



Item: GC: A-2

GOVERNANCE COMMITTEE

Tuesday, February 16, 2021

SUBJECT: REQUEST FOR APPROVAL OF AMENDMENTS TO THE BYLAWS OF THE FAU CLINICAL PRACTICE ORGANIZATION, INC. ("FAU CPO"); REQUEST FOR APPROVAL OF AMENDMENTS TO THE ARTICLES OF INCORPORATION OF FAU CPO; REQUEST FOR CERTIFICATION OF FAU CPO AS DIRECT SUPPORT ORGANIZATION OF UNIVERESITY

PROPOSED COMMITTEE ACTION

1. Review and recommend approval of the proposed amendments to the Bylaws of FAU CPO.
2. Review and recommend approval of the proposed amendments to the Articles of Incorporation of FAU CPO.
3. Review and recommend that the Board of Trustees adopt a resolution certifying that FAU CPO is operating in a manner consistent with being a direct support organization ("DSO") of the University.

BACKGROUND INFORMATION

FAU CPO wishes to amend its Bylaws and Articles of Incorporation to become a DSO of the University. These amendments are required for FAU CPO to come into compliance with Florida Statute 1004.28, Board of Governors Regulation 9.011 and University Regulation 6.013, which govern DSOs.

FAU CPO will remain a Faculty Practice Plan corporate entity and continue to comply with the statutes and regulations governing such plans.

Article VIII, Section 1 of the amended Bylaws of FAU CPO requires approval from the Board of Trustees of all amendments thereto. Article VIII of the Amended and Restated Articles of Incorporation of FAU CPO requires approval

from the Board of Trustees of all amendments to the Articles of Incorporation. FAU Regulation 6.013 requires the certification of DSOs by the Board of Trustees.

At its April 29, 2020 meeting, the FAU CPO Board of Directors approved these amendments to the Bylaws and Articles of Incorporation.

IMPLEMENTATION PLAN/DATE

Amendments to the Bylaws and Articles of Incorporation shall be transmitted to the Florida Board of Governors and become effective upon approval by the Board of Governors.

Certification as a DSO shall be effective upon the approval by the Board of Governors of the amendments to the Bylaws and Articles of Incorporation.

FISCAL IMPLICATIONS

N/A

Supporting Documentation: Amended Bylaws
Amended and Restated Articles of Incorporation
Resolution to Certify DSO

Presented by: David Kian
Vice President and General Counsel
Phillip Boiselle, MD
Dean, Schmidt College of Medicine

Phone: 561-297-3007

**AMENDED BYLAWS
OF
FAU CLINICAL PRACTICE ORGANIZATION, INC.
(A Not-for-Profit Corporation)**

ARTICLE I

Name

The name of this corporation shall be FAU CLINICAL PRACTICE ORGANIZATION, INC., a Florida not-for-profit corporation (the "Corporation"). The Corporation shall maintain a registered office in the State of Florida and a registered agent at such office.

ARTICLE II

Purpose

The Corporation is organized as ~~a not for profit corporation under Chapter 617, Florida Statutes, (i) a not-for-profit corporation under Chapter 617, Florida Statutes, (ii) a university faculty practice plan corporate entity under Section 1001.706(3)(d), Florida Statutes, Florida Board of Governors Regulations 1.001(8)(a) and 9.017, and Florida Atlantic University Regulation 9.001, and (iii) a university direct-support organization under Section 1004.28, Florida Statutes, Florida Board of Governors Regulations 1.001(8)(b) and 9.011, and Florida Atlantic University Regulation 6.013, and corresponding provisions of any subsequent laws and regulations~~. The Corporation shall be organized and operated exclusively for scientific, educational and charitable purposes, within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder, (the "Code") and not for pecuniary profit, and exclusively for the support and benefit of Florida Atlantic University (the "University"), an agency of the State of Florida. The Corporation shall possess all powers and authority as are now or may hereafter be granted to not-for-profit corporations under the laws of the State of Florida. The specific purposes for which the Corporation is organized shall include, but not be limited to, the promotion and support of medical education, research, and patient care, including the collection, receipt, management, administration and distribution of funds, exclusively for support of the mission and objectives of the University, its Charles E. Schmidt College of Medicine (the "College of Medicine"), its Christine E. Lynn College of Nursing (the "College of Nursing"), and other participating colleges or units within the University, in accordance with the College of Medicine Faculty Practice Plan and other faculty practice plans adopted by the University pursuant to applicable Florida Board of Governors' Regulations or other governing laws, rules or regulations.

ARTICLE III

Membership

The Corporation shall have no members and shall be managed by its Board of Directors.

ARTICLE IV

Board of Directors

Section 1. General Powers. The business, property, affairs and funds of the Corporation shall be managed, supervised and controlled by its Board of Directors (the "Board of Directors")

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or the “Board”), subject to delegation by the Board to others. The Board of Directors shall serve without compensation, subject only to applicable law and the limitations contained in the Amended and Restated Articles of Incorporation of the Corporation, ~~these~~ Amended Bylaws, and the powers and duties reserved to the Board of Trustees of the University and the President of the University or the President’s designee in regards to the Corporation. The Board of Directors shall have the authority to adopt policy for the Corporation, consistent with the Amended and Restated Articles of Incorporation and ~~these~~ Amended Bylaws. The Board of Directors shall have the power to hold and to invest and reinvest any monies it receives and to hold any property, to sell or exchange the same, and to invest and reinvest the proceeds of any sale or other conversion of any such property, for the purpose of earning income, which income, less operating expenses of the Corporation, shall be used to further the specific purposes of the Corporation and the University. The Corporation shall have the power and authority to borrow money by issuing long or short term notes, bonds, or debentures and to pledge its assets within the discretion of the Board of Directors, subject to the policies and regulations of the University ~~and~~ its Board of Trustees and the Florida Board of Governors and the laws of the State of Florida.

