

11/30/2020

Division of Corporations

Florida Department of State
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MERGER OR SHARE EXCHANGE
SEASONS HOSPICE & PALLIATIVE CARE OF PINELLAS COUNTY HOLDINGS, INC.

Certificate of Status	0
Certified Copy	1
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ARTICLES OF MERGER

The following articles of merger are submitted in accordance with the Florida Business Corporation Act, pursuant to section 607.1105, Florida Statutes.

FIRST: The name and jurisdiction of the **surviving** entity:

<u>Name</u>	<u>Jurisdiction</u>	<u>Entity Type</u>	<u>Document Number</u> (If known/ applicable)
Seasons Hospice & Palliative Care of Pinellas County Holdings, Inc.	Florida	Corporation	P15000031860

SECOND: The name and jurisdiction of each **merging** eligible entity:

<u>Name</u>	<u>Jurisdiction</u>	<u>Entity Type</u>	<u>Document Number</u> (If known/ applicable)
Seasons Pinellas Merger Sub, LLC	Florida	LLC	L20000344988

THIRD: The merger was approved by each domestic merging corporation in accordance with s.607.1101(1)(b), FS, and by the organic law governing the other parties to the merger.

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FOURTH: Please check one of the boxes that apply to surviving entity:

- ☒ This entity exists before the merger and is a domestic filing entity.
- ☐ This entity exists before the merger and is not authorized to transact business in Florida.
- ☐ This entity exists before the merger and is a domestic filing entity, and its Articles of Incorporation are being amended as attached.
- ☐ This entity is created by the merger and is a domestic corporation, and the Articles of Incorporation are attached.
- ☐ This entity is a domestic eligible entity and is not a domestic corporation and is being amended in connection with this merger as attached.
- ☐ This entity is a domestic eligible entity being created as a result of the merger. The public organic record of the survivor is attached.
- ☐ This entity is created by the merger and is a domestic limited liability limited partnership or a domestic limited liability partnership, its statement of qualification is attached.

FIFTH: Please check one of the boxes that apply to domestic corporations:

- ☒ The plan of merger was approved by the shareholders and each separate voting group as required.
- ☐ The plan of merger did not require approval by the shareholders.

SIXTH: Please check box below if applicable to foreign corporations

- ☐ The participation of the foreign corporation was duly authorized in accordance with the corporation's organic laws.

SEVENTH: Please check box below if applicable to domestic or foreign non corporation(s).

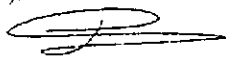
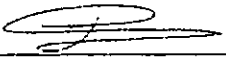
- ☒ Participation of the domestic or foreign non corporation(s) was duly authorized in accordance with each of such eligible entity's organic law.

EIGHTH: If other than the date of filing, the delayed effective date of the merger, which cannot be prior to nor more than 90 days after the date this document is filed by the Florida Department of State:

December 3, 2020

Note: If the date inserted in this block does not meet the applicable statutory filing requirements, this date will not be listed as the document's effective date on the Department of State's records.

NINTH: Signature(s) for Each Party:

Name of Entity/Organization:	Signature(s):	Typed or Printed Name of Individual:
Seasons Hospice & Palliative Care of Pinellas County Holdings, Inc		Todd Stern
Seasons Pinellas Merger Sub, LLC		Todd Stern

- Corporations:
- Chairman, Vice Chairman, President or Officer
(If no directors selected, signature of incorporator.)
- General partnerships:
- Signature of a general partner or authorized person
- Florida Limited Partnerships:
- Signatures of all general partners
- Non-Florida Limited Partnerships:
- Signature of a general partner
- Limited Liability Companies:
- Signature of an authorized person

AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER, dated as of November 25th, 2020 (this "Agreement"), between Seasons Hospice & Palliative Care of Pinellas HoldCo II, Inc., a Delaware corporation (the "Acquiror"), Seasons Pinellas Merger Sub, LLC a Florida limited liability company and a wholly-owned subsidiary of the Acquiror ("Sub") and Seasons Hospice & Palliative Care of Pinellas County Holdings, Inc., a Florida corporation (the "Company").

RECITALS

A. The Boards of Directors of each of the Acquiror and the Company and the Member of Sub have (i) determined that the merger of Sub with and into the Company (the "Merger") would be advisable and fair to, and in the best interests of, their respective stockholders and (ii) approved the Merger upon the terms and subject to the conditions set forth in this Agreement pursuant to the Florida Business Corporations Act as amended from time to time (or any corresponding provisions of succeeding law) (the "FBCA") and the Florida Revised Limited Liability Company Act (or any corresponding provisions of succeeding law) (the "Act").

