

737797

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Email Address: jwiesler@circlesofcare.org

MERGER OR SHARE EXCHANGE
Circles of Care, Inc.

Certificate of Status	0
Certified Copy	1
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2014 APR 8 PM 4:19
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4/9/14

EFFECTIVE DATE
4-15-14

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**ARTICLES OF MERGER
OF
PREVENT! OF BREVARD, INC.**
a Florida non-profit corporation
**WITH AND INTO
CIRCLES OF CARE, INC.,**
a Florida non-profit corporation

FILED
2014 APR -8 PM 4:42
CLERK OF CIRCUIT COURT
FLORIDA 13th JUDGE

PREVENT! OF BREVARD, INC., a Florida not for profit corporation, and **CIRCLES OF CARE, INC.**, a Florida not for profit corporation, pursuant to the provisions of Section 617.1105, Florida Statutes, hereby certify in connection with the merger of PREVENT! into CIRCLES OF CARE that:

1. The name and jurisdiction of the merging non-profit corporation is PREVENT! OF BREVARD, INC., a Florida not for profit corporation.
2. The name and jurisdiction of the surviving entity is CIRCLES OF CARE, INC., a Florida not for profit corporation.
3. The Agreement and Plan of Merger is attached hereto as Exhibit "A".
4. The merger was approved by a majority of the board of directors of PREVENT! OF BREVARD, INC. on February 25, 2014 in accordance with the applicable provisions of Chapter 617, Florida Statutes. The number of votes cast for the merger was sufficient for approval.
5. The merger was approved by a majority of the board of directors of CIRCLES OF CARE, INC. on February 17, 2014 in accordance with the applicable provisions of Chapter 617, Florida Statutes. The number of votes cast for the merger was sufficient for approval.
6. The merger shall become effective April 15, 2014.

IN WITNESS WHEREOF, each of the undersigned has made and subscribed to the Articles of Merger, this 2nd day of April, 2014.

PREVENT! OF BREVARD, INC., a Florida non-profit corporation

By: Darcia Jones-Francey
Darcia Jones-Francey, Chairperson

CIRCLES OF CARE, INC., a Florida non-profit corporation

By: James B. Whitaker
James B. Whitaker, President and CEO

AN OFFICER OF PREVENT! OF BREVARD, INC. HAS EXECUTED A JOINDER TO THESE ARTICLES OF MERGER FOR THE PURPOSE THEREIN SET FORTH, WHICH IS ATTACHED HERETO AND BY THIS REFERENCE INCORPORATED HEREIN.

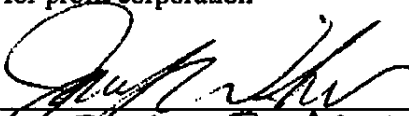
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**JOINDER TO
ARTICLES OF MERGER**

The undersigned does hereby execute these Articles of Merger by and between **CIRCLES OF CARE, INC.**, a Florida not for profit corporation, and **PREVENT! OF BREVARD, INC.**, a Florida not for profit corporation, dated April 2, 2014, to which this Joinder is attached for the purpose therein set forth.

PREVENT! OF BREVARD, INC., a Florida
not for profit corporation

By: 

Name: JAMES S. WEIBERT

Its: VICE PRES

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Exhibit "A"

AGREEMENT AND PLAN OF MERGER
of
PREVENT! OF BREVARD, INC.
with and into
CIRCLES OF CARE INC.

THIS AGREEMENT of PREVENT! OF BREVARD, INC. with and into CIRCLES OF CARE INC. ("Plan of Merger") is made and entered into this 2nd day of April, 2014 by and between **CIRCLES OF CARE, INC.**, a Florida not for profit corporation ("Circles of Care") and **PREVENT! OF BREVARD, INC.**, a Florida not for profit corporation ("Prevent!").

