

ORDINANCE NO. 505

Whereas, an application for incorporation has been filed with the City Council of the City of Hamilton pursuant to Section 22-21-313 of the Code of Alabama, 1975;

Whereas, said application was accompanied by a Certificate of Incorporation of the proposed authority, pursuant to Section 22-21-313(a);

Whereas, the City Council of the City of Hamilton specifically declares that it is wise, expedient and necessary that the proposed authority be formed.

Be it ordained by the City Council of the City of Hamilton in the State of Alabama, as follows:

I. That the Marion County Health Care Authority be formed for the purpose of managing the county-wide hospital located in the City of Hamilton.

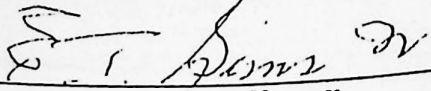
II. That the City assigns to said authority all of its right, title and interest in a ninety-nine year sub-lease of October 29, 1980, whereunder the County of Marion, a political subdivision, is the Lessor, and the City of Hamilton is the sub-lessee for a period of ninety-nine years.

III. That the intital Board of Directors of the Marion County Health Care Authority be as follows:

- | | | |
|-------------|---|---------------|
| Director #1 | - | Clyde S. Nix |
| Director #2 | - | Judy Wilson |
| Director #3 | - | Bobby Wallace |
| Director #4 | - | Al Tidwell |
| Director #5 | - | Ken Hammitte. |

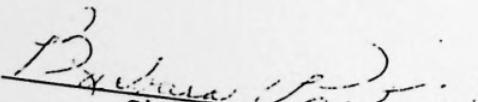
IV. This ordinance shall become effective on the 27th day of April, 1993.

Adopted and approved this 27th day of April, 1993.



Mayor

ATTEST:



City Clerk

April 22, 1993

Mayor
City Council
City of Hamilton
City Hall
Hamilton, Alabama 35570

Dear Mayor and Council:

This letter of application is written pursuant to Alabama Code § 22-21-313 for purposes of applying for and requesting approval of the Hamilton City Council to form and incorporate the Marion County Health Care Authority pursuant to the Health Care Authority Act of 1982, Alabama Code § 22-21-310, et seq., as amended. The purpose of the Authority will be to manage the county-wide hospital located in the City of Hamilton and in connection therewith, we would request that the City Council approve and enter into a long-term sublease with the Authority for the purpose of such operations. Pursuant to § 22-21-313 of the Code, the City Council is required to approve formation of this Authority.

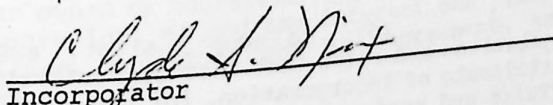
The undersigned incorporators are permanent resident citizens of the City of Hamilton, Alabama. We would request the formation of this Authority because it is needed to operate the hospital to arrange for the management of the hospital either directly or through a management company.

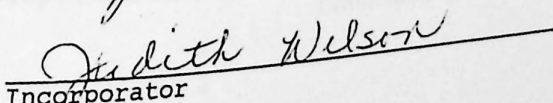
Pursuant to law, we would request that the City Council adopt a resolution declaring it is wise, expedient and necessary that the proposed Authority be formed, approving its Certificate of Incorporation and Bylaws which are attached hereto as Exhibit "A," and authorizing applicants to proceed to form the proposed Authority by filing for record a Certificate of Incorporation in accordance with the provisions of § 22-21-314 of the Code.

Should you have any questions about this matter, please do not hesitate to contact us. We would appreciate the speedy consideration and approval of this application.

Sincerely,


Incorporator


Incorporator


Incorporator

ARTICLES OF INCORPORATION
OF
THE MARION COUNTY HEALTH CARE AUTHORITY

1. The name of the Authority is the Marion County Health Care Authority ("the Authority").

2. The period of its duration is perpetual; provided, however, its existence may be terminated pursuant to the provisions pertaining to the dissolution of the Authority hereinafter set out and in accordance with the provisions of the §22-21-339 of the Health Care Authorities Act of 1982 pertaining to such dissolution.