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Section 2. Membership on the Board of Directors. The Board of Directors shall ~~be ratified and approved by the University’s Board of Trustees and shall~~ consist of the following voting members:

(a) A designee appointed by the chair of the University Board of Trustees.

(b) The President of the University or the President’s designee.

(c) A minimum of twelve (12) additional directors must be approved by the University’s Board of Trustees and shall be appointed by the President of the University, as follows:

~~(b)~~ (i) The Dean of the Charles E. Schmidt College of Medicine or
designee.

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~~(c)~~ (ii) The Dean of the Christine E. Lynn College of Nursing or
designee.

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~~(d)~~ (iii) The Provost of the University or
designee.

~~(e)~~ (iv) The Chief Financial Officer of the University or
designee.

~~(f)~~ (v) One (1) member of the Charles E. Schmidt College of Medicine senior
leadership team appointed~~team~~ nominated by the Dean of the Charles E. Schmidt College of Medicine.

~~(g)~~ (vi) Four (4) members of the clinical faculty in the Charles E. Schmidt
College of Medicine appointed~~Medicine~~ nominated by the Dean of the Charles E. Schmidt College of Medicine, one of whom represents the ~~Clinical Translational Research Unit~~Charles E. Schmidt College of Medicine clinical faculty practice site.

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~~(h)~~ ~~_____~~ (vii) Two (2) members of the clinical faculty in the Christine E. Lynn College of Nursing ~~appointed~~nominated by the Dean of the Christine E. Lynn College of Nursing, which faculty represent the Louis and Anne Green Memory and Wellness Center and the FAU Community Health Center, respectively.

~~(i)~~ ~~_____~~ (viii) One (1) community representative ~~elected annually~~nominated by the ~~Board of Directors~~Chair.

Section 3. Reserved Powers. The President of the University, or the President's designee, and the University's Board of Trustees shall have the following specific powers and duties with regard to the Corporation:

(a) To monitor and control the use of the University's resources and the University's name by the Corporation;

(b) To assure that the Corporation's activities are consistent with and supportive of the mission of the University, the Charles E. Schmidt College of Medicine, the Christine E. Lynn College of Nursing, and other participating colleges or units within the University;

(c) To supervise the Corporation and monitor its compliance with federal and state laws and applicable rules, regulations, policies and contracts;

(d) To recommend an annual budget for the Corporation to the University's Board of Trustees;

(e) To review and approve annual expenditure plans of the Corporation and to review all financial records of the Corporation;

(f) To approve salary, benefits and other compensation or benefits paid to employees of the Corporation and/or to University faculty and staff from the Corporation's assets, consistent with applicable policies and procedures of the University;

(g) To ensure that the Corporation enacts a policy on ethics and conflicts of interest; ~~and~~

~~(h) To ratify and approve all nominees and appointees to the Board of Directors.~~

Section 4. Term of Office. *Ex officio* members (or their designees) of the Board of Directors shall serve as directors of the Corporation, ~~pursuant to sections 2(b), (c), (d) and (e)~~ for such time as ~~they continue~~the ex officio member continues to serve in their ~~positions~~position with the University. ~~Directors appointed pursuant to sections 2(a), (f), (g) and (h),~~All other directors shall serve for terms of three (3) years commencing at the annual meeting of the Board of Directors or until their successors shall be duly appointed and qualified; any such appointed director may

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be appointed to succeed himself/herself. –The terms of the clinical faculty directors shall be staggered so as to expire at different times. ~~The community representative director elected pursuant to section 2(f)~~The President of the University or the President’s designee shall serve as a Director of the corporation for one (1) year terms, commencing at the annual meeting of the such time as the President continues to serve in his position with the University. The designee appointed by the chair of the University Board of Directors, and may be elected Trustees shall serve as a director of the corporation for successive terms. ~~such time as the chair continues to serve in his position on the University Board of Trustees.~~

Section 5. Vacancies, Resignation, and Removal of Directors. A vacancy shall exist on the Board of Directors upon the death, resignation, or removal of a director, upon the disability of a director that renders him or her permanently incapacitated or unable to serve, or when a director is no longer qualified to serve as a director. Whenever any vacancy occurs in the Board of Directors by death, resignation or otherwise, it shall be filled without undue delay. ~~A vacancy in by the community representative director position shall be filled at a properly called meeting~~President or chair of the University Board of Trustees, as applicable. The person so chosen to fill any vacancy shall hold office for the duration of the previous director’s term. A director, ~~other than the appointee of the Board of Trustees,~~ may be removed by the President of the University at any time, upon written notice, with or without cause. ~~A director may also be removed from the Board by the affirmative vote of a majority of the remaining directors at a properly called meeting of the Board.~~ A director may resign at any time by submitting a written resignation to the Chairperson of the Board of Directors. Unless otherwise specified in the notice, the resignation shall take effect upon receipt. –The acceptance of a resignation shall not be necessary to make it effective.

Section 6. Conflict of Interest and Code of Ethics. Directors ~~and officers~~ stand in a fiduciary relationship to the Corporation and the University. Therefore, directors ~~and officers~~ shall act in good faith, with due regard to the interests of the Corporation and the University, and shall comply with the fiduciary principles and law set forth in the Code of Ethics for Public Officers and Employees, Chapter 112, Part III, Florida Statutes. –Directors shall comport themselves in accordance with the statutory Code of Ethics and the Conflict of Interest Policy attached to these Amended Bylaws as Appendix “A”. Each director, ~~officer and the executive director~~ shall annually complete and sign a disclosure form as required by said policy.

