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MEDICAL IND OF AMERICA

Division of Corporations

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P97000106941

Florida Department of State
Division of Corporations
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Katherine Harris, Secretary of State

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To:

Division of Corporations
Fax Number : (850) 922-4000

From:

Account Name : MEDICAL INDUSTRIES OF AMERICA, INC.
Account Number : I19980000026
Phone : (561) 737-2227
Fax Number : (561) 265-2869

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TALLAHASSEE, FLORIDA

MERGER OR SHARE EXCHANGE

SOUTHEAST MEDICAL CENTERS, INC.

Certificate of Status	0
Certified Copy	1
Page Count	09
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Merger

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9/2/99

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ARTICLES OF MERGER
Merger Sheet

MERGING:

YGHN ACQUISITION COMPANY I, INC., a Florida corporation, P97000105566

INTO

SOUTHEAST MEDICAL CENTERS, INC., a Florida entity, P97000106941

File date: September 2, 1999

Corporate Specialist: Darlene Connell

Fax Audit No: H99000022023 8

STATE OF FLORIDA
ARTICLES OF MERGER
OF

YGHN ACQUISITION COMPANY I, INC.
a Florida corporation,

INTO

SOUTHEAST MEDICAL CENTERS, INC.
a Florida corporation

To the Secretary of State
State of Florida

Pursuant to the provisions of Section 607.1105 of the Florida Business Corporation Act (the "Act"), the corporations herein named do hereby adopt the following articles of merger.

1. The **AGREEMENT AND PLAN OF MERGER** (the "Agreement") effective August 1, 1999 by and among **MEDICAL INDUSTRIES OF AMERICA, INC.**, a Florida corporation ("MIOA"), **YGHN ACQUISITION COMPANY I, INC.**, a Florida corporation (the "Acquisition Corp") **SOUTHEAST MEDICAL CENTERS, INC.**, a Florida corporation (hereinafter referred to as the "Company") and **McCOY MEDICAL CLINICS I, INC.** (hereinafter referred to as "Shareholder" or "Shareholders") with Acquisition Corp. merging with and into Company, has been adopted by the Board of Directors of Acquisition Corp effective August 1, 1999, by the Board of Directors of Company effective August 1, 1999, by MIOA, as the sole shareholder of Acquisition Corp, effective August 1, 1999, and by the Shareholders of the Company effective August 1, 1999. A copy of the relevant portions of the Plan of Merger, as required by the provisions of section 607.1101 of the Act, is attached hereto as Exhibit A and made a part hereof.
2. The Company shall continue in existence as the surviving corporation in accordance with its Articles of Incorporation.
3. The merger herein provided for shall be effective on August 1, 1999.

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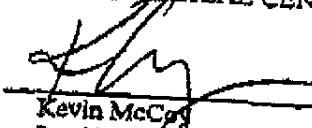
MEDICAL IND OF AMERICA

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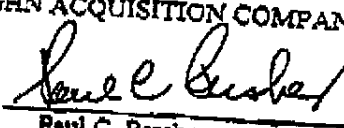
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Executed as of the 1 day of September, 1999.

SOUTHEAST MEDICAL CENTERS, INC.

By: 
Kevin McCarty
President and Director

YGHEN ACQUISITION COMPANY, L. INC.

By: 
Paul C. Pershes
President and Director

99

Fax Audit Number: H99000022023 8
Prepared by: E. Nicholas Davis III
Medical Industries of America, Inc.
1903 S. Congress Avenue, Suite 400
Boynton Beach, FL 33426
(561) 737-2227

Fax Audit No: H99000022023 8

EXHIBIT A

AGREEMENT AND PLAN OF MERGER

This **AGREEMENT AND PLAN OF MERGER** (the "Agreement") is entered into this 23rd day of August, 1999 by and among **MEDICAL INDUSTRIES OF AMERICA, INC.**, a Florida corporation ("MIOA"), **YGHN ACQUISITION COMPANY I, INC.**, a Florida corporation (the "Acquisition Corp") **SOUTHEAST MEDICAL CENTERS, INC.**, a Florida corporation (hereinafter referred to as the "Company") and **McCOY MEDICAL CLINICS I, INC.** (hereinafter referred to as "Shareholder" or "Shareholders").

