

673398

July 31, 1997

500002254395--8
-07/31/97--01111--001
*****39.00 *****39.00

REPLACEMENT FEE 1997

ANNUAL REPORT: BETZER
PHARMACEUTICAL CORPORATION

DEBIT MEMO: # 73877-A

CHECK #: 1027

2375-AR
1525-SF

H00779



ACCOUNT NO. : 072100000032

REFERENCE : 450220 7115692

AUTHORIZATION :

COST LIMIT : \$ PPD

*Amended
&
Restated*

ORDER DATE : July 2, 1997

ORDER TIME : 12:23 PM

ORDER NO. : 450220-005

CUSTOMER NO: 7115692

100002229521--5
-07/03/97--01001--004
*****85.00 *****85.00

CUSTOMER: Mr. Leonard L. Love
Burke/neutech, Inc.
1765 Commerce Avenue North

Saint Petersburg, FL 33716

100002229521--5
-07/03/97--01001--005
*****2.50 *****2.50

DOMESTIC AMENDMENT FILING

NAME: BURKE NEUTECH, INC.

EFFECTIVE DATE:

ARTICLES OF AMENDMENT
XX RESTATED ARTICLES OF INCORPORATION

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

XX CERTIFIED COPY
PLAIN STAMPED COPY
CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Stephanie Stscherban

EXAMINER'S INITIALS:

FILED
97 JUL 18 AM 11:43
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

97 JUL -2 PM 3:25
DIVISION OF CORPORATION
RECEIVED

*00789, 00524, 00672



FLORIDA DEPARTMENT OF STATE
Sandra B. Mortham
Secretary of State

July 3, 1997

CSC
1201 Hays Street
Tallahassee, FL 32301

SUBJECT: BURKE NEUTECH, INC.
Ref. Number: H00779

RESUBMIT
Please give original
submission date as file date.

We have received your document for BURKE NEUTECH, INC. and your check(s) totaling \$87.50. However, the enclosed document has not been filed and is being returned for the following correction(s):

Please change the original filing date in the first paragraph to 4-²⁶25-84 (see the attached printout). Please fill in the third paragraph on the last page (date of adoption).

If you have any questions concerning the filing of your document, please call (850) 487-6907.

Annette Hogan
Corporate Specialist

Letter Number: 197A00034852

487-69

Done

RECEIVED
DIVISION OF CORPORATIONS
97 JUL 15 AM 9:58

Atten: Stephanie S. *[Signature]*

Please have the new RA sign & accept designation. The new RA is CSC.

97 JUL 18 AM 11:43
FILED
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
BURKE NEUTECH, INC.

I, Kevin O. Dean, being the President of Burke Neutech, Inc., a Florida corporation (the "Corporation" or the "Company"), hereby certifies:

1. The name of the Corporation is Burke Neutech, Inc. The name under which the Corporation was incorporated on April 26, 1984 was Burke Associates, Inc. Pursuant to Articles of Merger, effective July 31, 1995, Burke Neutech, Inc., a Florida corporation, merged with and into Burke Associates, Inc., a Florida corporation and the surviving corporation, which change its name to "Burke Neutech, Inc."

2. The text of the Articles of Incorporation is hereby amended and restated to read in its entirety as follows:

ARTICLE I - NAME

The name of the Corporation is Burke Neutech, Inc.

ARTICLE II - PURPOSE

The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the Florida Business Corporation Act.

ARTICLE III - PRINCIPAL OFFICE

The principal place of business and mailing address of the Corporation is 1765 Commerce Ave. North, St. Petersburg, Florida 33716.

ARTICLE IV - REGISTERED OFFICE AND AGENT

The address of the registered office of the Corporation in the State of Florida is 1201 Hays Street, Tallahassee, Florida 32301. The name of its registered agent at that address is Corporation Service Company.

ARTICLE V - CAPITAL STOCK

The aggregate number of shares of capital stock which the Corporation has authority to issue is 35,000,000 shares, which shall consist of 30,000,000 shares of common stock, \$.001 par value ("Common Stock"), and 5,000,000 shares of preferred stock, \$.001 par value ("Preferred Stock"). No shareholder of any stock of this Corporation shall have preemptive rights. There shall be no cumulative voting by the shareholders of the Corporation.