RECITALS:

A. Prevent! is organized for charitable and behavioral health care purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended ("Code"); and

B. Prevent! works to prevent destructive behaviors, protect and nurture children, redirect high-risk youth, treat additions and strength and reunite families in Brevard County, Florida; and

C. Circle of Care is organized for charitable and educational purposes within the meaning of Section 501(c)(3) of the Code; and

D. Prevent! and Circles of Care deem it advisable and in the best interest of each of them that Prevent! merge with and into Circles of Care pursuant to the provisions of the Chapter 617, Florida Statutes, and this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

THE MERGER

1.1 Surviving Entity. Pursuant to this Agreement, Prevent! of Brevard shall be merged with and into Circles of Care ("Surviving Entity"). At and as of the "Effective Date," as defined herein, the separate existence of Prevent! shall cease ("Merging Entity"), and Prevent! shall be merged with and into Circles of Care (the "Merger") which, as the Surviving Entity, shall possess, to the extent permitted under Chapter 617, Florida Statutes, all of the rights, privileges, powers and franchises of a public as well as private nature, and shall be subject to all restrictions, disabilities and duties of the Merging Entity and all and singular, the rights, privileges, powers and franchises of the Merging Entity, and all property, real, personal and mixed, and all debts due to the Merging Entity on whatever account, and all other things in action or belonging to the Merging Entity, shall be vested in Circles of Care, and all property,

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rights, privileges, powers and franchises and all and every other interest shall hereafter effectually be the property of Circles of Care as it were of the Merging Entity, and the title to any real estate vested by deed or otherwise under the laws of Florida or any other jurisdiction in the Merging Entity shall not revert or be in any way impaired; but all rights of creditors and all liens upon any property of the Merging Entity shall be preserved unimpaired, and all debts, liabilities and duties of the Merging Entity shall thenceforth attach to Circles of Care and may be enforced against Circles of Care to the same extent as if said debts, liabilities and duties had been incurred or contracted by Circles of Care. At any time, or from time to time, after the Effective Date, the officers of the Surviving Entity may, in the name of the Merging Entity, execute and deliver all such properties, assignments and other instruments and take or cause to be taken all such further or other action as the Surviving Entity may deem necessary or desirable in order to vest, perfect or confirm in the Surviving Entity title to and possession of all of the Merging Entity's property rights, privileges, powers, franchises, immunities and interests and otherwise to carry out the purpose of this Plan of Merger.

1.2 **Articles of Incorporation of the Surviving Entity.** Effective as of the Effective Date, Circles of Care's Articles of Incorporation, in the form attached hereto as Exhibit A, shall be the Articles of Incorporation of the Surviving Entity.

1.3 **Bylaws of the Surviving Entity.** Effective as of the Effective Date, Circles of Care's Bylaws, in the form attached hereto as Exhibit B, shall be the Bylaws of the Surviving Entity.

1.4 **Officers of the Surviving Entity.** The current officers of Prevent! shall resign immediately prior to the Effective Date. The officers of the Surviving Entity shall be:

James B. Whitaker, President

David L. Feldman, Vice President and Treasurer

Barry L. Hensel, Secretary

1.5 **Board of Directors of the Surviving Entity.** The members of Prevent!'s board of directors shall resign immediately prior to the Effective Date. The Board of Directors of Circle of Care shall continue to be: Jerry W. Allender, Brenda Fettrow, Dewey Harris, Heidar Heshmati, Nancy Higgs, Neil M. Jackson, Alice M. Jones, Darcia Jones-Francey, Robert L. Jordan, George Kambourelis, Mary Beth Kenkel, Brian L. Lightle, Joan E. Madden, Jack S. Masson, Charles J. Roberts, Robert E. Salonen and Joe Lee Smith.

1.6 **Name of Surviving Entity Post-Merger.** Following the Merger, the Surviving Entity shall be known as **Circles of Care, Inc.**

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ARTICLE II

CONDUCT OF BUSINESS OF SURVIVING ENTITY

2.1 **Continued Operation of Sally's House.** Circles of Care shall continue to operate the facility known as Sally's House, which serves as a shelter facility for women and children, for a minimum term of five (5) years from the date of this Agreement; subject however, to the following conditions: (i) funding shall continue to be received from the Mildred Ziegenhein Trust per past practice; (ii) that Friends of Sally's House, a volunteer supporting organization, shall continue its financial support; and (iii) that the economic and regulatory environment currently existing with respect to the operation of Sally's House shall not materially change in the opinion of the Board of Directors of Circles of Care.

2.2 **Employees.** The employment of all Prevent! employees shall terminate as of the Effective Date. Further, and as of the Effective Date, all Prevent! employees shall immediately become new employees of Circles of Care and shall be immediately enrolled in the Circles of Care health insurance plan without a waiting period. All employee benefits that may have accrued or vested in former Prevent! employees shall terminate on the Effective Date, including, without thereby limiting, job description, working hours, compensation, credited years of service, accrued vacation, sick leave or retirement benefits.