Section 7. Meetings. Following proper notice, an annual meeting of the Board of Directors shall be held within the State of Florida for the receiving of annual reports of officers, directors and committees, and the transaction of other business. Following proper notice, regular meetings of the Board of Directors may be held, at such time and place as from time to time shall be determined by the Chairperson of the Board of Directors. Special meetings of the Board of Directors may be called by (a) the Chairperson of the Board of Directors, (b) the Secretary of the Corporation, or (c) any two officers or directors. Proper notice of the time and place of such special meetings of the Board of Directors shall be given to each director, along with all materials needed for the meeting. ~~Upon establishment of physical quorum, any other members of the, in accordance with the Sunshine law. Members of the~~ Board may participate by telephone

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conference or similar communication equipment or facilities in meetings of the Board, in the same manner as if the meeting were held in person, if the Chairperson determines it is appropriate, is in full compliance with all requirements of the Sunshine law, and if all persons participating in such meetings are able to hear each other at the same time as if the meeting were held in person, and if proper notice is provided. Participation by such means shall constitute presence at such meeting for purposes of determining quorum. All board meetings of the Corporation shall be noticed and open to the public in accordance with the requirements of Section 286.011, Florida Statutes. The notice of any meeting conducted by means of telephone or similar communication equipment will state where and how members of the public may gain access to the meeting.

Section 8. Quorum. At all meetings of the Board of Directors, the ~~physical~~ presence of a majority of the Board of Directors shall be necessary and sufficient to constitute a quorum. A quorum must be present to transact the business of the Corporation at a meeting.

Section 9. Voting. Each director shall have one vote. All questions shall be decided by the act of a majority of the directors participating in the meeting, except as otherwise provided in these Amended Bylaws, the Amended and Restated Articles of Incorporation, or Florida law. Proxies, general or special, shall not be accepted for any purpose in the meetings of the Board or committees.

Section 10. Executive Session. The Legislature has provided limited exemptions from the Sunshine law for certain meetings because of the confidential material that must be discussed. When the Board decides to avail itself of any such exemption, it will do so by convening an executive session of the Board. Meetings to discuss pending litigation in which the Board is presently a party before a court or administrative agency may be held in executive session outside the Sunshine, provided the following procedures and conditions are met:

1. Counsel for the Board must advise the Board at a public meeting that he or she desires an executive session and must state the basis therefor.
2. Only Board members, the Board's attorney(s), the Executive Director and the President of the University may attend a closed executive session to discuss pending litigation. Staff members or consultants are not permitted to attend. The Board must give advance public notice, pursuant to its procedures, of the time and date of the executive session, and must identify the names of the persons who will be attending the closed session.
3. The session must commence with an open meeting at which the Chairperson or his/her designee shall announce the commencement of the meeting, the estimated length of the closed executive session, and the names of the persons attending. At that point, the meeting is closed to all except those whose names have been announced. The executive session may then commence. At the conclusion of the executive session, the meeting must be reopened to the

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public and the person chairing the meeting shall announce the termination of the closed executive session.

4. A certified court reporter must record the entire executive session. The reporter must record the times of commencement and termination of the executive session; all discussions and proceedings; the names of all persons present at any time; and the names of all persons speaking. No portion of any executive session may be held off the record. The Board must have the court reporter's notes fully transcribed, and the transcript filed with its records custodian. The transcript is exempt from Florida's public records law, and is not to be disclosed until the litigation concludes. Upon the conclusion of the litigation, the transcript becomes part of the public record.
5. The subject matter of the closed session must be confined to settlement negotiations or strategy sessions related to litigation expenditures. The Board may not go beyond these strict parameters. No final action, no vote, and no decisive action may be taken during the closed session. Any final decision to settle a lawsuit, for a certain amount of money, or under certain conditions, is a decision that must be voted upon in a public meeting.

ARTICLE V

Officers

Section 1. Officers. The officers of this Corporation shall be a Chairperson, a Vice Chairperson, a Secretary, a Treasurer, and such other officers as may be determined by the Board of Directors. The offices of Secretary and Treasurer may be consolidated and held by a single person. Only directors of the Corporation may be elected to the office of ~~Chairperson and~~ Vice Chairperson of the Corporation from nominations submitted to the directors by the Nominations Committee or from nominations from the floor. The ~~Board of Directors~~ President may ~~select~~ appoint an Executive Director of the Corporation and may delegate to the Executive Director the responsibility for the day-to-day management and operation of the Corporation. ~~The officers shall receive such salary or compensation as the Board may determine, pursuant to the policies and regulations of the University and its Board of Trustees.~~ All officers shall have such authority and perform such duties as described below:

(a) ~~Chairperson.~~ Chairperson. ~~The Chairperson of the Corporation shall be the Dean of the Charles E. Schmidt College of Medicine.~~ The Chairperson shall preside at all meetings of the Board of Directors and shall do and perform such other duties as may be assigned by the Board of Directors. The Chairperson may execute all documents in the name of the Corporation, with the Secretary attesting, including but not limited to all contracts, deeds, notes, certificates, leases and other documents or legal instruments authorized or issued by the Board of Directors, subject to the policies and regulations of the University and its Board of Trustees, the Florida Board of Governors, and the laws of the State of Florida. The Chairperson shall perform all duties

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as the Board of Directors shall designate and may delegate certain duties with the Board's approval.

(b) Vice Chairperson. The Vice Chairperson shall act as Chairperson in the Chairperson's absence or unavailability, and shall do and perform such other duties as may be assigned by the Board of Directors.

