

S58411

ARTICLES OF MERGER
Merger Sheet

MERGING:

PEBB BIOPSY CALIFORNIA, a Florida corporation, document number S58411

INTO

UROHEALTH, INC. (CALIFORNIA), a California corporation not qualified in
Florida.

File date: March 18, 1997

Corporate Specialist: Karen Gibson

Document Number Only

S 58411

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TALLAHASSEE, FLORIDA

CT CORPORATION SYSTEM

Requestor's Name

660 East Jefferson Street

Address

Tallahassee, FL 32301 222-1092

City

State

Zip

Phone

CORPORATION(S) NAME

TALLAHASSEE, FLORIDA
CORPORATION DIVISION
TALLAHASSEE, FLORIDA

PEBB Biopsy Corporation
merging into:

UKO Health, Inc. (Corporation)

Profit

NonProfit

Limited Liability Co.

Foreign

Limited Partnership

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DOMESTIC CORPORATION AND FOREIGN CORPORATION

ARTICLES OF MERGER

The undersigned corporations, pursuant to Section 607.1107 of the Florida Business Corporation Act hereby execute the following Articles of Merger:

FIRST: The names of the corporations proposing to merge and the names of the states or countries under the laws of which such corporations are organized are as follows:

<u>Name of Corporation</u>	<u>State/country of Incorporation</u>
PEBB Biopsy Corporation	Florida
Urohealth, Inc. (California)	California

SECOND: The laws of the state or country under which such foreign corporation organized permit such merger and such foreign corporation is complying with those laws in effecting the merger.

THIRD: The foreign corporation complies with Section 607.1105 F.S. if it is the surviving corporation of the merger; and each domestic corporation complies with the applicable provisions of Sections 607.1101-607.1104 F.S. and, if it is the surviving corporation of the merger, with Section 607.1105 F.S.

FOURTH: The plan of merger is as follows:

ARTICLE I
THE MERGER

1.1 The Merger. PEBB Biopsy Corporation, a Florida corporation ("PEBB"), at the Effective Time (as defined in Section 1.2 hereof) of the Merger, PEBB shall be merged with and into Urohealth, Inc. (California), a California corporation ("Urohealth Sub"), with Urohealth Sub being the surviving corporation in the Merger (the "**Surviving Corporation**") and the separate existence of PEBB shall thereupon cease. The Merger shall have the effects set forth in Section 1107 of the California General Corporation Law (the "**CGCL**") and the General Corporation Law of the State of Florida.

1.2 Effective Time of the Merger. The Merger shall become effective upon the completion of the filing of a properly executed Merger Agreement with the Secretary of State of the State of California and properly executed Articles of Merger hereto with the Secretary of State of the State of Florida. When used in this Agreement,

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the term "Effective Time" with respect to the Merger shall mean the date and time at which the Merger Agreement and Articles of Merger are filed.

ARTICLE II

UROHEALTH AND THE SURVIVING CORPORATION

2.1 Articles of Incorporation of the Surviving Corporation. The Articles of Incorporation of Urohealth Sub shall be the Articles of Incorporation of the Surviving Corporation of the Merger.

2.2 Bylaws of the Surviving Corporation. The Bylaws of Urohealth Sub as in effect at the Effective Time shall be the Bylaws of the Surviving Corporation until thereafter amended in accordance with applicable law.

2.3 Directors and Officers of the Surviving Corporation.

(a) The directors of Urohealth Sub at the Effective Time shall be the initial directors of the Surviving Corporation and shall hold office from the Effective Time until their respective successors are duly elected or appointed and qualified in the manner provided in the Articles of Incorporation and Bylaws of the Surviving Corporation, or as otherwise provided by law.

(b) The officers of Urohealth Sub at the Effective Time shall be the initial officers of the Surviving Corporation and shall hold office from the Effective Time until removed or until their respective successors are duly elected or appointed and qualified in the manner provided in the Articles of Incorporation and Bylaws of the Surviving Corporation, or as otherwise provided by law.

ARTICLE III

CONVERSION OF SHARES

3.1 Exchange Ratio. At the Effective Time, by virtue of the Merger and without any action on the part of any holder of shares of PEBB Common Stock:

(a) Each share of common stock of PEBB ("PEBB Share") issued and outstanding immediately prior to the Effective Time shall be converted at the Effective Time into the right to receive (i) 192,000 shares of Common Stock ("Urohealth Shares") of Urohealth Systems, Inc., a Delaware corporation ("Urohealth"), divided by the number of outstanding PEBB Shares (the "PEBB Outstanding Shares") at the Effective Time (the "Stock Merger Consideration"); (ii) \$1,200,000 divided by the number of PEBB Outstanding Shares (the "Cash Merger Consideration"); (iii) the right to receive a pro rata portion of the Earn-Out Consideration (as defined in Section 3.2); and (iv) the right to receive a pro rata portion of any Strategic Alliance Payments (as defined in Section 3.3). The Stock Merger

Consideration, the Cash Merger Consideration, the Earn-Out Consideration and the Strategic Alliance Payments are herein referred to as the "**Merger Consideration.**"

(b) At the Effective Time, all PEBB Shares shall no longer be outstanding and shall automatically be canceled and retired and shall cease to exist, and each certificate previously representing any PEBB Shares shall thereafter represent the right to receive the Merger Consideration into which such PEBB Shares have been converted. Certificates representing PEBB Shares shall be exchanged for certificates representing whole Urohealth Shares issued in consideration therefor upon the surrender of such certificate in accordance with the provisions hereof. If, prior to the Effective Time, PEBB or Urohealth should split or combine the PEBB Shares or the Urohealth Shares, or pay a stock dividend or other stock distribution in PEBB Shares or Urohealth Shares, then the Merger Consideration will be appropriately adjusted to reflect such split, combination, dividend or other distribution.