A. Common Stock. Subject to the preferential dividend rights applicable to shares of any series of Preferred Stock, the holders of shares of Common Stock shall be entitled to receive such dividends as may be declared by the Board of Directors. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, after distribution in full of the preferential amounts to be distributed to the holders of shares of the Preferred Stock, the holders of shares of the Common Stock shall be entitled to receive all of the remaining assets of the Corporation available for distribution to its shareholders, ratably in proportion to the number of shares of the Common Stock held by them. Each share of Common Stock shall have one (1) vote on all matters that are submitted to shareholders for vote.

Shares of Common Stock may be issued by the Corporation for such consideration, having a value of not less than the par value thereof, as is determined by the Board of Directors.

B. Preferred Stock. The Preferred Stock may be issued by the Board of Directors, from time to time, in one or more series. Authority is hereby vested solely in the Board of Directors of the Corporation to provide, from time to time, for the issuance of Preferred Stock in one or more series and in connection therewith to determine without shareholder approval, the number of shares to be included and such of the designations, powers, preferences, and relative rights and the qualifications, limitations, and restrictions of any such series, including, without limiting the generality of the foregoing, any of the following provisions with respect to which the Board of Directors shall determine to make affirmative provision:

1. The designation and name of such series and the number of shares that shall constitute such series;

2. The annual dividend rate or rates payable on shares of such series, the date or dates from which such dividends shall commence to accrue, and the dividend payment dates for such dividends;

3. Whether dividends on such series are to be cumulative or noncumulative, and the participating or other special rights, if any, with respect to the payment of dividends;

4. Whether such series shall be subject to redemption and, if so, the manner of redemption, the redemption price or prices and the terms and conditions on which shares of such series may be redeemed;

5. Whether such series shall have a sinking fund or other retirement provisions for the redemption or purchase of shares of such series, and, if so, the terms and amount of such sinking fund or other retirement provisions and the extent to which the charges therefore are to have priority over the payment of dividends on or the making of sinking fund or other like retirement provisions for shares of any other series or over the payment of dividends on the Common Stock;

6. The amounts payable on shares of such series on voluntary or involuntary dissolution, liquidation, or winding up of the affairs of the corporation and the extent to which such payment shall have priority over the payment of any amount on voluntary or involuntary dissolution, liquidation, or winding up of the affairs of the corporation on shares of any other series or on the Common Stock;

7. The terms and conditions, if any, on which shares of such series may be converted into, or exchanged for, shares of any other series or of Common Stock;

8. The extent of the voting powers, if any, of the shares of such series;

9. The stated value, if any, for the shares of such series, the consideration for which shares of such series may be issued and the amount of such consideration that shall be credited to the capital account; and

10. Any other preferences and relative, participating, optional, or other special rights, and qualifications, limitations or restrictions thereof, or any other term or provision of shares of such series as the Board of Directors may deem appropriate or desirable.

The Board of Directors are expressly authorized to vary the provisions relating to the foregoing matters between the various series of Preferred Stock.

All shares of Preferred Stock of any one series shall be identical in all respects with all other shares of such series, except that shares of any one series issued at different times may differ as to the dates from which dividends thereon shall be payable, and if cumulative, shall cumulate.

Shares of any series of Preferred Stock that shall be issued and thereafter acquired by the Corporation through purchase, redemption (whether through the operation of a sinking fund or otherwise), conversion, exchange, or otherwise, shall, upon appropriate filing and recording to the extent required by law, have the status of authorized and unissued shares of Preferred Stock and may be reissued as part of such series or as part of any other series of Preferred Stock. Unless otherwise provided in the resolution or resolutions of the Board of Directors providing for the issuance thereof, the number of authorized shares of stock of any series of Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by resolution or resolutions of the Board of Directors and appropriate filing and recording to the extent required by law. In case the number of shares of any such series of Preferred Stock shall be decreased, the shares representing such decrease shall, unless otherwise provided in the resolution or resolutions of the Board of Directors providing for the issuance thereof, resume the status of authorized but unissued shares of Preferred Stock, undesignated as to series.