B. Based on the recommendation of the Board of Directors of the Company that the Merger would be advisable and fair to, and in the best interests of, its stockholders, immediately following the execution and delivery of this Agreement, it is expected that the holders of a majority of the issued and outstanding shares of voting common stock, no par value, of the Company (the "Voting Common Stock") will deliver a written consent and agreement of stockholders approving and adopting this Agreement and the Merger in accordance with the FBCA (the "Stockholder Consent").

AGREEMENT

In consideration of the foregoing and the mutual covenants and agreements herein contained, and intending to be legally bound hereby, the parties agree as follows:

**ARTICLE I
THE MERGER**

Section 1.1 The Merger. Upon the terms and subject to the conditions of this Agreement, at the Effective Time and in accordance with the FBCA and the Act, Sub shall be merged with and into the Company pursuant to which (a) the separate corporate existence of Sub shall cease, (b) the Company shall be the surviving corporation in the Merger (the "Surviving Corporation") and shall continue its corporate existence under the laws of the State of Florida as a wholly owned subsidiary of the Acquiror and (c) all of the properties, rights, privileges, powers and franchises of the Company will vest in the Surviving Corporation, and all of the debts, liabilities, obligations and duties of the Company will become the debts, liabilities, obligations and duties of the Surviving Corporation.

Section 1.2 Closing; Effective Time.

(a) The closing of the Merger (the "Closing") shall take place at the offices of Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, NY, at 10:00 a.m., eastern time, on the date of the filing of the Certificate of Merger (as defined below) with the Secretary of the State of Florida or at such other place or at such other time or on such other date as the parties mutually may agree in writing. The day on which the Closing takes place is referred to as the "Closing Date."

(b) As soon as practicable on the Closing Date, the parties shall cause articles of merger in customary form to be executed and filed with the Secretary of State of the State of Florida (the "Articles of Merger") in accordance with the relevant provisions of the FBCA and the Act. The Merger shall become effective on December 3rd, 2020. The date and time when the Merger shall become effective is herein referred to as the "Effective Time."

Section 1.3 Effects of the Merger. The Merger shall have the effects provided for in this Agreement and in the applicable provisions of the FBCA and the Act.

Section 1.4 Certificate of Incorporation and Bylaws.

(a) At the Effective Time, the articles of organization of the Company shall become the articles of organization of the Surviving Corporation until thereafter amended in accordance with its terms and as provided by the FBCA.

(b) At the Effective Time, and without any further action on the part of the Company and Sub, the bylaws of the Company shall become the bylaws of the Surviving Corporation until thereafter amended in accordance with its terms and as provided by the FBCA.

Section 1.5 Directors; Officers. From and after the Effective Time, (a) the directors of the Company serving immediately prior to the Effective Time shall be the directors of the Surviving Corporation until the earlier of their resignation or removal or until their respective successors are duly elected and qualified, as the case may be and (b) the officers of the Company serving immediately prior to the Effective Time shall be the officers of the Surviving Corporation until the earlier of their resignation or removal or until their respective successors are duly elected and qualified, as the case may be.

Section 1.6 Conversion of Stock. At the Effective Time, by virtue of the Merger and without any further action on the part of the Acquiror, Sub, the Company or any holder of any shares of capital stock of the Company (the "Shares") or any shares of capital stock of Sub:

(a) each Share of non-voting common stock, no par value, of the Company (the "Non-Voting Common Stock") issued and outstanding immediately prior to the Effective Time (other than Cancelled Shares and any Dissenting Shares) shall be thereupon be converted into and become exchangeable for a share of Non-Voting Common Stock of the Acquiror with the same designations, rights, powers and preferences, and the qualifications, limitations and restrictions thereof (including, without limitation, the same original issue price, liquidation preference and entitlement to accrued dividends, if applicable) applicable to such Share immediately prior to the Effective Time (the "Merger Consideration");

(b) each Share of Voting Common Stock issued and outstanding immediately prior to the Effective Time (other than Cancelled Shares and any Dissenting Shares) shall be thereupon be converted into and become exchangeable for a share of Voting Common Stock of the Acquiror with the same designations, rights, powers and preferences, and the qualifications, limitations and restrictions thereof (including, without limitation, the same original issue price, liquidation preference and entitlement to accrued dividends, if applicable) applicable to such Share immediately prior to the Effective Time (the "Merger Consideration");

(c) all Shares shall no longer be outstanding and shall automatically be cancelled and shall cease to exist, and shall thereafter only represent the right to receive the Merger Consideration, if any, to be delivered upon receipt by the Company of an executed Stockholder Consent, without interest;

(d) each Share that is owned by the Acquiror or Sub immediately prior to the Effective Time shall automatically be cancelled and retired and shall cease to exist, and no cash or other consideration shall be delivered or deliverable in exchange therefor;

(e) each Share that is held in the treasury of the Company or owned by the Company immediately prior to the Effective Time shall automatically be cancelled and retired and shall cease to exist, and no cash or other consideration shall be delivered or deliverable in exchange therefore (the Shares described in Section 1.6(c) and this Section 1.6(d), "Cancelled Shares"); and

(f) the membership interests of Sub issued and outstanding immediately prior to the Effective Time shall be converted into one hundred fully paid shares of common stock, no par value per share, of the Surviving Corporation.

