

This instrument was prepared by:

Michelle L. Scarbrough
Attorney at Law
Berkowitz, Lefkovits, Isom & Kushner
A Professional Corporation
420 North 20th Street, Suite 1600
Birmingham, Alabama 35203

ARTICLES OF INCORPORATION
OF
DRAYTON SMITH, D.M.D., P.C.

TO THE JUDGE OF PROBATE
SHELBY COUNTY, ALABAMA:

The undersigned, for the purpose of forming a professional corporation pursuant to the provisions of Code of Alabama (1994) §§ 10-4-380 through 10-4-406, hereby certifies as follows:

1. NAME. The name of the corporation is:

Drayton Smith, D.M.D., P.C.

hereinafter referred to as (the "Corporation")

2. DURATION.

(a) The duration of the Corporation shall be perpetual.

(b) The Corporation shall continue as a separate entity independent of its shareholders for all purposes during the period of time provided in paragraph (a) of this Article 2 and shall continue notwithstanding the death, insanity, incompetence, conviction for felony, resignation, withdrawal, transfer of shares of stock, retirement or expulsion of any one or more of the shareholders, or any other event which under the laws of the State of Alabama and under like circumstances of life independent of the life or status of its shareholders.

3. PURPOSE. The purpose for which the Corporation is organized is to engage in every phase and aspect of the practice of dentistry and to render services ancillary thereto, in accordance with the laws of Alabama and the canons of professional ethics.

The Corporation shall not engage in any business other than the practice of dentistry and the rendering of services ancillary thereto. However, it may invest its funds in real estate, mortgages,

08/17/2000-28124
03:22 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
013 MMS 90.00

Inst # 2000-28124

stocks, bonds or any other type of investment and may own real or personal property necessary or appropriate for rendering professional dental services.

4. GOVERNING LAW AND POWERS. The Corporation shall be governed by the "Revised Alabama Professional Corporation Act," Code of Alabama (1994), § 10-4-380 et seq., including all amendments thereto, and by the "Alabama Business Corporation Act," Code of Alabama, § 10-2B-1.01 et seq., including all amendments thereto, except to the extent that the provisions of such Alabama Business Corporation Act are inconsistent with the provisions of the aforementioned Revised Alabama Professional Corporation Act; and all other laws of Alabama governing or applicable to professional corporations, except to the extent that such laws are inconsistent with the provisions of the Revised Alabama Professional Corporation Act. The Corporation shall have all the powers and privileges necessary or convenient to effectuate its purposes, including those enumerated in the Alabama Business Corporation Act and the Revised Alabama Professional Corporation Act. The powers of the Corporation pursuant to the laws of Alabama include, without limitation, the following:

- (a) To purchase, acquire, hold, improve, sell, convey, assign, exchange, release, mortgage, encumber, lease, hire, and deal in real and personal property of every kind and character insofar as the same shall be necessary or appropriate in connection with the lawful purposes of the Corporation.
- (b) To enter into, make and perform, in its own name, contracts of every kind for any lawful purpose without limit as to amount, with any person, firm, association, corporation, municipality, county, state, territory, government, governmental subdivision, or body politic.
- (c) To sue and be sued as an independent entity.
- (d) To borrow and lend money, without security, or upon the giving or receipt of such security as the Board of Directors of this Corporation may deem advisable by way of mortgage, pledge, transfer, assignment, or otherwise, of real and personal property of every nature and description, or by way of guaranty, or otherwise, and to enter into revolving credit agreements or other loan agreements of any kind with banks or other financial or institutional investors.
- (e) To draw, make, accept, endorse, discount, execute and issue promissory notes, drafts, bills of exchange, warrants, debentures and other negotiable or transferable instruments.
- (f) To issue bonds, debentures or other securities or obligations and to secure the same by mortgage, pledge, deed of trust, or otherwise.
- (g) To purchase, take, receive, redeem or otherwise acquire, hold, own, pledge, transfer or otherwise dispose of its own shares of stock, and its bonds, debentures, notes, scrip or other securities or evidences of indebtedness, and to hold, sell, transfer or reissue the same.