Recitals:

- A. The Company is the owner and operator of two (2) medical walk-in clinics (hereinafter the "Clinics") located at and operating under the following trade names:
- 1) Southeast Medical Centers, Inc
318 South State Road #7
Margate, FL 33068
Phone (954) 978-6466
Fax (954) 978-1530
 - 2) Southeast Medical Centers, Inc.
7754 N.W. 44th Street
Sunrise, FL 33351
Phone (954) 572-7308
Fax (954) 572-9689
- B. The Company provides medical services (the "Business") at the Clinics.
- C. The principal business location of the Company is 318 South State Road #7, Margate, FL 33068 (the "Principal Business Location").
- D. The Company's billing and administrative offices are located at 318 South State Road #7, Margate, FL 33068.
- E. Shareholders own one hundred (100) shares of common stock, no par value per share, of the Company (the "Company Shares"), which shares represent one hundred percent (100%) of the outstanding shares of capital stock of the Company.
- F. MIOA presently owns 100% of all authorized, issued and outstanding capital stock of the Acquisition Corp. Upon the consummation of the transactions contemplated by this Agreement, the Acquisition Corp. will merge into the Company. The Shareholders shall receive, in consideration for the merger, shares of MIOA restricted voting common stock,

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\$.0025 par value (the "MIOA Stock" or the "MIOA Shares") in accordance with the terms and conditions hereof.

ARTICLE I. THE MERGER

1.1. **The Merger.** As of the Effective Date (as hereinafter defined) and in accordance with the applicable provisions of the Florida Statutes, the Acquisition Corp shall be merged with and into the Company, in accordance with the terms and conditions of this Agreement and the articles of merger, subject to such changes as to form (but not substance) as may be required by the Florida Statutes, (hereinafter referred to as the "Articles of Merger"). The Company shall be the surviving corporation of the Merger (the Company, in such capacity, being hereinafter sometimes referred to as the "Surviving Corporation"). Thereupon, the separate existence of the Acquisition Corp shall cease, and the Company, as the Surviving Corporation, shall continue its corporate existence.

1.2. **Effect of the Merger.** Upon the effectiveness of the Merger, (a) the Surviving Corporation shall own and possess all assets and property of every kind and description, and every interest therein, wherever located, and all rights, privileges, immunities, powers, franchises and authority of a public as well as of a private nature, of the Acquisition Corp and the Company (the "Constituent Corporations"), and all obligations owed to, belonging to or due to each of the Constituent Corporations, all of which shall be vested in the Surviving Corporation pursuant to Florida Statutes without further act or deed, and (b) the Surviving Corporation shall be liable for all claims, liabilities and obligations of the Constituent Corporations, all of which shall become and remain the obligations of the Surviving Corporation pursuant to Florida Statutes without further act or deed.

1.3. **Surviving Corporation.** Upon the effectiveness of the Merger, the Articles of Incorporation and Bylaws of the Surviving Corporation as set forth in the Exhibits to the Agreement. After the Closing and continuously thereafter during the Formula Periods, the Board of Directors of the Surviving Corporation will consist of three (3) individuals appointed by MIOA and two (2) individuals appointed by the Shareholder. The Board of Directors of the Surviving Corporation and the initial officers of the Surviving Corporation are as set forth in the Schedules of the Agreement. After the Closing and continuously thereafter during the Formula Periods, the operation and management of the Surviving Corporation shall be subject to the provisions of the Agreement.

1.4. **Subsequent Actions.** If at any time after the Effective Date, the Surviving Corporation shall consider or be advised that any deeds, bills of sale, assignments, assurance or any other actions or things are necessary or desirable to (i) vest, perfect or confirm of record or otherwise in the Surviving Corporation its right, title or interest in, to or under any of the rights, properties or assets of either Acquisition Corp or the Company acquired or to be acquired by the Surviving Corporation as a result of, or in connection with, the Merger or (ii) otherwise to carry out this Agreement, then the officers and directors of the Surviving Corporation shall be

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authorized to (x) execute and deliver, in the name and on behalf of either the Acquisition Corp or the Company, as the case may be, all such deeds, bills of sale, assignments and assurances and (y) to take and do, in the name of and on behalf of each corporation or otherwise, all such actions and things as may be necessary or desirable, to vest, perfect or confirm any and all right, title and interest in, to and under such rights, properties or assets in the Surviving Corporation or otherwise to carry out this Agreement.

1.5. Status and Conversion of Shares. Upon the Effective Date of the Merger:

(a) In exchange for the merger of the Acquisition Corp into the Company, the Shareholders will deliver the share certificates representing all the issued and outstanding shares of capital stock in the Company (the "Company Shares") to MIOA and will receive the Merger Consideration set forth and defined in Section 2.1 below (the "Merger Consideration").

(b) The share certificates representing all the outstanding shares of capital stock of the Acquisition Corp (i.e., the Acquisition Corp Shares) issued and outstanding immediately prior to the effectiveness of the Merger shall, by virtue of the Merger and without any action on the part of the holder thereof, be deemed canceled and extinguished.

1.6. Books and Records. On the Effective Date (as hereinafter defined), the Company shall deliver to MIOA all of the stock books, records and minute books of the Company, all financial and accounting books and records of the Company, all tax returns and records of the Company, and all supplier, client, customer, sales and other business records of the Company.