ARTICLE VI - DIRECTORS

A. Number. The number of directors constituting the entire Board of Directors shall be not less than three nor more than nine as fixed from time to time by resolution of the Board of Directors, provided, however, that the number of directors shall not be reduced so as to shorten the term of any director at the time in office.

B. Vacancies. Newly created directorships resulting from any increase in the number of directors or any vacancy on the Board of Directors resulting from death, resignation, disqualification, removal or other cause shall be filled solely by the affirmative vote of a majority of the remaining directors then in office, even though less than a quorum, or by a sole remaining director, or by the shareholders. Any director elected in accordance with the preceding sentence shall hold office for the remainder of the full term of the class of directors in which the new directorship was created or the vacancy occurred and until such director's successor shall have been elected and qualified.

ARTICLE VII - BYLAWS

The Board of Directors is expressly authorized to adopt, amend or repeal the Bylaws of the Corporation, subject to the power of the shareholders to adopt, amend, or repeal such Bylaws.

ARTICLE VIII - INDEMNIFICATION

The Corporation shall, to the fullest extent permitted by the laws of Florida, including, but not limited to Section 607.0850 of the Florida Business Corporation Act, as the same may be amended and supplemented from time to time, indemnify any and all directors and officers of the Corporation and may, in the discretion of the Board of Directors of the Corporation, indemnify any and all other persons whom it shall have power to indemnify under said Section or otherwise under Florida law, from and against any and all of the liabilities, expenses or other matters referred to or covered by said Section. The indemnification provisions contained in the Florida Business Corporation Act shall not be deemed exclusive of any other rights of which those indemnified may be entitled under any bylaw, agreement, resolution of shareholders or disinterested directors, or otherwise. No provision of these Amended and Restated Articles of Incorporation is intended by the Corporation to be construed as limiting, prohibiting, denying or abrogating any of the general or specific powers or rights conferred under the Florida Business Corporation Act upon the Corporation, upon its shareholders, bondholders and security holders, or upon its directors, officers and other corporate personnel, including, in particular, the power of the Corporation to furnish indemnification to directors, officers, employees and agents (and their heirs, executors and administrators) in the capacities defined and prescribed by the Florida Business Corporation Act and the defined and prescribed rights of said persons to indemnification as the same are conferred under the Florida Business Corporation Act.

ARTICLE IX SUPER-MAJORITY VOTE FOR BUSINESS COMBINATIONS

A. The affirmative vote of the holders of not less than two-thirds of the outstanding shares of this Corporation's voting stock (other than the shares beneficially owned by an "Acquiring Person" as hereinafter defined) shall be required for the approval or authorization of any "Business Combination" (as hereinafter defined) of this Corporation or any subsidiary of this Corporation with any Acquiring Person, notwithstanding the fact that no vote may be required, or that a lesser percentage may be specified by law or otherwise; provided however, that the two-thirds voting requirement shall not be applicable and such Business Combination shall require only such affirmative vote as is required by law or otherwise if: (a) the Board of Directors of

this Corporation by at least an affirmative vote of a majority of the disinterested directors then on the Board has expressly approved such Business Combination either in advance of or subsequent to such Acquiring Person becoming an Acquiring Person; or (b) as of the date of the consummation of a Business Combination, the holders of a particular class or series of capital stock, as the case may be, of this Corporation receive a "fair price" as such term is defined below.