3. The Authority is created pursuant to the Health Care Authorities Act of 1982, Ala. Code § 22-21-310 ("the Act"), et seq. by virtue of a resolution authorizing its existence passed by the City of Hamilton City Council.

a. The Authority shall possess and exercise all the powers and privileges granted by the Act and by any other law of the State of Alabama together with all powers necessary or convenient to the conduct, promotion or attainment of the activities or purposes of the Authority (limited only by the restrictions set forth in the Articles of Incorporation), including, but not limited to the following powers:

(1) To exercise all powers of eminent domain provided by the Act at Ala. Code § 22-21-339;

(2) To have succession by its corporate names for the duration of time, which may be in perpetuity, specified in its Articles of Incorporation or until dissolved as provided in section 22-21-319;

(3) To sue and be sued in its own name in civil suits and actions, and to defend suits and actions against it, including suits and actions ex delicto and ex contractu, subject, however, to the provisions of chapter 93 of Title 11, which chapter is hereby made applicable to the Authority;

(4) To adopt and make use of a corporate seal and to alter the same at pleasure;

(5) To adopt, alter, amend and repeal bylaws, regulations and rules, not inconsistent with the provisions of this Certificate of Incorporation, for the regulation and conduct of its affairs and business;

(6) To acquire, construct, reconstruct, equip, enlarge, expand, alter, repair, improve, maintain, equip, furnish and operate health care facilities at such place or places, within and without the boundaries of its authorizing subdivisions and within and without the state, as it considers necessary or advisable;

(7) To lease or otherwise make available any health care facilities or other of its properties and assets to such persons, firms, partnerships, associations or corporations and on such terms as the Board deems to be appropriate, to charge and collect rent or other fees or charges therefor and to terminate any such lease or other agreement upon the failure of the lessee or other party thereto to comply with any of its obligations thereunder;

(8) To receive, acquire, take and hold (whether by purchase, gift, transfer, foreclosure, lease, devise, option or otherwise) real and personal property of every description, or any interest therein, and to manage, improve and dispose of the same by any form of legal conveyance or transfer; provided however, that the Authority shall not, without the prior approval of the governing body of each authorizing subdivision, have the power to dispose of (i) substantially all of its assets, or (ii) any health care facilities the disposition of which would materially and significantly reduce or impair the level of hospital or health care services rendered by the Authority; and provided further, that the foregoing proviso shall not be construed to require the prior approval of any such governing body for the mortgage or pledge of all or substantially all its assets or of any of its health care facilities, for the foreclosure of any such mortgage or pledge or for any sale or other disposition thereunder;

(9) To mortgage, pledge or otherwise convey its property and its revenues from any source;

(10) To borrow money in order to provide funds for any lawful corporate function, use or purpose and, in evidence of such borrowing, to sell and issue interest-bearing securities in the manner provided and subject to the limitations set forth hereinafter;

(11) To pledge for payment of any of its securities any revenues (including proceeds from any hospital tax to which it may be entitled) and to mortgage or pledge any or all of its health care facilities or other assets or properties or any part or parts thereof, whether then owned or thereafter acquired, as security for the payment of the principal of and the interest and premium, if any, on any securities so issued and any agreements made in connection therewith;

(12) To provide instruction and training for, and to contract for the instruction and training of, nurses, technicians and other technical, professional and paramedical personnel;

(13) To select and appoint medical and dental staff members and others licensed to practice the healing arts and to delineate and define the privileges granted each such individual;

(14) To affiliate with, and to contract to provide training and clinical experience for students of, other institutions;

(15) To contract for the operation of any department, section, equipment or holdings of the Authority, and to enter into agreements with any person, firm or corporation for the management by said person, firm or corporation on behalf of the Authority of any of its properties or for the more efficient or economical performance of clerical, accounting, administrative and other functions relating to its health care facilities;

(16) To establish, collect and alter charges for services rendered and supplies furnished by it;

(17) To make all needful or appropriate rules and regulations for the conduct of any health care facilities and other properties owned or operated by it and to alter such rules and regulations;

(18) To provide for such insurance as the business of the Authority may require;

(19) To receive and accept from any source aid or contributions in the form of money, property, labor or other things of value, to be held, used and applied to carry out the purposes of this Certificate, subject to any lawful condition upon which any such aid or contributions may be given or made;

(20) To cooperate with the State Board of Health and the State Department of Mental Health and to make contracts with either of said agencies respecting the operation of any health care facilities or other properties owned or operated by it, whether as an agent for either or both of said agencies or otherwise;

