organized and will be administered and operated exclusively for charitable, educational, and scientific purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code. The Mission of the Corporation is to be a trusted partner, empowering healthier lives through care and compassion. Without limiting the foregoing, and in furtherance of such purposes, the Corporation is authorized:

(a) To promote, support, and engage in activities carried on for charitable, scientific and educational purposes, by the direct conduct of such activities. The charitable activities to be conducted by the Corporation may include, but are not limited to operation of a private, nonprofit hospital system to advance health and empower healthy living through the provision of high quality healthcare services to the community, emphasizing compassion, innovation, and excellence.

(b) To adopt a Vision and Values for the Corporation consistent with the Corporate Purposes, each as may be amended from time to time.

(c) To receive and maintain personal or real property, or both; and, subject to the restrictions and limitations set forth below, to use and apply the whole or any part of the income from such property and the principal thereof exclusively for charitable, educational, and scientific purposes either directly or by contributions to other charitable organizations.

(d) To receive assistance, money, real or personal property and any other form of contributions, gift, bequest, or devise from any person or entity, to be used in the furtherance of the purpose of the Corporation, and to enter into agreements or contracts for contributions to the Corporation to be used in the furtherance of its purposes, provided that gifts will be subject to acceptance by the Board of Directors as required by the Bylaws of the Corporation.

(e) To establish one or more offices and employ such personnel as may be necessary and appropriate in the judgment of the Board of Directors, and pay reasonable compensation for the services of such persons.

(f) To distribute, in the manner, form, and method, and by the means determined by the Board of Directors of the Corporation, any and all forms of contributions or other funds received by it in carrying out charitable, educational and scientific programs of the Corporation in the furtherance of its stated purposes. Money and real or personal property contributed to the Corporation in furtherance of its purposes are and will continue to be used exclusively for such purposes.

(g) To invest and reinvest surplus funds in such securities and properties consistent with the Corporation's investment policy.

(h) To purchase, acquire, own, hold, guarantee, sell, assign, transfer, mortgage, pledge, loan, or otherwise dispose of and deal in any bonds, securities, evidence of indebtedness, or other personal property, as well as to purchase, acquire, own, hold, sell, transfer, mortgage, or otherwise dispose of and deal in real estate; and, as the owner of any such real or personal property, to exercise all the rights, powers, and privileges of ownership.

(i) To contract and be contracted with, and to sue and be sued.

(j) To adopt and use an official seal for the Corporation.

(k) To do all acts and things requisite, necessary, proper and desirable to carry out and further the purposes of the Corporation; and, in general, to have all the rights, privileges, and immunities, and enjoy all the benefits of the laws of the State of Florida applicable to corporations of this character, including but not limited to the powers described in section 617.0302 of the Florida Statutes, subject however to the requirements of Section 501(c)(3) of the Internal Revenue Code and to the other limitations provided in these Articles of Incorporation.

## **ARTICLE 5 MEMBERSHIP**

The Corporation shall not have members.

## **ARTICLE 6 BOARD OF DIRECTORS AND BYLAWS**

All corporate powers will be exercised by or under the authority of, and the affairs of the Corporation will be managed under the direction of, a Board of Directors. The number, manner of

selection, duties, terms, qualifications, and other matters relating to the Board of Directors of the Corporation shall be as provided in the Bylaws of the Corporation. The Bylaws of the Corporation shall be adopted by the Board of Directors, and thereafter the Corporation shall be governed by such Bylaws and these Articles of Incorporation, each as may be amended or amended and restated from time to time.

## **ARTICLE 7 COMPENSATION AND INDEMNIFICATION OF DIRECTORS AND OFFICERS**

**7.1 Compensation.** A director or officer of the Corporation may receive reasonable compensation for personal services rendered as a director or officer, or in any other capacity, so long as the services are reasonable and necessary to carrying out the charitable, educational and scientific purposes of the Corporation, and may be reimbursed for expenses or advances paid on behalf of the Corporation, provided they are reasonable in character and amount and approved for payment in the manner provided by the Bylaws. Provisions relating to compensation payable to directors or officers of the Corporation will be stated in the Bylaws. Any such compensation shall be limited to reasonable compensation for personal services rendered to the Corporation, which services shall be reasonable and necessary to carrying out the charitable, educational and scientific purposes of the Corporation.