B. For the purpose of this Article IX:

1. The term "Business Combination" shall mean any (i) merger or consolidation of this Corporation or a subsidiary of this Corporation with an Acquiring Person or any other corporation which is or after such merger or consolidation would be an "Affiliate" or "Associate" (as hereinafter defined) of an Acquiring Person; (ii) sale, lease, exchange, mortgage, pledge or transfer or other disposition (in one transaction or a series of transactions) to or with any Acquiring Person or any Affiliate of any Acquiring Person, of all or substantially all of the assets of this Corporation or a subsidiary of this Corporation to an Acquiring Person or any Affiliate or Associate of any Acquiring Person; (iii) adoption of any plan or proposal for the liquidation or dissolution of this Corporation proposed by or on behalf of an Acquiring Person or any Affiliate or Associate of any Acquiring Person; (iv) reclassification of securities (including any reverse stock split) or recapitalization of this Corporation or any other transaction that would have the effect, either directly or indirectly, of increasing the proportionate share of this corporation or any subsidiary of this Corporation which is directly or indirectly beneficially owned by an Acquiring Person or any Affiliate or Associate of any Acquiring Person; and (v) an agreement, contract or other arrangement providing for any of the transactions described in this definition of Business Combination.
2. The term "fair market value" shall mean (i) in the case of shares, the highest closing sale price quoted during the 30-day calendar period immediately preceding the Business Combination on the National Association of Securities Dealers, Inc., automated quotations system or any similar system then in general use, or if such shares are listed on an exchange, the highest closing bid quotation with respect to the shares during the 30-day calendar period preceding the date in question, or, if no such quotations are available,

the fair market value of a share on the date in question as determined by the affirmative vote of a majority of the disinterested directors then on the Board; and (ii) in the case of property other than cash or shares, the fair market value of such property on the date in questions as determined by the affirmative vote of a majority of the disinterested directors then on the Board.

3. The term "fair price" shall mean that the aggregate amount of cash and the fair market value of consideration other than cash to be received per share are at least equal to the highest of the following: (i) if applicable, the highest per share price, including any brokerage commissions, transfer taxes, and soliciting dealers' fees, paid by the Acquiring Person for any shares acquired by it within the two year period immediately preceding the consummation of the Business Combination or the transaction in which it became an Acquiring Person, whichever is higher; or (ii) the fair market value per share.
4. The term "person" shall mean any individual, firm, corporation or other entity and shall include any group comprised of any person and any other person with whom such person or any Affiliate or Associate of such person has any agreement, arrangement or understanding, directly or indirectly, for the purpose of acquiring, holding, voting or disposing of voting stock of this Corporation.
5. The term "Acquiring Person" shall mean any person (other than this Corporation, or any subsidiary and other than any profit-sharing, employee stock ownership or other employee benefit plan of this Corporation or any subsidiary or any trustee of or fiduciary with respect to any such plan when acting in such capacity) who or which: (i) is the beneficial owner (as hereinafter defined) of ten percent (10%) or more of the voting stock; (ii) is an Affiliate or Associate of this Corporation and at any time within the two year period immediately prior to the date in question was the beneficial owner of ten percent (10%) or more of the voting stock; (iii) is at such time an assignee of or has otherwise succeeded to the beneficial ownership of any shares of voting stock which were at any time within the two year period immediately prior to the date in question beneficially owned by any Acquiring Person, if such assignment or succession shall have occurred in the course of a transaction or series of transactions not involving a public

offering within the meaning of the Securities Act of 1933.

6. A person shall be a beneficial owner of any voting stock: (i) which such person or any of its Affiliates or Associates beneficially owns, directly or indirectly; or (ii) which such person or any of its Affiliates or Associates has, directly or indirectly, (a) the right to acquire whether such right is exercisable immediately or not, pursuant to any agreement, arrangement or understanding or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise; (b) the right to vote pursuant to any agreement, arrangement or understanding; or (c) which are beneficially owned, directly or indirectly, by any other person by which such person or any of its Affiliates or Associates has any agreement, arrangement or understanding for the purpose of acquiring, holding, voting or disposing of any shares of voting stock.
7. The terms "Affiliate" or "Associate" shall have the respective meanings ascribed to such terms in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934, as in effect on August 25, 1996.
8. An Acquiring Person shall be deemed to have acquired a share of the voting stock of this Corporation at the time when such Acquiring Person became the beneficial owner thereof.

C. The Board of Directors of this Corporation shall have the power and duty to determine for the purposes of this Article IX, on the basis of information known to them after reasonable inquiry, (1) whether a person is an Acquiring Person, (2) the number of shares of Common Stock beneficially owned by any person, (3) whether a person is an Affiliate or Associate of another.

D. Nothing contained in this Article IX shall be construed to relieve any Acquiring Person or any of its Affiliates or Associates from any fiduciary obligation imposed by law.