2.3 **Volunteers.** All volunteers serving Prevent! immediately prior to the Effective Date may continue to be the volunteers of Circles of Care after the Effective Date. The volunteer organizations immediately prior to the Effective Date shall continue in operation after the Effective Date of the Merger.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

3.1 **Representations and Warranties of Circles of Care.**

3.1.1 **Corporate Status.** The recitals relating to Circles of Care are true and correct. Circles of Care is duly organized, validly existing and in good standing under the laws of the State of Florida with full corporate power and authority to carry on its business as now conducted and to own and lease its properties and other assets.

3.1.2 **Authority for Agreement.** Circles of Care has full corporate power and authority to execute and deliver this Agreement and to carry out its obligations hereunder. The execution and delivery of this Agreement, the consummation of the Merger and the other transactions contemplated herein have been duly authorized by Circles of Care's board of directors, and this Agreement constitutes the valid and legally binding obligation of Circles of Care enforceable in accordance with its terms. The execution and delivery of this Agreement, the consummation of the Merger and the other transactions contemplated herein will not (i) conflict with or result in any violation or default under (a) any provision of its articles of incorporation or bylaws of Circles of Care, or (b) any mortgage, lease, security agreement or other agreement or instrument, permit, concession, grant, license, judgment, order, decree, law,

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ordinance, rule or regulation applicable to Circles of Care or any of its properties or other assets, or (ii) require the consent, authorization or approval of any person, governmental authority, accrediting body or other private entity.

3.2 **Representations and Warranties of Prevent!**

3.2.1 **Corporate Status.** The recitals relating to Prevent! are true and correct. Prevent! is duly organized, validly existing and in good standing under the laws of the State of Florida with full corporate power and authority to carry on its business as now conducted and to own and lease its properties and other assets.

3.2.2 **Authority for Agreement.** Prevent! has full corporate power and authority to execute and deliver this Agreement and to carry out its obligations hereunder. The execution and delivery of this Agreement, the consummation of the Merger and the other transactions contemplated herein have been duly authorized by Prevent!'s board of directors, and this Agreement constitutes the valid and legally binding obligation of Prevent! enforceable in accordance with its terms. The execution and delivery of this Agreement, the consummation of the Merger and the other transactions contemplated herein will not (i) conflict with or result in any violation or default under (a) any provision of its articles of incorporation or bylaws, or (b) any mortgage, lease, security agreement or other agreement or instrument, permit, concession, grant, license, judgment, order, decree, law, ordinance, rule or regulation applicable to Prevent! or any of its properties or other assets, or (ii) require the consent, authorization or approval of any person, governmental authority, accrediting body or other private entity.

ARTICLE IV

CONDITIONS PRECEDENT

4.1 **Conditions to the Obligations of Circles of Care and Prevent!.** The obligations of Circles of Care and Prevent! to consummate the Merger shall be subject to the fulfillment at or prior to the Effective Date of the following condition:

4.1.1 **No Third Party Actions.** No action or proceeding shall have been threatened or instituted by any person, governmental authority or private entity prior to the Effective Date to restrain, enjoin or otherwise prevent the consummation of the Merger or to recover any damages or obtain other relief as a result of the Merger.

4.2 **Conditions to the Obligations of Circles of Care** The obligation of Circles of Care to consummate the Merger shall be subject to the fulfillment at or prior to the Effective date of the following conditions:

4.2.1 **Prevent!'s Representations and Warranties.** The representations and warranties of Prevent! in Section 3.2 above shall be true and correct as of the Effective Date as if made at that time.

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4.2.2 **Prevent!'s Performance.** Prevent! shall have duly performed and complied with all agreements, covenants and conditions required by this Agreement to be performed or complied by it prior to or on the Effective Date.

4.2.3 **Prevent!'s Corporate Documents.** Prevent! shall have delivered to Circles of Care true and correct copies of all corporate documents prepared by Prevent! in connection with the Merger, including appropriate resolutions.

4.2.4 **Approval of Prevent!'s Documents.** The form and substance of all certificates, instruments and other documents delivered to Circles of Care under this Agreement shall be reasonably satisfactory to Circles of Care and its counsel.