(c) Secretary. The Secretary shall keep full and accurate minutes for all meetings of the Board of Directors. The Secretary shall transmit all notices required by the Amended Bylaws of the Corporation, as the same may be amended from time to time. The Secretary may attest to documents with the Chairperson in the name of the Corporation and, when required, shall affix thereto the seal of the Corporation. The Secretary shall have charge of all official records of the Corporation that shall be at all reasonable times open to examination of any director, and shall in general perform all duties incident to management of the office of Secretary for the Board of Directors.

(d) Treasurer. The Treasurer shall be a member of the Finance and Audit Committee. The Treasurer shall prepare the annual budget and present the financial statements of the Corporation to the Board of Directors at each regular meeting of the Board of Directors and at such other times as the Board of Directors may determine. The Treasurer shall ensure that all financial reports and expenditure plans are filed in a timely manner in accordance with applicable law. The Treasurer shall ascertain that a full and accurate account is made of all monies received and paid out on accounts administered by the Corporation in accordance with guidelines or directives established by the Board of Directors, and shall in general perform all duties incident to management of the office of Treasurer for the Board of Directors, including, but not limited to, the following:

The deposit of all monies, checks, and other credits to the account of the Corporation in such bank or banks or other depositories as the Board may designate; the review of all receipts and vouchers for payment made to and all vouchers and checks made by this Corporation; rendering to the Board an account and statement of all the Treasurer's transactions at each meeting of the Board or at such other times as the Board may determine; and the preparation of an annual expenditure plan to be reviewed and approved by the President of the University or his or her designee who shall be a Vice President or other senior officer of the University reporting directly to the President. The plan shall separately delineate planned actions which result in a commitment of University resources or which represent significant commitment of the resources of the Corporation. The Treasurer shall give to the Corporation such security for the faithful discharge of his/her duties as the Board of Directors may direct.

(e) Executive Director. The ~~Board of Directors~~ President may select and appoint an Executive Director ~~to serve at the pleasure of the Board or for such other term as fixed by a contract between the Corporation and the Executive Director. The Executive Director shall be accountable directly to the Corporation, in consultation with the Chairperson and may hold the office of Treasurer if approved by the Board of Directors. of the Corporation.~~ The Executive

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Director shall also serve as the chief administrative officer of the Corporation and, as such, shall be responsible for the day-to-day management and operation of the Corporation. ~~The Executive Director shall report to the President of the University or the President's designee. The Board of Directors shall provide the President an annual assessment of the Executive Director's performance, which shall be considered by the President when conducting the Executive Director's annual evaluation.~~

Section 2. Appointment and Term of Office. The Chairperson of the Corporation shall be the Dean of the Charles E. Schmidt College of Medicine. The other officers of the Corporation shall be elected as necessary by majority vote of the Board of Directors at the annual meeting.

Section 3. Removal. Any officer, ~~other than the Chairperson,~~ may be removed with or without cause by a two-thirds (2/3) vote of the Board of Directors.

Section 4. Vacancies. A vacancy in any office because of death, resignation, removal or otherwise ~~may~~shall be filled ~~by~~ by a vote held at a meeting of the Board of Directors.

~~**Section 5. Compensation of Officers.** The officers shall receive such salary or compensation as the Board may determine, pursuant to the policies and regulations of the University and its Board of Trustees.~~

ARTICLE VI
Committees

Section 1. Creation of Committees. The Chairperson of the Board of Directors may appoint such committees as the Chairperson may deem necessary and advisable to assist in the conduct of the Corporation's affairs, each to consist of one or more of the directors of the Corporation. Such other committees shall have such functions as may lawfully be delegated by the Board of Directors. The actions of any committee shall be subject to review and approval by the Board of Directors, except when the power to act is specifically granted to a committee by the Board of Directors. Each committee shall keep approved minutes and submit them to the Board of Directors for review. Individuals other than directors shall be eligible to serve on committees. However, the Chair of each committee shall be a director.

Section 2. Nominations Committee. The Board may appoint a Nominations Committee of at least three (3) members, whose duty it shall be to nominate candidates to fill vacancies of ~~directors and~~ officers, ~~other than the Chairperson,~~ of the Corporation. The Board shall name the Chair of the Committee. The slate of nominations will be submitted, for the Corporation's officers, to the Board of Directors for consideration at its next ensuing meeting.

Section 3. Finance and Audit Committee. The Board may establish a Finance and Audit Committee of at least three (3) members. The Finance and Audit Committee shall address and oversee financial and administrative policy matters for the Corporation and shall be responsible for the preparation and periodic review of the Corporation's financial statements, and the annual budget ~~and an annual.~~ The budget shall be prepared before the beginning of the University's

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fiscal year, approved by the Directors and recommended by the University President to the Board of Trustees each year no later than sixty (60) days following the beginning of the Corporation's fiscal year. The Board of Trustees must approve the Corporation's budget before it can be enacted. The Finance and Audit Committee shall cause an audit to be made by an independent certified public accountant or firm of the books of the Corporation as soon as possible after the close of the fiscal year of the Corporation. The College of Medicine's Assistant Dean for Finance, or similar position, and similar position for the College of Nursing and other participating colleges or units within the University may be *ex officio* non-voting members of the Finance and Audit Committee, and to have the results reported to the Board of Directors at its next ensuing meeting. The annual audit report shall be submitted by the University President to the Board of Trustees for review no later than the end of the fourth month following the close of the organization's fiscal year. The annual audit report shall also be submitted to the Auditor General and to the Board of Governors no later than nine (9) months after the close of the Corporation's fiscal year. The audit shall be conducted in accordance with rules promulgated by the Board of Trustees and with the policies adopted by the Auditor General. The Finance and Audit Committee also shall ensure that the financial records of the Corporation are maintained in accordance with generally accepted accounting principles, that consistent and reliable financial practices are followed and that the current financial status of the Corporation is reported to the Board of Directors regularly.