- (h) To enter into any pension, profit sharing or stock option plans or other projects for the assistance and welfare of its directors, officers and employees.
- (i) To acquire, hold, use, sell, assign, lease, grant licenses in respect of, mortgage or otherwise dispose of letters patent of the United States or any foreign country, patent rights, licenses and privileges, inventions, improvements and processes, copyrights, trademarks and trade names, relating to or useful in connection with any business of the Corporation.
- (j) To acquire bonds or shares of stock of the Corporation or any other corporation, including any other professional corporation.
- (k) To acquire the good will, rights, assets and property, and to undertake or assume the whole or any part of the obligations or liabilities of any person, firm, partnership, association, professional association, professional corporation or corporation.
- (l) To endorse, lend its credit to, or otherwise guarantee, or obligate itself for, or pledge or mortgage all or any part of its properties for the payment of the principal and interest, or either, on any bonds, debentures, notes, scrip, coupons, or other obligations or evidences of indebtedness, or the performance of any contract, mortgage, or obligation, of any other corporation or association, domestic or foreign, or of any person, firm, partnership or joint venture.
- (m) To enter into any lawful and ethical arrangements for sharing of expenses or profits, union of interest, reciprocal concession, or cooperation, as partner (general or limited), joint venturer, or otherwise, with any person, partnership, corporation, association, combination, organization, entity or other body whatsoever, domestic or foreign, carrying on or proposing to carry on, or any business or transaction deemed necessary, convenient or incidental to the carrying out of any of the objects of this Corporation.
- (n) To lend money and use its credit to assist its employees.
- (o) To have one or more offices to carry on all of the Corporation's operations and business without restriction or limit as to amount, in any of the states, districts, territories or possessions of the United States, and in any and all foreign countries, subject to the laws of such state, district, territory, possession, or country.
- (p) To do any and all of the things herein set out and such other things as are incidental or conducive to the attainment of the objects and purposes of this Corporation, to the same extent as natural persons might or could do and in any part of the world, as principal, factor, agent, contractor, or otherwise, either alone or in conjunction with any person, firm, association, partnership, corporation or any entity of whatsoever kind, and to do any and all such acts and things and to have and exercise any and all such powers to the full extent authorized or permitted to a corporation under any laws that may now or hereafter be applicable or available to this Corporation.

(q) To procure a certificate of authority or equivalent authorization to render professional dental services in any other state of the United States.

(r) To have and to exercise all powers conferred by the laws of the State of Alabama upon professional corporations, including, without limitation, the Revised Alabama Professional Corporation Act.

The foregoing clauses, and each phrase thereof, shall be construed as objects, powers, and purposes of the Corporation in addition to those powers specifically conferred upon the Corporation by law, and it is hereby expressly provided that the foregoing specific enumeration of purposes and powers shall not be held to limit or restrict in any manner the powers of the Corporation otherwise granted by law.

Notwithstanding the foregoing, the Corporation shall not have any powers which may be inconsistent with the provisions and purposes of the Revised Alabama Professional Corporation Act or which may be inconsistent with any validly issued rule or regulation promulgated by a licensing authority which has jurisdiction with respect to lawyers rendering professional dental services.

5. INITIAL REGISTERED OFFICE AND AGENT. The location and mailing address of the initial registered office of the Corporation, and the name of its initial registered agent at such address are as follows:

Drayton Smith, D.M.D.
4000 Meadow Lake Drive, Suite 117
Hoover, Alabama 35242

6. RENDITION OF PROFESSIONAL SERVICES. The Corporation shall render professional services only through individuals permitted to practice dentistry in the State of Alabama; provided, however, that nothing in this Article 6 shall be construed to require that any individual who is employed by this Corporation be licensed to perform services for which no license is otherwise required, or to prohibit the rendering of professional services by a licensed individual acting in his individual capacity, notwithstanding that such individual may be a shareholder, member, director, officer, employee or agent of this Corporation.

7. PROFESSIONAL RELATIONSHIPS.

(a) The relationship between an individual performing professional dental services as an employee of the Corporation and a patient shall be the same as if the individual performed such services as a sole practitioner.

(b) The relationship between the Corporation and the patient shall be the same as between the patient and the individual performing the services.

8. LIABILITY.

(a) Every individual who renders professional dental services as an employee of the Corporation shall be liable for any negligent or wrongful act or omission in which he personally participates to the same extent as if he rendered such services as a sole practitioner.

(b) The personal liability of a shareholder, employee, director or officer of the Corporation shall be no greater in any respect than that of a shareholder, employee, director or officer of a corporation organized under the Alabama Business Corporation Act.

9. ACTS PROHIBITED. The Corporation shall not do any act which is prohibited to be done by individual persons licensed to practice the profession of dentistry.

10. CAPITAL STOCK.

(a) Authorized Shares. The total number of shares of stock which the Corporation shall have authority to issue shall be One Thousand (1,000) shares of common stock at the par value of One Dollar (\$1.00) per share.