4.3 **Conditions to the Obligations of Prevent!.** The obligation of Prevent! to consummate the Merger shall be subject to the fulfillment at or prior to the Effective Date of the following conditions:

4.3.1 **Circles of Care's Representations and Warranties.** The representations and warranties of Circles of Care in Section 3.1 shall be true and correct as of the Effective Date as if made at that time.

4.3.2 **Circles of Care's Performance.** Circles of Care shall have duly performed and complied with all agreements, covenants and conditions required by this Agreement to be performed or complied by it prior to or on the Effective Date.

4.3.3 **Circles of Care's Corporate Documents.** Circles of Care shall have delivered to Prevent! true and correct copies of all corporate documents prepared by Circles of Care in connection with the Merger, including appropriate resolutions.

4.3.4 **Approval of Circles of Care's Documents.** The form and substance of all certificates, instruments and other documents delivered to Prevent! under this Agreement shall be reasonably satisfactory to Prevent!'s counsel.

4.3.5 **Circles of Care's Delivery of Certificate.** Circles of Care shall have delivered to Prevent! a certificate dated the Effective Date and signed by its chairman of the board of directors, in such detail as Prevent! may reasonably request, certifying as to the statements contained in Subsections 4.3.1 and 4.3.2.

4.3.6 **Change of Signatories at Financial Institutions.** Prevent! shall provide written evidence to Circles of Care that all financial institutions have been advised in writing that the authority granted to Prevent! employees or officers to authorize drafts, checks or other money transfers, has been revoked.

4.3.7 **Real Property Investigation.** The investigation conducted by Circles of Care and/or their agents of Prevent!'s real property does not reveal adverse conditions, as determined by Circles of Care in its sole discretion. This condition shall be deemed satisfied or waived if no adverse condition is disclosed to Prevent! on or before March 31, 2014.

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4.3.8 **Consents.** Circles of Care shall have obtained all consents, estoppel letters, approvals and waivers required with respect to the transactions contemplated by this Agreement.

4.3.9 **Resignations.** Prevent! shall have obtained and delivered to Circles of Care the resignations of all members of its board of directors, and its officers, which resignations shall be effective as of the Effective Date.

ARTICLE V

EFFECTIVE DATE, TERMINATION, WAIVER

5.1 **Effective Date.** The Effective Date shall be the date and time of the filing of the Articles and Plan of Merger by Prevent! and Circles of Care with the Department of State as provided for in Chapter 617, Florida Statutes.

5.2 **Termination.** This Agreement may be terminated and the Merger abandoned at any time prior to the Effective Date by either party for any reason or for no reason upon written notice to the other.

5.3 **Effect of Termination.** In the event of the termination of this Agreement and the abandonment of the Merger pursuant to the provisions of Section 5.2 above, neither party, nor its officers or directors, shall have any liability to the other party with respect to this Agreement. In connection therewith and except as otherwise provided for in the sentence immediately below, each party shall be responsible for the expenses incurred by it.

5.4 **Waiver.** At any time prior to the Effective Date, Prevent! or Circles of Care may (i) waive any inaccuracies in the representations and warranties of the other contained in this Agreement, and (ii) waive performance of, compliance by, or breach or default by the other with respect to any of the agreements, covenants or conditions contained herein. Any agreement on the part of Prevent! or Circles of Care to any such waiver shall be in writing and duly executed and delivered on behalf of such party.

ARTICLE VI

MISCELLANEOUS

6.1 **Entire Agreement and Modification.** This Agreement contains all of the agreements, covenants, conditions, promises and understandings made by and among Prevent! and Circles of Care with respect to the matters covered herein and merges all prior discussions, negotiations and agreements, if any, between them, and none of the parties shall be bound by any conditions, definitions, understandings, representations or warranties other than as expressly provided or referred to herein.

6.2 **Law Governing.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

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6.3 **Notices.** Any and all notices, approvals, consents, demands, requests or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed given and received (i) when personally delivered, upon receipt or refusal of receipt, (ii) on the date noted as the date received, refused, or uncollected if given by deposit with the United States Postal Service, postage prepaid, by certified or registered mail, return receipt requested, (iii) one (1) business day after acceptance for delivery by Federal Express or other nationally recognized overnight delivery service, or (iv) upon transmittal by facsimile or email to the fax numbers or email addresses designated below (written verification of successful transmission shall be obtained from the receiving party).