Section 4. Meetings of Committees. Following proper notice, regular meetings of committees may be held at such time and at such place as shall from time to time be determined by the Board of Directors or the chairperson of the committee. Upon establishment Members of physical quorum, any other members of the committee committees may participate in committee meetings by telephone conference or similar communication equipment or facilities in committee meetings, in the same manner as if the meeting were held in person, if the Chairperson or the chairperson of the committee determines it is appropriate, is in full compliance with all requirements of the Sunshine law, and if all persons participating in such meetings are able to hear each other at the same time as if the meeting were held in person. The physical presence of a majority of any committee of the Corporation, and if proper notice is provided. Participation by such means shall constitute a quorum presence at such meeting for the transaction purposes of determining quorum. All committee meetings shall be noticed and open to the public in accordance with the requirements of Section 286.011, Florida Statutes. The notice of any meeting conducted by means of business telephone or similar communication equipment will state where and how members of the public may gain access to the meeting.

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Section 5. Vacancies on Committees and Removal. Vacancies on any committees shall be filled by a majority vote of the Board of Directors at any regular or special meeting. A committee member may be removed by the President of the University or the Chairperson of the Board at any time, upon written notice, with or without cause. A committee member may also be removed by the affirmative vote of a majority of the Board of Directors at a properly called meeting of the Board.

**ARTICLE VII
Indemnification**

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The Corporation shall indemnify each director, officer, employee and agent of the Corporation, and may indemnify any other person, to the full extent permitted by applicable law. The rights conferred by this Article VII shall not be exclusive of any other right that any director, officer, employee, agent or other person may have or hereafter acquire under the Florida Not For Profit Corporation Act, any other statute or agreement, pursuant to a vote of disinterested directors, or otherwise.

ARTICLE VIII
Amendment

Section 1. Amendments to Bylaws. These Amended Bylaws may be amended by a two-thirds (2/3) vote of the Board of Directors at any meeting called for that purpose. Copies of these Amended Bylaws and all amendments thereto shall be provided to the President of the University and subject to the prior approval of the University's Board of Trustees.

Section 2.

Section 2. Amendments to Articles of Incorporation. The Articles of Incorporation of the Corporation may be altered or amended at any regular or special meeting of the Board by resolution approved by the affirmative vote of two-thirds of the voting Directors present, and subject to any approval which may be required by the Board of Trustees. Written notice of any proposed amendment of the Articles of Incorporation shall be mailed to each Director not less than fifteen (15) days prior to any meeting at which such proposed amendment is to be considered.

Section 3. Requirements of Florida Law. All amendments to the Amended Bylaws and Amended and Restated Articles of Incorporation of the Corporation shall comply with Florida law and appropriate state rules and policies.

ARTICLE IX
Miscellaneous

Section 1. Fiscal Year. The fiscal year of the Corporation shall be consistent with the fiscal year of the University.

Section 2. Checks and Depositories. Except as may otherwise be specified in these Amended Bylaws, the Board shall determine by resolution which officers or directors or other designees are authorized to draw checks on the accounts of the Corporation and may impose any reasonable terms, conditions or limitation on such authority.

Section 3. Distribution of Net Receipts. The accumulation, expenditure, and distribution of all funds of the Corporation shall be exclusively for the support of the mission and objectives of the University, the Charles E. Schmidt College of Medicine, the Christine E. Lynn College of Nursing and other participating colleges or units within the University, and shall be made in accordance with University regulations, policies and procedures, and those of its colleges

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and units, subject to any agreements outstanding between the Corporation, the University, and/or its colleges and units.

Section 4. Affairs and Operations. Notwithstanding any other provision of these Amended Bylaws to the contrary, the affairs and operations of the Corporation shall be conducted in compliance with the applicable rules, regulations, policies and procedures of the Florida Board of Governors and Florida Atlantic University, including regulations governing the Florida Atlantic University Charles E. Schmidt College of Medicine Faculty Practice Plan, other faculty practice plans adopted by the University, and university direct support organizations; and any agreements and related policies adopted and/or approved between the Corporation, the University, and/or its colleges and units.

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Section 5. Financial Audits and Reports. All financial records of the Corporation shall be available to the appropriate personnel of the University from time to time designated by the Dean of the Charles E. Schmidt College of Medicine, the Dean of the Christine E. Lynn College of Nursing, the chief administrator of

other participating colleges or units of the University, the President of the University, or the Chair of the University's Board of Trustees. The Board shall engage an independent certified public accountant or firm to perform an annual audit of the Corporation's books, with the objective being to render an opinion on the Corporation's financial statements. The cost of the audit shall be borne by the Corporation as an operating expense. Copies of each annual audited financial report shall be provided to the Dean of the Charles E. Schmidt College of Medicine, the Dean of the Christine E. Lynn College of Nursing, the chief administrator of other participating colleges or units of the University, the President of the University, the University's Board of Trustees, and the Florida Board of Governors for their review and oversight and, ultimately, to the Auditor General. The audit will be conducted in accordance with rules promulgated by the University Board of Trustees and the policies adopted by the Auditor General.

Section 6. Records. Public access to the records of the Corporation shall be governed by the provisions of Chapter 1004.28, Florida Statutes and any applicable policies of the University or Corporation on disclosure of records.