(b) Issuance of Stock. The Corporation may from time to time issue its shares of stock for such consideration (not less than the par value respecting shares having a par value) as may be fixed from time to time by the Board of Directors and may receive in payment thereof, in whole or in part, money, labor done, services actually performed, or real or personal property (tangible or intangible). In the absence of fraud in the transaction, the judgment of the Board of Directors as to the value of the consideration received for shares shall be conclusive. Any and all shares so issued for which the consideration so fixed shall have been paid or delivered shall be deemed fully paid stock and shall not be liable to any further call or assessment thereon, and the holders of such shares shall not be liable for any further payment in respect thereof.

(c) Restrictions on Transfer of Shares. The Corporation may, from time to time, lawfully enter into any agreement to which all, or less than all, of the holders of record of the issued and outstanding shares of its capital stock shall be parties, restricting the transfer of any or all shares of its capital stock represented by certificates therefor upon such reasonable terms and conditions as may be approved by the Board of Directors of this Corporation.

(d) Stock Rights and Options. The Corporation may create and issue, whether or not in connection with the issuance and sale of any of its shares or other securities, rights or options entitling the holders thereof to purchase from the Corporation shares of any class or classes of its stock.

(e) Lien on Shares. The Corporation shall have a lien on the shares of its shareholders for any debt or liability incurred to it by such shareholders before notice of transfer of or levy on such shares, which lien may be exercised by cancellation, forfeiture, or public or private sale, upon

reasonable notice, of such shares which remedies are cumulative to an action to enforce payment or other remedies provided by law.

(f) Acquisition of Stock. All persons who shall acquire stock in this Corporation shall acquire it subject to the provisions of these Articles of Incorporation. So far as not otherwise expressly provided by the laws of the State of Alabama, the Corporation shall be entitled to treat the person or entity in whose name any share of its stock is registered as the owner thereof for all purposes and shall not be bound to recognize any equitable or other claim to or interest in said share on the part of any other person, whether or not the Corporation shall have notice thereof.

(g) Qualified Persons. Except as may otherwise be provided for in the Bylaws of the Corporation with respect to the personal representative of a deceased shareholder, no person or legal entity who is not a Qualified Person, as defined in Code of Alabama (1994) §10-4-382(5) (hereinafter referred to as a "Qualified Person"), may become a shareholder of the Corporation. The Corporation may issue shares of its capital stock only to Qualified Persons. A shareholder may voluntarily transfer his or her shares in this Corporation only to Qualified Persons. Any share of this Corporation issued in violation of this Article 10, Paragraph (g), is null and void. The transfer of any shares in violation of this Article 10, Paragraph (g), shall be null and void.

(h) Voting Trust. A voting trust with respect to shares of the Corporation shall not be valid unless all the trustees and beneficiaries thereof are Qualified Persons, except that a voting trust may be validly continued for a period of twelve (12) months after the death of a deceased beneficiary or after a beneficiary is no longer a Qualified Person.

(i) Preemptive Rights. No shareholder shall be entitled as a matter of right to subscribe for, purchase, or receive any shares of stock, or other securities convertible into stock, of the Corporation which it may issue, or sell, whether out of the number of shares thereof, but all such additional shares of stock or other securities may be issued and disposed of by the Board of Directors to such persons and upon such terms as in its absolute discretion it may deem advisable. No shareholder of any shares of stock shall have any preemptive rights with respect to the issuance of any class of stock, including treasury shares.

(j) The Corporation may purchase, take, receive, or otherwise acquire, hold, own, pledge, transfer or otherwise dispose of its own shares.

11. TRANSFERABILITY OF SHARES. Except as may otherwise be provided in the Bylaws of the Corporation or by private agreement, shares of stock in this Corporation may be sold, assigned and transferred without limitation to any Qualified Person.

12. DIRECTORS AND OFFICERS.

(a) The business and affairs of the Corporation shall be managed by its Board of Directors which shall consist of one (1) director or such other number of directors as may be provided from

time to time in the Bylaws of the Corporation. The number of directors may be changed as provided in the Bylaws of the Corporation.

(b) The members of the Board of Directors shall be elected at the annual meeting of the shareholders and shall hold office for one (1) year until the next annual meeting of shareholders or until their successors have been duly elected and qualified.