ARTICLE II. MERGER CONSIDERATION

2.1. Shareholders Merger Consideration. In exchange for the Company Shares and consummation of the Merger in accordance with this Merger Agreement, the Shareholders will receive in accordance with their percentage of ownership interest described in the Schedules to the Agreement the following Merger Consideration:

(a) **Calculation of Purchase Price.** MIOA agrees, subject to the provisions of this Agreement, to pay to the Shareholders an amount calculated by multiplying the Company's Formula Profits (defined below) by a factor of 1 (the "Formula Factor") for Formula Periods 1, 2 and 3 (defined below), respectively (hereinafter the "Purchase Price"). Each Formula Period Payment, if any, shall hereinafter be known as an "Installment Payment". If the Formula Profits of the Surviving Corporation during Formula Period 2 or 3 are less than 80% but equal to or greater than 60% of the Formula Profits of the Surviving Corporation for the immediately preceding Formula Period then, in such event, the Purchase Price shall be reduced by one-third of the immediately preceding Formula Period's Installment Payment; if the Formula Profits of the Surviving Corporation are less than 60% but equal to or greater than 40% of the Formula Profits of the Surviving Corporation for the immediately preceding Formula Period then the

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Purchase Price shall be reduced by one-half (1/2) of the immediately preceding Formula Period's Installment Payment; if the Formula Profits of the Surviving Corporation are less than 40% but equal to or greater than 20% of the Formula Profits of the Surviving Corporation for the immediately preceding Formula Period then the Purchase Price shall be reduced by two-thirds (2/3) of the immediately preceding Formula Period's Installment Payment; or if the Formula Profits of the Surviving Corporation are less than 20% of the Formula Profits of the Surviving Corporation for the immediately preceding Formula Period then the Purchase Price shall be reduced by 100 percent of the immediately preceding Formula Period's Installment Payment. The aforementioned reductions to the Purchase Price shall hereinafter be known as the "Offset Amounts".

(b) Payment of Purchase Price.

(i) MIOA will pay, as provided below, the Installment Payment earned with respect to a Formula Period within 90 days of the end of such Formula Period. Fifty percent (50%) of each Installment Payment will be delivered to the Shareholders in proportion to their percentage of ownership interest in the Company and 50% of each Installment Payment will be placed and held in escrow (the "Escrow") in accordance with the terms and conditions of that certain escrow agreement attached to the Agreement (the "Escrow Agreement"). In the event the Surviving Corporation has attained its projected Formula Profits as set forth in the Period Budget (as hereinafter defined) as of the beginning of the 7th month of Formula Period 2 then, in such event, the Installment Payment held in escrow for Formula Period 1 shall be delivered to the Shareholders. The Period Budget shall be defined as the projected revenues less projected expenses of the Company, as mutually agreed to by the parties. The Installment Payments remaining in Escrow after the application of any Offset Amount with respect to Formula Period 3 shall be delivered to the Shareholders in proportion to their percentage of ownership interest in the Company.

(ii) The Installment Payments shall be paid in MIOA Shares which shall be valued for these purposes as follows: (a) the first \$400,000 of each Installment Payment shall be priced at the Initial Fair Market Value. For these purposes, the Initial Fair Market Value of the MIOA Shares shall mean \$1.15; (b) Amounts in excess of the first \$400,000 of each Installment Payment shall be priced at the Delivery Fair market Value. The Delivery Fair Market shall mean the average closing bid price for the ten (10) business days ending on the day before the delivery of the Installment Payment as reported on NASDAQ or other national stock exchange on which MIOA's common shares are trading or if the principal market for such stock is not a national securities exchange

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and such stock is not quoted, the average of the highest bid and lowest asked prices per share of such stock during such period as reported on the OTC Bulletin Board Service or by National Quotation Bureau, Incorporated or a comparable service.

(c) Application of Offset Amounts. Any Offset Amount shall first be offset against the Installment Payment that would otherwise be due with respect to the Formula Period in which the Offset Amount originated. If such Installment Payment is not sufficiently large enough to absorb the entire Offset Amount then, in such event, the remaining Offset Amount shall be applied against the portion of the Purchase Price held in Escrow available. If there are insufficient MIOA Shares in Escrow to absorb the entire Offset Amount then, in such event, the Shareholders shall be required to repay MIOA upon demand any remaining Offset Amount. Such payment may be made by the Shareholders either in cash or in MIOA Shares. If such repayment is made in MIOA Shares, the remaining Offset Amount shall be divided by the Initial Fair Market Value per share to determine the number of shares to be returned to MIOA. Such MIOA Shares shall be free of all liens, security interests and encumbrances.