ARTICLE X **EVALUATION OF BUSINESS COMBINATIONS**

The Board of Directors of this Corporation, when evaluating any offer of another party, (a) to make a tender offer for any securities of this Corporation or (b) to effect a Business Combination (as defined in Article IX) shall, in connection with the exercise of its judgment in determining what is in the best

interests of this Corporation as a whole, be authorized to give due consideration to such factors as the Board of Directors determines to be relevant, including, without limitation:

(i) the interests of this Corporation's shareholders;

(ii) whether the proposed transaction might violate federal or state laws;

(iii) the consideration being offered in the proposed transaction, in relation to the then current market price for the outstanding shares of this Corporation over a period of years, the estimated price that might be achieved in a negotiated sale of this Corporation as a whole or in part or through orderly liquidation, the premiums over market price for the securities of other companies engaged in similar transactions, current political, economic and other factors bearing on securities' prices and this Corporation's financial condition and future prospects; and

(iv) the social, legal and economic effects upon employees, suppliers, customers and others having similar relationships with this Corporation, and the communities in which this Corporation conducts its business."

In connection with any such evaluation, the Board of Directors is authorized to conduct such investigations and to engage in such legal proceedings to test the legal propriety of proposed offers or transactions as the Board of Directors may determine.

ARTICLE XI - AMENDMENT

1 This Corporation reserves the right to amend or repeal any provisions contained in these Articles of Incorporation, or any amendment hereto, and any right conferred upon the shareholders is subject to this reservation; provided, however, notwithstanding any other provisions of these Articles of Incorporation or the ByLaws of this Corporation (and notwithstanding the fact that a lesser percentage may be specified by law, in these Articles of Incorporation or the ByLaws of this Corporation), the affirmative vote of the holders of not less than two-thirds of the outstanding shares of this Corporation's voting stock [other than the shares beneficially owned by an "Acquiring Person" (as defined in Article IX hereof)], shall be required to amend, repeal or adopt any provisions inconsistent with Articles IX through XI of these Articles of Incorporation, in addition to any affirmative vote required by law or these Articles of Incorporation with respect to any other shares of capital stock of this Corporation.

2. The foregoing Amended and Restated Articles of Incorporation of this Corporation was duly approved by the Board

of Directors by unanimous written consent, dated OCTOBER 7,
1996.

3. The total number of outstanding shares of this Corporation is 6,329,924 shares of Common stock. The foregoing Amended and Restated Articles of Incorporation of this Corporation was duly approved by written consent of the holders of a majority of the Corporation's issued and outstanding Common Stock, Dated OCTOBER 7, 1996, representing the number of Votes sufficient for approval of the Amended and Restated Articles of Incorporation.

IN WITNESS WHEREOF, the undersigned has made and subscribed these Amended and Restated Articles of Incorporation this 29 day of MAY, 1997.

BURKE NEUTECH, INC.

by: Kevin O. Dean
Kevin O. Dean
President

**CERTIFICATE OF DESIGNATION OF
REGISTERED AGENT/REGISTERED OFFICE**

Pursuant to the provisions of section 607.0501, Florida Statutes, the undersigned corporation, organized under the laws of the state of Florida, submits the following statement in designating the registered office/registered agent, in the state of Florida.

1. The name of the corporation is: BURKE NEUTECH, INC.

2. The name and address of the registered agent and office is:

CORPORATION SERVICE COMPANY
(Name)

1201 HAYS STREET

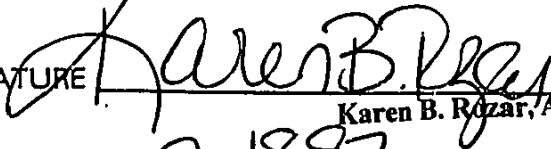
(P.O. Box NOI acceptable)

TALLAHASSEE, FLORIDA 32301
(City/State/Zip)

FILED
97 JUL 18 AM 11:44
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Having been named as registered agent and to accept service of process for the above stated corporation at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

SIGNATURE



Karen B. Rozar, As Its Agent

DATE

7-18-97

REGISTERED AGENT FILING FEE: \$35.00