(c) The Board of Directors shall have and may exercise all of the rights, power and authority that may be vested in the Board of Directors of a professional corporation organized under the Revised Alabama Professional Corporation Act as the same has been or shall be from time to time amended, including all rights, powers and authority vested in the Board of Directors of a corporation organized under the laws of Alabama and not inconsistent with said Revised Alabama Professional Corporation Act. In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is hereby expressly authorized:

(i) The power to adopt, alter, amend or repeal the Bylaws or adopt new Bylaws shall be vested in the Board of Directors and the shareholders, or either of them, provided, however, that the Board of Directors may not alter, amend or repeal any Bylaw establishing what constitutes a quorum at shareholders' meetings or which was adopted by the shareholders and specifically provides that it cannot be altered, amended or repealed by the Board of Directors, or which is not otherwise permitted by applicable law to be altered, amended or repealed solely by the action of the Board of Directors;

(ii) To fix and determine and to vary the amount of working capital of the Corporation; to determine whether any, and if any, what part of any accumulated profits shall be declared and paid as dividends; to determine the date or dates for the declaration and payment of dividends; and to direct and determine the use and disposition of any surplus or net profits over and above the capital stock paid in.

(iii) To take any action required or permitted to be taken by the Board of Directors at a meeting or without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the directors.

(iv) To ratify and approve any action taken by or on behalf of the Corporation's employees, agents, officers, directors or any other party, and, upon such ratification and approval, any such actions so taken shall be effective for and as the act of the Corporation as though such act had been adopted and approved by the Board of Directors at the time such action was taken.

(v) The Corporation may, in its Bylaws, confer powers upon the Board of Directors in addition to the foregoing, and in addition to the powers and authorities expressly conferred upon directors by statute.

(d) The name and address of the person who is to serve as the initial member of the Board of Directors of the Corporation until the first annual meeting of shareholders are:

| <u>Name</u> | <u>Address</u> |
|-----------------------|--|
| Drayton Smith, D.M.D. | 4000 Meadow Lake Drive Suite 117 Hoover, Alabama 35242 |

(e) Members of the Board of Directors need not be shareholders of the Corporation.

(f) The officers of the Corporation shall include a President, a Secretary, a Treasurer and such other officers as the Board of Directors may from time to time determine.

(g) The President shall have authority to execute all deeds, mortgages, bonds and other contracts requiring a seal, under the seal of the Corporation. The Secretary or any Assistant Secretary shall have authority to affix this seal to instruments requiring it, and attest the same.

(h) The officers of the Corporation need not be members of the Board of Directors.

(i) At least one director of the Corporation and the President of the Corporation shall be Qualified Persons with respect to the Corporation; provided, however, that this Paragraph (i) of this Article 12 shall not apply for a period of twelve (12) months after the death of the sole shareholder of the Corporation.

(j) No contract or other transaction between the Corporation and one or more of its directors or any other corporation, firm, association or entity in which one or more of its directors are directors or officers or are financially interested, shall be either void or voidable because of such relationship or interest or because such director or directors are present at the meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies such contract or transaction, if the contract or transaction is fair and reasonable to the Corporation and if either:

(i) The fact of such relationship or interest is disclosed to the Board of Directors or committee which authorizes, approves or ratifies the contract or transaction by a vote or consent sufficient for the purpose without counting the votes or consents of such interested directors; or

(ii) The fact of such relationship or interest is disclosed to the shareholders entitled to vote and they authorize, approve or ratify such contract or transaction by vote or written consent.

Common or interested directors may not be counted in determining the presence of a quorum at a meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies such contract or transaction.

**13. INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS;
EXCULPATION OF DIRECTORS.**

(a) Subject to the provisions of Article 13 (d) below, the Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action, suit or proceeding, whether civil, criminal, administrative or investigative, including appeals (other than an action by or in the right of the Corporation), by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such claim, action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any claim, action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Corporation, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(b) Subject to the provisions of Article 13(d) below, the Corporation shall indemnify any person who was or is a party or is threatened, pending or threatened to be made a party to any threatened, pending or completed claim, action or suit by or in the right of the Corporation to procure judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Corporation unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which court shall deem proper.

(c) To the extent that a director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Article 13(a) and (b) above, or in defense of any claim, issue or matter therein, he shall be

indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith, notwithstanding that he has not been successful on any other claim, issue or matter in any such action, suit or proceeding.

(d) Any indemnification under Article 13(a) and (b) above (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Article 13(a) and (b) above. Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to, or who have been wholly successful on the merits or otherwise with respect to, such claim, action, suit or proceeding, or (2) if such a quorum is not obtainable, or, even if obtainable, a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (3) by the shareholders.

(e) Expenses (including attorneys' fees) incurred in defending a civil or criminal claim, action, suit or proceeding may be paid by the Corporation in advance of the final disposition of such claim, action, suit or proceeding as authorized in the manner provided in Article 13(d) above upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount if and to the extent that it shall be ultimately determined that he is not entitled to be indemnified by the Corporation as authorized in this Article 13.

(f) The indemnification authorized by this Article 13 shall not be deemed exclusive of and shall be in addition to any other right to which those indemnified may be entitled under any statute, rule of law, provisions of these Articles of Incorporation, Bylaw, agreement, vote of shareholders or disinterested directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

(g) The Corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provision of this Article 13.