(c) Each PEBB Share held in the treasury of PEBB or by any subsidiary of PEBB shall be canceled and retired and cease to exist, and no Urohealth Shares shall be issued in exchange therefor. All Urohealth Shares owned by PEBB or any subsidiary shall become treasury stock of Urohealth.

3.2 Earn-Out Consideration. The PEBB shareholders shall be entitled to receive and Urohealth shall pay additional consideration (the "**Earn-Out Consideration**") with respect to the PEBB Outstanding Shares after the Effective Time based on the sales of the PEBB products after the Effective Time. The Earn-Out Consideration shall be equal to (i) 8.5% of the gross sales revenues of the PEBB products, less discounts, rebates and other promotional allowances and product returns ("**net sales**") for the first \$10 million of net sales; (ii) 7.5% of net sales for net sales in excess of \$10 million and less than \$20 million; and (iii) 6.5% of net sales for net sales in excess of \$20 million. The obligation to pay Earn-Out Consideration hereunder with respect to a product shall terminate upon expiration of the underlying patent rights owned by PEBB and patents derived therefrom as of the Effective Time with claims covering such products. The Earn-Out Consideration shall be calculated on an annual basis, and shall be payable within 90 days after the end of each fiscal year of Urohealth. The Earn-Out Consideration shall be payable, in cash, to the PEBB shareholders pro rata in proportion to their ownership interest at the Effective Time in the Outstanding PEBB Shares. Accompanying each payment of Earn-Out Consideration hereunder shall be a report setting forth the calculation of the Earn-Out Consideration, such report to be in such detail as a majority of the PEBB shareholders may reasonably request. Not more often than once in any fiscal year of Urohealth, the PEBB shareholders or their designated representatives shall have the right to review the books and records of Urohealth, during normal business hours and with five days' prior notice, relating to the calculation of the Earn-Out Consideration. The "PEBB products" for purposes of this Section shall mean the products manufactured, marketed or sold in reliance upon one or more of the claims contained in the patents owned by PEBB as of the Effective Time and improvements to such products.

3.3 Strategic Alliance Payments. In the event that, Urohealth shall establish a strategic alliance with a third party with respect to the distribution of the breast biopsy system covered by one or more of the patents owned by PEBB as of the Effective Time, and in connection with any such strategic alliance Urohealth shall receive payments in consideration of establishing such strategic alliance from such third party, then 50% of any such proceeds shall be deemed to be Merger Consideration hereunder. The amount of such proceeds deemed to be Merger Consideration hereunder shall be paid to the PEBB shareholders pro rata in proportion to their ownership interest in the Outstanding PEBB Shares at the Effective Time (the "Strategic Alliance Payments").

3.4 Exchange of Certificates.

(a) Exchange Agent. As of the Effective Time, (i) PEBB shall deliver to Urohealth certificates representing all of the PEBB Outstanding Shares together with the Representation Letters (as defined below) and (ii) Urohealth shall deliver to Elliott Kornberg, M.D., for the benefit of the PEBB shareholders, the Cash Merger Consideration and certificates representing the Urohealth Shares (together with any cash to be paid in lieu of fractional shares) in exchange for outstanding PEBB Shares.

(b) Representations by Holders of PEBB Common Stock. Each holder of PEBB Common stock will be required to execute and deliver an "Investment Representation Letter" in an agreed upon form at the Effective Time.

3.5 No Further Ownership Rights in PEBB Common Stock. The Merger Consideration issued upon conversion of shares of PEBB Common Stock in accordance with the terms hereof shall be deemed to have been issued in full satisfaction of all rights pertaining to such shares of PEBB Common Stock.

3.6 No Fractional Shares.

(a) No certificates or scrip representing fractional shares of Urohealth Common Stock shall be issued upon the surrender for exchange of PEBB Common Stock and such fractional share interests will not entitle the owner thereof to vote or to any rights of a stockholder of Urohealth.

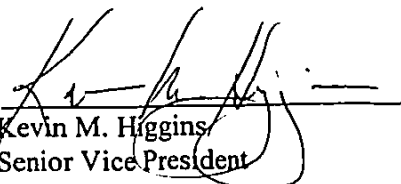
(b) Urohealth shall pay or cause to be paid to each holder of PEBB Common Stock an amount in cash equal to the product obtained by multiplying the fractional share interest to which such holder would otherwise be entitled to by the closing price on the Nasdaq Stock Market National Market of a share of Urohealth Common Stock on the trading day immediately preceding the Effective Time.

FIFTH: The effective date of the certificate of merger shall be the date on which these Article of Merger are filed with the Florida Secretary of State.

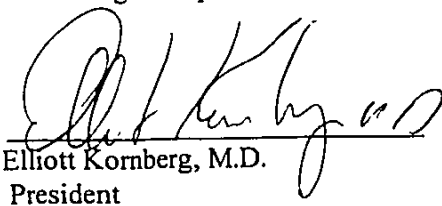
SIXTH: The plan of merger was adopted by the Board of Directors and by the shareholders of PEBB Biopsy Corporation on the 6th day of March 1997, and was adopted by the Board of Directors and by the sole shareholder of Urohealth, Inc. (California) on the 10th day of March, 1997.

Signed this 12th day of March, 1997.

UROHEALTH, INC. (CALIFORNIA)
(name of surviving corporation)

By: 
Kevin M. Higgins
Senior Vice President

PEBB BIOPSY CORPORATION
(name of merged corporation)

By: 
Elliott Kornberg, M.D.
President