**7.2 Indemnification.** Every director and officer of the Corporation will be indemnified by the Corporation against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed in connection with any proceeding or any settlement of any proceeding (including any appeals) to which a director or officer may be a party or may become involved by reason of being or having been a director or officer of the Corporation, whether or not a director or officer at the time such expenses are incurred, but only if (i) the director or officer is not adjudged guilty of or liable for willful misfeasance in the performance of his or her duties, and (ii) in the case of a settlement before entry of judgment, the Board of Directors approves such settlement and reimbursement as being in the best interest of the Corporation. The foregoing right of indemnification will be in addition to and not exclusive of all other rights to which a director or officer may be entitled by law. Appropriate liability insurance may be provided for every director, officer, and agent of the Corporation in amounts determined from time to time by the Board of Directors.

**7.3 Interest of Directors and Officers in Contracts.** Any contract, whether for compensation or otherwise, or other transactions between the Corporation and (i) one or more of its directors or officers, (ii) any firm of which one or more of its directors or officers are shareholders, partners, members, or employees, or in which they are interested, or (iii) any corporation, association, or partnership of which one or more of its directors or officers are shareholders, members, directors, officers, partners, or employees, or in which they are interested, will be valid for all purposes, despite the presence of such director or directors, or officer or officers, at the meeting of the Board of Directors of the Corporation which acts upon or in reference to such contract or transaction and despite his or their participation in such action. The fact of such interest must be disclosed to or known by the Board of Directors and the Board of Directors may, nevertheless, authorize, approve, and ratify such contract or transaction by vote of majority of the directors present. This section will not be construed to invalidate any contract or other



transaction which would otherwise be valid under the common and statutory law applicable thereto. This provision is subject to modification by any conflict of interest policy adopted by the Board of Directors of the Corporation.

**7.4 Prohibition Against Self-Dealing and Excess Benefit Transactions.** Anything contained in these Articles of Incorporation to the contrary notwithstanding, the Corporation shall make no payment that would constitute "self-dealing" as defined in Section 4941 of the Internal Revenue Code, or that would result in an "excess benefit transaction" as defined in Section 4958 of the Internal Revenue Code, as applicable pursuant to the federal foundation classification of the Corporation.

## **ARTICLE 8 CHARITABLE LIMITATIONS**

Despite any other provision of these Articles of Incorporation, the Corporation may not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and section 617.0835 of the Florida Statutes. These restrictions include, but are not limited to, the following:

**8.1 No Private Inurement.** No part of the net earnings of the Corporation may inure to the benefit of, or be distributable to, the directors or officers of the Corporation, or to any other private persons, except that the Corporation is authorized and empowered (i) to pay reasonable compensation for personal services rendered to the Corporation, so long as the services are reasonable and necessary to carrying out the charitable, educational and scientific purposes of the Corporation, and to reimburse expenses or advances made for the Corporation that are reasonable in character and amount, and (ii) to make payments and distributions to persons who are qualified to receive them in furtherance of the Corporation's charitable, educational and scientific purposes as set forth herein. All of the net earnings and assets of the Corporation will be expended for the purposes stated in Section 501(c)(3) of the Internal Revenue Code.

**8.2 No Political Activities; No Substantial Lobbying Activities.** The Corporation shall not participate in, or intervene in, any political campaign on behalf of, or in opposition to, any candidate for public office by publishing or distributing statements, or in any other way. No substantial or material part of the activities of the Corporation shall be devoted to the carrying on of propaganda, or otherwise attempting to influence legislation.