(h) To the extent permitted by the laws of the State of Alabama, no director shall be liable to the Corporation or its shareholders for money damages for any action taken, or any failure to act, as a director.

14. INCORPORATOR. The name and address of the incorporator are:

NAME

ADDRESS

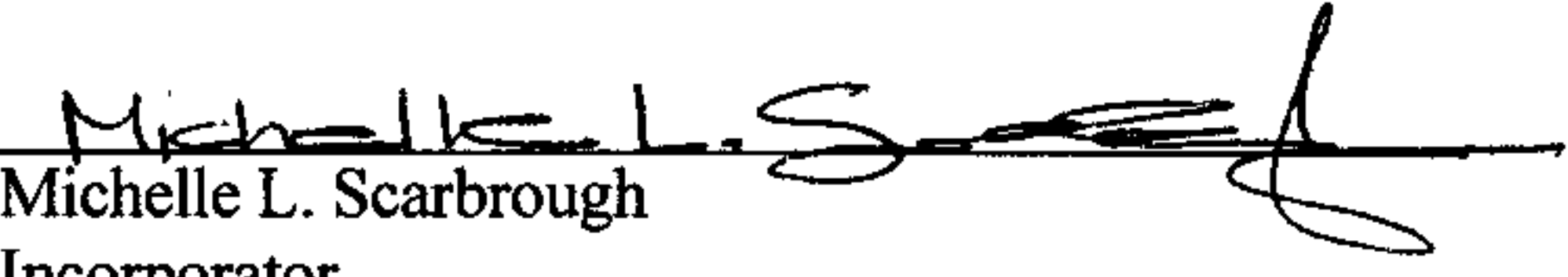
Michelle L. Scarbrough

420 North 20th Street, Suite 1600
Birmingham, Alabama 35203

15. DEATH OR DISQUALIFICATION OF A SHAREHOLDER. Upon the death of a shareholder of the Corporation, or if a shareholder of the Corporation ceases to be a Qualified Person, or if shares of the Corporation are transferred by operation of law or court decree to a person who is not a Qualified Person, the shares of such deceased shareholder or of such person who is not a Qualified Person may be transferred to a Qualified Person and, if not so transferred, shall be purchased or redeemed by the Corporation to the extent of funds which may be legally made available for such purchase, for the price and pursuant to the terms established in the bylaws of the Corporation or by private agreement. In the event the price at which such sale and purchase or redemption shall be made is not fixed as aforesaid, then the price for such shares shall be the book value thereof at the end of the month immediately preceding such death, transfer or disqualification. For the purpose of determining such price, book value shall be computed according to the cash receipts and disbursements method of accounting, and shall not include the accounts receivable or goodwill of the Corporation. Such book value shall be determined from the books and records of the Corporation by an independent certified public accountant employed by the Corporation for such purpose. The determination of book value by such certified public accountant shall be conclusive and binding upon the Corporation, its shareholders and the transferor.

16. AMENDMENTS. The Corporation reserves the right to amend, alter, change or repeal any provision contained in these Articles of Incorporation in the manner now or hereafter provided by law, and all rights conferred upon officers, directors and shareholders herein are granted subject to this reservation; provided, however, that no such amendment, alteration, change or repeal shall be effective without approval of a majority of the holders of the common shares of stock and that no such amendment, alteration, change or repeal upon which the holders of any class of common stock shall be entitled to vote as a class shall be effective without the approval of a majority of the holders of that class of common stock.

IN WITNESS WHEREOF, the undersigned Incorporator hereunto subscribed her name to these Articles of Incorporation on August 17, 2000.


Michelle L. Scarbrough
Incorporator

STATE OF ALABAMA

I, Jim Bennett, Secretary of State of the State of Alabama, having custody of the Great and Principal Seal of said State, do hereby certify that

pursuant to the provisions of Section 10-2B-4.02, Code of Alabama 1975, and upon an examination of the corporation records on file in this office, the following corporate name is reserved as available:

Drayton Smith, D.M.D., P.C.

This domestic corporation name is proposed to be incorporated in Shelby County and is for the exclusive use of Laurel B. Swope, 420 N 20th Street Ste 1600, Birmingham, AL 35203 for a period of one hundred twenty days beginning August 17, 2000 and expiring December 16, 2000.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State, at the Capitol, in the City of Montgomery, on this day.



August 17, 2000

Date

Jim Bennett

Secretary of State

1000-28124

Inst # 2000-28124

08/17/2000-28124
03:22 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
013 MMS 90.00