If to Circles of Care:

James B. Whitaker, President & CEO
400 E. Sheridan Road
Melbourne, FL 32901
Email: dfeldman@circlesofcare.org

With a copy to:

Dale A. Dettmer, Esq.
Krasny and Dettmer
304 S. Harbor City Blvd, Suite 201
Melbourne, FL 32901
Email: ddettmer@krasnydettmer.com

If to Prevent!:

1948 Pineapple Avenue
Melbourne, FL 32935
Email:

With a copy to:

Scott Widerman, Esq.
1990 W. New Haven Ave, Suite 201
Melbourne, FL 32904
Email: scott@legalteamusa.com

Any changes to the addresses, above, shall be provided in the manner required for the giving of notice under this Section 6.3.

6.4 **Severability.** In the event that any one or more of the provisions contained in this Agreement shall be declared invalid, void or unenforceable, the remainder of the provisions of this Agreement shall remain in full force and effect.

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6.5 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

6.6 **Waiver.** No waiver by any party hereto, whether express or implied, of its rights under any provision of this Agreement shall constitute a waiver of such party's rights under such provision at any other time or a waiver of such party's rights under any other provision of this Agreement. No failure by any party hereto to take any action in regard to any breach of this Agreement or default by the other party hereto shall constitute a waiver of the former party's right to enforce any provision of this Agreement or to take action against such breach or default or any subsequent breach or default by such other party. All waivers to be effective must be in writing.

6.7 **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. It is specifically agreed that Prevent! of Brevard may assign its rights under this Agreement to any entity owned or controlled by Circles of Care.

6.8 **Litigation, Prevailing Party.** In the event of any litigation with respect to this Agreement, the prevailing party shall be entitled to receive from the non-prevailing party, and the non-prevailing party shall immediately pay upon demand, the reasonable attorneys' fees and costs incurred by the prevailing party.

6.9 **Publicity.** Prior to the Effective Date, the parties shall jointly prepare any press release or other public announcement relating hereto. Neither the parties nor their respective officers or representatives shall otherwise disclose the terms hereof, except to their respective advisers and only to the extent such disclosure is required by law.

6.10 **Further Assurances.** From time to time after the date of this Agreement, each party shall execute and deliver such other instruments and shall take such other actions as the other party may reasonably request to effectuate the transactions contemplated by this Agreement.

6.11 **Third Party Beneficiaries.** There are no third party beneficiaries to this Agreement.

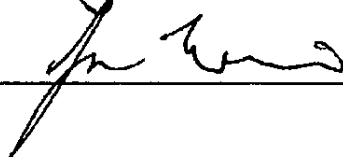
6.12 **Construction.** Both parties have been represented by counsel in connection with the negotiation and drafting of this Agreement. Consequently, neither party shall be deemed the drafter of this Agreement and no presumption shall arise against either party with respect to the construction of this Agreement.

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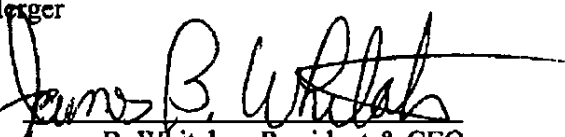
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IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the date first above written.

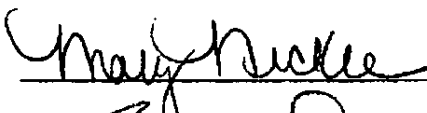
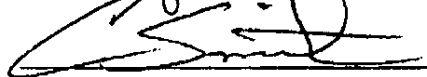
WITNESSES:

CIRCLES OF CARE INC., a Florida non profit corporation and the Surviving Entity in the Merger

By: 
James B. Whitaker, President & CEO

PREVENT! OF BREVARD, INC., a Florida non profit corporation and the Merging Entity in the Merger

By: 
Darcia Jones-Francey, Chairperson

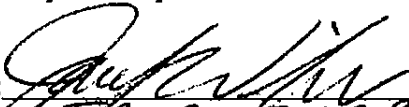
AN OFFICER OF PREVENT! OF BREVARD, INC. HAS EXECUTED A JOINDER TO THIS AGREEMENT AND PLAN OF MERGER FOR THE PURPOSE THEREIN SET FORTH, WHICH IS ATTACHED HERETO AND BY THIS REFERENCE INCORPORATED HEREIN.