**8.3 Community Benefit.** In carrying out the Corporation's charitable purposes of promoting health for a broad cross section of the communities served by the Corporation, the Corporation will:

- (a) Cause each of its hospitals to provide quality healthcare and health services to all persons needing care without regard to race, creed, color, religion, national origin, citizenship, sex, disability, age, insurance coverage, or ability to pay;
- (b) Act consistently with the charity care and financial assistance policies of the Corporation to ensure that quality care services are available and provided

to all members of the communities served by the Corporation and that no individual is denied care based on the individual's financial status or inability to pay for the full cost of services:

- (c) Participate in Medicare and Medicaid programs to the extent permitted by applicable law;
- (d) Accept all emergency patients without regard to ability to pay;
- (e) Maintain an open medical staff except where a hospital approved exception has occurred; and
- (f) Provide public health programs of educational benefit and generally promote public health, wellness, and welfare to the communities served by the Corporation, subject, in each case, to changes in governmental law, policy, or regulation.

**8.4 Compliance with Section 501(r) of the Internal Revenue Code.** The Corporation will ensure compliance with the requirements of Section 501(r) of the Internal Revenue Code, as applicable to the Corporation and its hospitals, subject, in each case, to changes in governmental law, policy, or regulation.

**8.5 Section 501(c)(3) Status.** Notwithstanding any other provision of these Articles of Incorporation, the Corporation shall not carry on any activity not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(a) of the Internal Revenue Code and more particularly described in Section 501(c)(3) of the Internal Revenue Code, or (b) by a corporation, contributions to which are deductible under Sections 170(c)(2), 642(c), 2055, or 2522 of the Internal Revenue Code.

**8.6 Private Foundation Rules.** Notwithstanding any other provisions in these Articles of Incorporation, in the event that, and for so long as, the Corporation is classified as a private foundation within the meaning of Section 509(a) of the Internal Revenue Code, the Corporation:

- (a) shall not engage in any act of self-dealing as defined in Section 4941(d) of the Internal Revenue Code;
- (b) shall make distributions for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Internal Revenue Code;
- (c) shall not retain any excess business holdings as defined in Section 4943(c) of the Internal Revenue Code;
- (d) shall not make any investments in such manner as to subject it to tax under Section 4944 of the Internal Revenue Code; and
- (e) shall not make any taxable expenditures as defined in Section 4945(d) of the Internal Revenue Code.

**ARTICLE 9  
DISPOSITION OF ASSETS**

If the Corporation is dissolved pursuant to Florida law, the Board of Directors, after paying or making provision for the payment of all of the liabilities of the Corporation, shall dispose of all of the assets of the Corporation by transferring such assets to one or more organizations that are exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code and are engaged in activities of the type described in Article 4 above, as the Board of Directors determines. Any assets not so disposed of will be disposed of by the Circuit Court of the county in which the principal office of the Corporation is then located, exclusively for such charitable purposes, or to such organization or organizations as that Court determines are organized and operated exclusively for such purposes.

**ARTICLE 10  
AMENDMENTS TO BYLAWS OR ARTICLES OF INCORPORATION**

The power to adopt, alter, amend, or repeal the Bylaws of the Corporation or these Articles of Incorporation is vested in the Board of Directors in accordance with the provisions of the Bylaws. Notwithstanding any other provision of these Articles of Incorporation or anything else to the contrary, the provisions of these Articles of Incorporation shall not be changed, modified, repealed or expanded in such a manner as to be inconsistent with the purposes for which the Corporation is formed, or to jeopardize the Corporation's federal tax-exempt status under Section 501(a) of the Internal Revenue Code as more particularly described in Section 501(c)(3) of the Internal Revenue Code (or any amendments or successor provisions thereto).

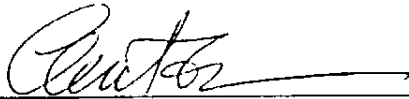
**ARTICLE 11  
REGISTERED AGENT**

The name of the registered agent of the Corporation, who is authorized to receive service of process on behalf of the Corporation, is CT Corporation System. The street address of the initial registered office of the Corporation is 1200 South Pine Island Road, Plantation, Florida, 33324.

\* \* \* \* \*

## CERTIFICATE

I, Lawrence Antonucci, M.D., President of Lee Health System, Inc., certify that the foregoing Amended and Restated Articles of Incorporation of Lee Health System, Inc. contains amendments to said Articles of Incorporation and that the restated document including the amendments were adopted by the Board of Directors on the 29th day of October, 2024. There are no members of the corporation.



---

President

LEE HEALTH SYSTEM, INC.