ARTICLE X
Parliamentary Rules

The most recent edition of "Roberts Rules of Order" shall be followed in conducting the meetings of the Board of Directors, unless otherwise provided in these Amended Bylaws.

ARTICLE XI
DISSOLUTION

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In the event the University's Board of Trustees approves a decertification of the Corporation as a direct-support organization of the University, the Directors shall, after paying or providing for all debts and obligations of the Corporation, transfer the assets of the Corporation to the University and take all steps necessary to dissolve the Corporation.

ARTICLE XII
EMPLOYEES

Any person employed by the Corporation shall not be considered an employee of the State of Florida or an employee of the University by virtue of such employee's employment by the Corporation. The Corporation shall provide equal employment opportunities to all persons in accordance with corporation and University policies.

ARTICLE XIII
FACULTY PRACTICE PLAN

The Corporation shall conduct its affairs and operations in strict compliance with the Florida Board of Governors Regulation 9.017, Florida Atlantic University Regulation 9.001, and any applicable agreements between the Corporation and the University and/or related policies and procedures adopted and approved as part of a University faculty practice plan.

These Amended Bylaws of the Corporation were approved and adopted by the Corporation's Board of Directors on ~~October 17, 2016~~ April 29, 2020.

Arthur J. Ross, III

Phillip Boiselle, M.D., ~~M.B.A.~~
Chairperson, Board of Directors
~~Interim~~ Dean and Professor
Charles E. Schmidt College of Medicine

**APPENDIX A: CONFLICTS OF INTEREST POLICY
FAU CLINICAL PRACTICE ORGANIZATION, INC.**

PURPOSE

The purpose of this conflicts of interest policy is to protect the interests of FAU Clinical Practice Organization, Inc. (referred to herein as the "Corporation") when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an interested person of the Corporation or might result in a possible excess benefit transaction. This policy is intended to supplement but not replace any applicable laws governing conflicts of interest applicable to nonprofit and charitable corporations such as the Corporation.

POLICY

I. DEFINITION OF TERMS

Interested Person: Any director, officer, member of a committee with board- delegated powers, administrator or faculty member who has a direct or indirect financial interest, as defined below, is an interested person with respect to the Corporation. If a person is an interested person with respect to any entity related to the Corporation, he or she is an interested person with respect to the Corporation.

Financial Interest: A person has a financial interest if the person has, directly or indirectly, through business, investment or family:

1. An ownership or investment interest in any entity with which the Corporation has a transaction or arrangement;
2. A compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement; or
3. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are substantial in nature. A financial interest is not necessarily a conflict of interest. As provided below, a person who has a financial interest may have a conflict of interest only if the appropriate body for this purpose determines that a conflict of interest exists.

II. DUTY TO DISCLOSE

In connection with any actual or possible conflicts of interest, an interested person must disclose the existence of his or her financial interest and all related material facts on a disclosure statement that must be updated annually. Any conflicts must be presented to the directors and

Exhibit A

members of committees with Board delegated powers to consider the proposed transaction or arrangement.

III. DETERMINING WHETHER A CONFLICT OF INTEREST EXISTS

After disclosure of the financial interest and all related material facts, and after any discussion with the interested person, the interested person shall leave the Board or committee meeting while the determination of such conflict of interest is discussed and voted upon. The remaining Board or committee members shall decide if a conflict of interest exists.

IV. PROCEDURES FOR ADDRESSING THE CONFLICT OF INTEREST

1. An interested person may make a presentation at the Board or committee meeting, but after such presentation, he or she shall leave the meeting during the discussion of, and vote on, the transaction or arrangement that results in the conflict of interest.
2. The Chairperson of the Board or chair of the committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
3. After exercising due diligence, the Board or committee shall determine whether the Corporation can obtain a more advantageous transaction or arrangement with reasonable efforts from a person or entity that would not give rise to a conflict of interest.
4. If a more advantageous transaction or arrangement is not reasonably attainable under circumstances that would not give rise to a conflict of interest, the Board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the Corporation's best interest and for its own benefit and whether the transaction is fair and reasonable to the Corporation and shall make its decision as to whether to enter into the transaction or arrangement in conformity with such determination.

V. VIOLATIONS OF THE CONFLICT OF INTEREST POLICY

1. If the Board or committee has reasonable cause to believe that a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.
2. If, after hearing the response of the member and making such further investigation as may be warranted in the circumstances, the Board or committee determines that the member has in fact failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

VI. RECORDS OF PROCEEDINGS

The minutes of the Board and all committees with Board-delegated powers shall contain:

1. The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest,

Exhibit A

any action taken to determine whether a conflict of interest was present, and the Board or committee's decision as to whether a conflict of interest in fact existed, and

2. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record or any votes taken in connection therewith.

VII. COMPENSATION MATTERS

A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's compensation. A person related to such member is also precluded from voting on that member's compensation.

VIII. ANNUAL STATEMENTS

Each director, principal officer and member of a committee with Board-delegated powers shall annually sign a statement which affirms that such person:

1. Has received a copy of the conflicts of interest policy;
2. Has read and understands the policy;
3. Has agreed to comply with the policy; and
4. Understands that the Corporation is a charitable organization and that in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

IX. PERIODIC REVIEWS

To ensure that the Corporation operates in a manner consistent with its charitable purposes and that it does not engage in activities that could jeopardize its status as an organization exempt from federal income tax, periodic reviews shall be conducted. The periodic reviews shall, at a minimum include the following subjects:

1. Whether compensation arrangements and benefits are reasonable (for example, based on competent survey information) and are the result of arm's-length bargaining; and
2. Whether partnerships, joint ventures and arrangements with management organizations conform to written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further the Corporation's charitable purposes and do not result in increment, impermissible private benefit or in an excess benefit transaction.