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**JOINDER TO
AGREEMENT AND PLAN OF MERGER**

The undersigned does hereby execute the Agreement and Plan of Merger by and between **CIRCLES OF CARE, INC.**, a Florida not for profit corporation, and **PREVENT! OF BREVARD, INC.**, a Florida not for profit corporation, dated April 2, 2014, to which this Joinder is attached for the purpose therein set forth.

PREVENT! OF BREVARD, INC., a Florida
not for profit corporation

By: 

Name: JAMES J. WEIBERT

Its: SECRETARY

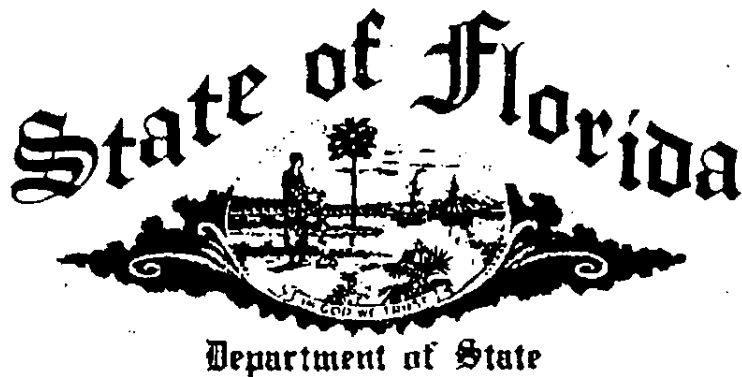
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EXHIBIT A
ARTICLES OF INCORPORATION
OF
SURVIVING ENTITY

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Exhibit A



I certify that the attached is a true and correct copy of Amended and Restated Articles of Incorporation, filed on September 1, 1987, for BREVARD MENTAL HEALTH CENTERS AND HOSPITAL, INC., changing its name to CIRCLES OF CARE, INC., a Florida corporation, as shown by the records of this office.

The document number of this corporation is 737797.

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
10th day of September, 1987.



CR2E022 (10-85)

Jim Smith
Jim Smith
Secretary of State

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AMENDED AND RESTATED ARTICLES OF INCORPORATION
OF BREVARD MENTAL HEALTH CENTERS AND HOSPITAL, INC.

WHEREAS, the present name of the corporation is the BREVARD MENTAL HEALTH CENTERS AND HOSPITAL, INC., formerly the Brevard County Mental Health Center, Inc., a previous consolidation of Brevard County Community Mental Health Centers, Inc. originally incorporated on January 22, 1968 and the Brevard County Mental Health Center, Inc., originally incorporated on April 10, 1964, both Florida not for profit corporations, do hereby restate and amend such articles of incorporation as hereinafter provided. The specific articles are designated "amended" or "restated" as applicable.

ARTICLE I (AMENDED)
NAME

The name of the consolidated corporation shall be CIRCLES OF CARE, INC.

ARTICLE II (AMENDED)
PURPOSE OF THE CORPORATION

The purpose of this organization shall be to promote the development of and provide appropriate services of an effective comprehensive mental health program in powers permitted to not-for-profit corporations under Chapter 617 of the Florida Statutes; provided, however, that this corporation, in exercising its purpose, shall do so in accordance with Section 501(c)(3) of the Internal Revenue Code.

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Further, that this organization shall develop, maintain and establish direct and indirect mental health services and related human services as provided for in accordance with applicable state and federal statutes, rules, regulations and policies.

ARTICLE III (AMENDED)
MEMBERSHIP

The membership of the corporation shall consist of not less than fifteen persons nor more than twenty-two persons who shall be known as Directors and who shall establish policies governing the operation and monitoring of the corporation. The number of Directors may be adjusted subject to the condition that in no event shall there be less than 15 nor more than 22 by resolution adopted by a majority of the Directors, but no such decrease shall of itself have the effect of shortening the term of an incumbent Director.

The membership of the Board of Directors shall be selected from individuals whose background, interest, training and ability reflect genuine concern for the development, provision, funding and planning for comprehensive alcohol, drug abuse, mental health and related services, and shall be composed, where practicable, of individuals who reside in the corporation's service area and who, as a group, represent the interest and needs of that area taking into consideration their employment, age, sex and other significant characteristics of the area. At least one-half (1/2) of the members of such body shall be individuals