(d) Formula Profits. For the purposes of this Agreement, the term "Formula Profits" shall mean the pre-tax net income of the Surviving Corporation calculated in accordance with generally accepted accounting principals ("GAAP") applied consistently with those principles used in the preparation of Surviving Corporation's financial statements. In calculating Formula Profits: (i) there shall not be included any charge for corporate overhead of MIOA or its subsidiaries or other administrative or similar charges that MIOA or its subsidiaries might impose upon the Surviving Corporation except those charges for which the Surviving Corporation receives a direct and cost efficient benefit, (ii) there shall not be included any non-recurring charges, losses, profits, gains, or non-cash adjustments not related to the ongoing operations of the business, including, but not limited to discounted operations, extraordinary items, or unusual or infrequent items as they are defined under generally accepted accounting principles but such Formula Profits shall be included all costs and expenses incurred by MIOA or its subsidiaries with respect to this transaction including, without limitation, goodwill expenses, (iii) there shall not be included any charge related to grants or exercises of options by employees of the Surviving Corporation, and (iv) there shall be included all revenues derived from the Surviving Corporation's rehabilitation business calculated in accordance with its current policies and procedures.

(e) Formula Periods. The period commencing on the Effective Date, 1999 and ending on July 31, 2000 shall be deemed to be "Formula Period 1". The two immediately succeeding twelve (12) month periods following Formula Period 1 shall be deemed to be "Formula Period 2" and "Formula Period 3", respectively.

(f) Calculation Timing. MIOA, the Surviving Corporation and Shareholders shall each work in good faith to derive the calculations required hereunder, it being understood and agreed that MIOA use its reasonable best efforts to cause such calculations to be made and payments to the Shareholders be made no later than the 90th day following each Formula Period.

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(g) Example. Attached to the Agreement is an illustration of how the aforementioned Formula will be applied.

(h) Change of Control. The parties acknowledge that MIOA may sell its assets or merge, or otherwise engage in a transaction during the Formula Period that frustrates its ability to complete the payment of the Purchase Price. Therefore, the parties agree that in the event of such a transaction, or similar transaction reported or reportable as a change in control of MIOA on Form 8-KSB (or similar applicable form), that at the option of MIOA, either (a) MIOA will cause the new control party to assume all of MIOA's obligations to the Shareholders and otherwise hereunder with respect to the Purchase Price and otherwise as provided in this Agreement or (b) pay the Shareholders a mutually agreed upon amount on mutually agreed upon terms in lieu of the Purchase Price. If the Company capital stock is returned to the Shareholders, any MIOA loan(s) to the Company outstanding as of the date of such change of control shall be payable in twenty-four (24) equal monthly installments and shall be secured by the assets of Company.

2.2. No Registration. The Shareholders acknowledge and agree that:(a) Except as otherwise provided herein, the MIOA Shares received as payment of the Purchase Price shall have piggy-back registration rights and are being granted and issued without registration under applicable federal and state securities laws in reliance upon certain exemptions from registration under such securities laws;

(b) Each certificate representing the MIOA Share certificates will bear a legend restricting its transfer, sale, conveyance or hypothecation, unless such MIOA Shares are either registered under applicable securities laws or an exemption from such registration is applicable;

(c) Except pursuant to an effective registration statement, the Shareholders shall not transfer all or any of the MIOA Shares except in compliance with all applicable securities laws including Rule 144 of the Securities Act of 1933. Rule 144 presently allows a sale, within certain limitations, of the MIOA Shares after one (1) year from the date the MIOA Shares are unconditionally earned pursuant to this agreement;

(d) The Shareholders are acquiring the MIOA Shares for their own account, for investment purposes only and not with a view to the sale or distribution thereof.

2.3. Registration/Redemption Rights. MIOA shall use its reasonable best efforts to effect a registration on Form S-3, or other appropriate form (the "Registration Statement"), and to register 50% the MIOA Shares to be issued to the Shareholders in connection with this Agreement in accordance with the Registration Rights Agreement in the form attached to the Agreement or alternatively, MIOA will redeem the MIOA Shares to be issued to the Shareholders in connection with this Agreement in accordance with the Redemption Agreement in the form attached to the Agreement. Notwithstanding the foregoing, the Shareholders shall, in any event, have piggyback registration rights with respect to those MIOA Shares they receive for

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which resale is not otherwise available. Notwithstanding, if MIOA's underwriter or MIOA, in good faith, determines that marketing factors or underwriting conditions prohibit or otherwise require a limitation of the number of shares to be underwritten, the underwriter or MIOA may exclude the MIOA Shares in the same proportion, as nearly as practicable, as the other selling shareholders of MIOA or the underwriter or MIOA may limit the number of MIOA Shares to be included in the registration and underwriting to a specified percentage of the total offering to be distributed through the underwriting in the same proportion, as nearly as practicable, to other selling shareholders of the Company.