X. USE OF OUTSIDE EXPERTS

In conducting the periodic reviews provided for the above, the Corporation may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the Board of its responsibility for ensuring that periodic reviews are conducted.

ANNUAL ACKNOWLEDGEMENT AND DISCLOSURE FORM
FOR CONFLICTS OF INTEREST POLICY

Board Member's or Officer's Name _____

Date: _____

I hereby acknowledge that I have received a copy of the Conflicts of Interest Policy of FAU Clinical Practice Organization, Inc. (referred to herein as the "Corporation") and have read and understand the same. I also understand that the Corporation is a charitable organization and that in order to maintain its federal tax-exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes and also must comply with this policy.

I hereby further acknowledge and agree to comply with all provisions of the Corporation's Conflicts of Interest Policy and understand that this policy applies to me and all committees with Board-delegated powers.

1. Are you an officer or director of any corporation with which FAU Clinical Practice Organization, Inc. conducts business?

YES _____ NO _____

If the answer to the foregoing question is "YES", please list the names of such corporations, the office held, and the "approximate" dollar amount of business involved with FAU Clinical Practice Organization, Inc. during the past 12 months.

2. Do you, or does any member of your family, have a financial interest in, or receive any remuneration or income from, any business organization with which FAU Clinical Practice Organization, Inc. conducts business?

YES _____ NO _____

Exhibit A

If the answer to the foregoing is "YES", please supply the following information:

- A. Names of the business organizations in which such interest is held and the person(s) by whom such interest is held;
 - B. Nature and amount of each financial interest, remuneration or income.
3. Did you, or any member of your family receive, in the past 12 months, any gifts or loans from any source with which FAU Clinical Practice Organization, Inc. conducts significant business?

YES _____ NO _____

If the answer to the foregoing is "YES", list such gifts or loans as follows:

<u>Name of Source</u>	<u>Item</u>	<u>Approximate Value</u>
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4. Are you an employee with or volunteer to Florida Atlantic University or any of its direct support organizations or affiliated entities?

YES _____ NO _____

If the answer to the foregoing is "YES", list the employment or volunteer capacity and briefly explain your duties:

Exhibit A

5. The following are other matters not listed in one of the categories above, but which in the interest of avoiding either actual impropriety or the appearance of impropriety, I feel it appropriate to disclose.

Neither I, nor members of my immediate family, have any relationship or engage in any activities of which I am aware, that may place me in a position of having a conflict of interest with the Corporation except as detailed herein. I hereby agree to report promptly to the Board of Directors of the Corporation any other interest situation of which I may become aware, subsequent to the date of this Disclosure Statement.

Printed Name

Signature

Date

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
FAU CLINICAL PRACTICE ORGANIZATION, INC.
(A Not-for-Profit Corporation)**

The undersigned hereby adopts the following Amended and Restated Articles of Incorporation and hereby certifies as follows:

**ARTICLE I
Name and Address**

The name of this corporation shall be FAU CLINICAL PRACTICE ORGANIZATION, INC. For convenience, the corporation shall be referred to herein as the "Corporation." The address of the Corporation's principal office and registered office is Florida Atlantic University, 777 Glades Road, Boca Raton, Florida, 33431.

**ARTICLE II
Purpose, Powers and Dissolution**

Section 1. Purposes and Powers.

The Corporation is organized as ~~a not for profit corporation under Chapter 617, Florida Statutes~~; (i) a not-for-profit corporation under Chapter 617, Florida Statutes, (ii) a university faculty practice plan corporate entity under Section 1001.706(3)(d), Florida Statutes, Florida Board of Governors Regulations 1.001(8)(a) and 9.017, and Florida Atlantic University Regulation 9.001, and (iii) a university direct-support organization under Section 1004.28, Florida Statutes, Florida Board of Governors Regulations 1.001(8)(b) and 9.011, and Florida Atlantic University Regulation 6.013, and corresponding provisions of any subsequent laws and regulations. The Corporation shall be organized and operated exclusively for scientific, educational and charitable purposes, within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder, including any future Code or Treasure Regulations (the "Code"), and not for pecuniary profit, and exclusively for the support and benefit of Florida Atlantic University (the "University"), an agency of the State of Florida. The Corporation shall possess all powers and authority as are now or may hereafter be granted to not-for-profit corporations under the laws of the State of Florida. The specific purposes for which the Corporation is organized shall include, but not be limited to, the promotion and support of medical education, research, and patient care, including the collection, receipt, management, administration and distribution of funds, exclusively for support of the mission and objectives of the University, its Charles E. Schmidt College of Medicine (the "College of Medicine"), its Christine E. Lynn College of Nursing (the "College of Nursing"), and other participating colleges or units within the University, in accordance with the University's College of Medicine Faculty Practice Plan and other faculty practice plans adopted by the University pursuant to applicable Florida Board of Governors' Regulations or other governing laws, rules or regulations.

Section 2. Limitation on Actions.

All the assets and earnings of the Corporation shall be used exclusively for the exempt purposes set forth herein, including the payment of expenses incidental thereto. No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to, its directors, officers, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes as set forth in these Amended and Restated Articles of Incorporation. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for political office.

No employee of the Corporation shall engage in the practice of medicine. The Corporation shall serve as the administrative services supporting organization for the University's College of Medicine Faculty Practice Plan, College of Nursing faculty practice plan, and other faculty practice plans adopted by the University. The Corporation shall not be involved in the delivery of medical services; the maintenance of any medical facilities; the employment, control or compensation of medical doctors, nurses, or other health professionals; or the determination, control, or evaluation of any medical procedures or standards for any medical doctor, nurse, or other health care professional or medical facility.