Section 1.7 Dissenting Shares. Notwithstanding anything in this Agreement to the contrary, Shares (other than Cancelled Shares) outstanding immediately prior to the Effective Time and held by a holder who is entitled to demand and has properly demanded appraisal for such Shares in accordance with the FBCA, if such Section provides for appraisal rights for such Shares in the Merger ("Dissenting Shares"), shall not be converted into or be exchangeable for the right to receive a portion of the Merger Consideration unless and until such holder fails to perfect or withdraws or otherwise loses such holder's right to appraisal and payment under the FBCA. If, after the Effective Time, any such holder fails to perfect or withdraws or loses such holder's right to appraisal, such Dissenting Shares shall thereupon be treated as if they had been converted as of the Effective Time into the right to receive the portion of the Merger Consideration, if any, to which such holder is entitled pursuant to Section 1.6(a), without interest.

Section 1.8 Tax Treatment. The Merger is intended to be treated as part of a tax-deferred exchange under Section 351(a) of the Code and/or constitute a "reorganization" within the meaning of Section 368 of the Code for U.S. federal income tax purposes. The parties to this Agreement hereby adopt this Agreement as a "plan of reorganization" within the meaning of Treasury Regulations Sections 1.368-2(g) and 1.368-3(a). Each party hereto shall cause all tax returns relating to the Merger to be filed consistent with such treatment and to file any statements required by applicable tax law.

ARTICLE II GENERAL PROVISIONS

Section 2.1 Amendment and Modification. This Agreement may not be amended, modified or supplemented in any manner, whether by course of conduct or otherwise, except by an instrument in writing specifically designated as an amendment hereto, signed on behalf of each party.

Section 2.2 Waiver. No failure or delay of either party in exercising any right or remedy hereunder shall operate as a waiver thereof. Any such waiver by a party shall be valid only if set forth in writing by such party.

Section 2.3 Governing Law. This Agreement and all disputes or controversies arising out of or relating to this Agreement or the transactions contemplated hereby shall be governed by, and construed in accordance with, the internal laws of the State of Florida, without regard to the laws of any other jurisdiction that might be applied because of the conflicts of laws principles of the State of Florida.

Section 2.4 Entire Agreement. This Agreement constitutes the entire agreement, and supersedes all prior written agreements, arrangements and understandings and all prior and contemporaneous oral agreements, arrangements and understandings between the parties with respect to the subject matter of this Agreement. No party to this Agreement shall have any legal obligation to enter into the transactions contemplated hereby unless and until this Agreement shall have been executed and delivered by each of the parties.

Section 2.5 Third-Party Beneficiaries. Nothing in this Agreement shall confer upon any person other than the parties and their respective successors and permitted assigns any right of any nature.

Section 2.6 Assignment, Successors. This Agreement may not be assigned by either party without the prior written consent of the other party, except that the Acquiror may assign this Agreement to any of its affiliates. Subject to the preceding sentence, this Agreement will be binding upon the parties and their respective successors and assigns.

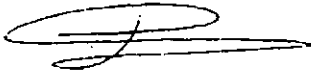
Section 2.7 Severability. If any provision or portion of any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable Law, such invalidity, illegality or unenforceability shall not affect any other provision hereof.

Section 2.8 Counterparts. This Agreement may be executed in counterparts (including facsimile and electronic transmission counterparts), all of which shall be considered one and the same instrument and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party.

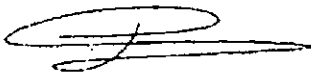
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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

**SEASONS HOSPICE & PALLIATIVE CARE
OF PINELLAS COUNTY HOLDINGS, INC.**

By: 
Name: Todd Stern
Title: President and Chief Executive Officer

SEASONS PINELLAS MERGER SUB, LLC

By: 
Name: Todd Stern
Title: President and Chief Executive Officer

**SEASONS HOSPICE & PALLIATIVE CARE
OF PINELLAS HOLDCO II, INC.**

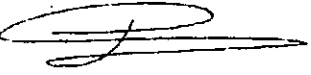
By: 
Name: Todd Stern
Title: President and Chief Executive Officer

Exhibit A

Surviving Corporation Certificate of Incorporation

Exhibit B

Surviving Corporation Bylaws