Notwithstanding any other provisions of these Amended and Restated Articles of Incorporation, the Corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Code or (b) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Code.

Persons employed by the Corporation shall not be considered employees of Florida Atlantic University by virtue of such employment.

Section 3. Dissolution.

In the event of dissolution of the Corporation, the winding up of its affairs, or other liquidation of its assets, the Corporation's property shall not be conveyed to any organization created or operated for profit or to any officers or directors of the Corporation or any other individual, and all assets remaining after the payment of the Corporation's debts shall be conveyed or distributed to the University Board of Trustees, for use only by the Charles E. Schmidt College of Medicine, the Christine E. Lynn College of Nursing, or other participating colleges or units within the University, or if the University has ceased to exist, to such other organization or organizations that are exempt from federal income tax under Section 501(c)(3) of the Code as directed by the Board of Governors of the State of Florida.

ARTICLE III

Membership

The Corporation shall have no members and shall be managed by its Board of Directors.

ARTICLE IV
Terms of Existence

The Corporation shall have perpetual existence unless it shall be dissolved according to the laws of the State of Florida.

ARTICLE V
Board of Directors

The property, affairs and activities of the Corporation shall be managed by the Board of Directors, who shall be designated or elected as provided in the Bylaws of this Corporation, and who shall serve without compensation.

ARTICLE VI
Officers

The Board of Directors shall elect officers as described in the Bylaws of the Corporation.

ARTICLE VII
Stock and Dividends Prohibited

The Corporation shall have no capital stock, pay no dividends, and distribute no part of its net income to its members, directors or officers. The private property of its members, directors and officers shall not be liable for the debts or obligations of the Corporation.

ARTICLE VIII
Amendment

Amendments to these Amended and Restated Articles of Incorporation may be proposed and adopted by a vote of two-thirds (2/3) of all members of the Board of Directors. All amendments hereto shall be provided to the President of the University and subject to the prior approval of the University's Board of Trustees.

ARTICLE IX
Registered Office and Registered Agent

The Corporation hereby designates its Registered Office to be located at Florida Atlantic University, Office of the General Counsel, 777 Glades Road, ADM 370, Boca Raton, Florida 33431, or such other place as it may from time to time designate, and the General Counsel of the University as its Registered Agent. In accordance with the Bylaws, the General Counsel, David Kian, shall serve as the Registered Agent of the Corporation, to accept service of process within this State, and to serve in such capacity until a successor is selected and duly designated.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the undersigned incorporator has executed these Amended and Restated Articles of Incorporation on the _____ day of _____, ~~2012~~2021.

Chairperson of the Board of Directors

~~Name: David J. Bjorkman, MD, MSPH~~
~~Title: Phillip Boisselle, MD~~
~~Dean, and Professor~~
Charles E. Schmidt College of ~~Medicine,~~
Florida Atlantic University

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CERTIFICATE OF ACCEPTANCE AS REGISTERED AGENT

Having been named as the Registered Agent in the Amended and Restated Articles of Incorporation of FAU Clinical Practice Organization, Inc., being familiar with the obligations of that position, I hereby accept and agree to act in this capacity.

Dated: _____, ~~2012~~2020

Name: David Kian, Registered Agent



Florida Atlantic University Board of Trustees Resolution

Tuesday, February 16, 2021

A RESOLUTION: (I) CERTIFYING THAT THE FAU CLINICAL PRACTICE ORGANIZATION, INC. IS OPERATING IN A MANNER CONSISTENT WITH THE GOALS OF THE UNIVERSITY AND IN THE BEST INTEREST OF THE STATE AND (II) ESTABLISHING THE FAU CLINICAL PRACTICE ORGANIZATION, INC. AS A UNIVERSITY DIRECT-SUPPORT ORGANIZATION

WHEREAS, the FAU Clinical Practice Organization (“FAU CPO”) is a Florida not-for-profit corporation organized and operated to promote and support medical education, research, and patient care, including the collection, receipt, management, administration and distribution of funds, exclusively for FAU, its College of Medicine, College of Nursing and other participating colleges or units within the university, in accordance with the university’s College of Medicine Faculty Practice Plan and other faculty practice plans adopted by the university; and

WHEREAS, the FAU CPO operates in conformance with regulations promulgated by the Florida Board of Governors and Florida Atlantic University for faculty practice plans; and

WHEREAS, the FAU Board finds that, as of February 16, 2021, the FAU CPO is operating in a manner consistent with the goals of the university and in the best interest of the state; and

WHEREAS, the FAU Board finds it desirable that the FAU CPO be deemed a direct-support organization of FAU, as of February 16, 2021, pursuant to Section 1004.28, Florida Statutes.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The FAU Board of Trustees hereby certifies that, as of February 16, 2021, the FAU CPO is operating in a manner consistent with the goals of the university and in the best interest of the state.
2. The FAU Board of Trustees hereby resolves that the FAU CPO is a direct-support organization of the university, pursuant Section 1004.28, Florida Statutes, effective February 16, 2021.

CERTIFICATE OF THE CORPORATE SECRETARY

The Undersigned, Corporate Secretary of the Florida Atlantic University Board of Trustees, does hereby certify that the attached resolution is a true and accurate copy as adopted by the Florida Atlantic University Board of Trustees on February 16, 2021.

THE FLORIDA ATLANTIC UNIVERSITY
BOARD OF TRUSTEES

Dated: _____

By: _____
Corporate Secretary