(21) To enter into contracts with, to accept aid, loans and grants from, to cooperate with and to do any and all things not specifically prohibited by this Article or the Constitution of the state that may be necessary in order to avail itself of the aid and cooperation of the United States of America, the state, any county or municipality, or any agency, instrumentality or political subdivision of any of the foregoing in

furtherance of the purposes of this Article; to give such assurances, contractual or otherwise, to or for the benefit of any of the foregoing as may be required in connection with, or as conditions precedent to the receipt of, any such aid, loan or grant; and to take such action not in violation of law as may be necessary in order to qualify the Authority to receive funds appropriated by any of the foregoing;

(22) To give such assurances, contractual or otherwise, and to make such commitments and agreements as may be necessary or desirable to preclude the exercise of any rights of recovery with respect to, or the forfeiture of title to, any of its health care facilities or other property or any health care facilities or other property proposed to be acquired by it;

(23) To make and alter rules and regulations for the treatment of indigent patients;

(24) To assume any obligations of any entity that conveys and transfers to the Authority any health care facilities or other property, or interest therein, provided that such obligations appertain to the health care facilities, property or interest so conveyed and transferred to the Authority;

(25) To assume, establish, fund and maintain retirement, pension or other employee benefit plans for its employees;

(26) To appoint, employ, contract with, and provide for the compensation of, such employees and agents, including but not limited to, architects, attorneys, consultants, engineers, accountants, financial experts, fiscal agents and such other advisers, consultants and agents as the business of the Authority may require;

(27) To invest, in any trust fund established under and subject to the general laws of the State for investment or self-insurance purposes with investment authority as may be authorized by law for such trusts, any funds of the Authority available therefor;

(28) To the extent permitted by its contracts with the holders of its securities, to purchase securities out of any of its funds or moneys available therefor and to hold, cancel or resell such securities;

(29) To make any expenditure of any monies under its control that would, if the Authority were generally subject to state corporate income taxation, be considered an ordinary and necessary expense of the Authority within the meaning of section 40-18-35 and applicable regulations thereunder, and without limiting the generality of the foregoing, to expend its monies for

the recruitment of employees and physicians, dentists and other health care professionals and for the promotion of employee morale and well-being; provided however, that nothing herein contained shall be construed to permit the Authority (i) to increase the compensation of any of its officers or employees on a retroactive basis, (ii) to pay any extra compensation to any of its officers or employees for services theretofore rendered, (iii) to furnish free or below-cost office space to any nonhospital-based physician, dentist or other health care professional for use in his private practice, or (iv) to guarantee the income of any nonhospital-based physician, dentist or other health care professional in his private practice;

(30) To provide scholarships for students in training for work in the duties peculiar to health care;

(31) To enter into affiliation, cooperation, territorial, management or other similar arrangements with other institutions (public or private) for the sharing, division, allocation or exclusive furnishing of services, referral of patients, management of facilities and other similar activities;

(32) To exercise all powers granted hereunder in such manner as it may determine to be consistent with the purposes of this Article, notwithstanding that as a consequence of such exercise of such powers it engages in activities that may be deemed "anticompetitive" within the contemplation of the antitrust laws of the United States;

(33) To enter into such contracts, agreements, leases and other instruments, and to take such other actions, as may be necessary or convenient to accomplish any purpose for which the Authority was organized or to exercise any power expressly granted hereunder; and

(34) To do and perform all other acts and things which may be incidental to and come legitimately within the scope of any and all of the objects and purposes of the Authority or which may be necessary or appropriate for the carrying out and accomplishment of any and all of the objects and purposes of the Authority, and to have and exercise all rights and powers now conferred or which may hereafter be conferred on corporations not of a business character under the laws of the State of Alabama.

(35) To participate as a shareholder in a corporation, as a joint venturer in a joint venture, as a general or limited partner in a limited partnership or a general partnership, as a member in a nonprofit corporation or as a member of any other lawful form of business organization, which provides health care or engages in activities related thereto;

(36) To make or arrange for loans, contributions to capital and other debt and equity financing for the activities of any corporation of which such authority is a shareholder, any joint venture in which such authority is a joint venturer, any joint partnership or general partnership of which such authority is a general or limited partner, any nonprofit corporation in which such authority is a member or any other lawful form of business organization of which such authority is a member, and to guarantee loans and any other obligation for such purposes;

(37) To elect (i) all or any of the members of the board of directors of any corporation of which such authority is a member or of which any one or more of the members of the board of directors of such authority is an ex officio member (subject, however, to any contrary or inconsistent provision of the articles of incorporation or bylaws of such corporation), and (ii) all or any members of the board of directors of any corporation that has no members and whose articles of incorporation or bylaws provide for the election of one or more of the members of its board of directors from among members of the board of directors of such authority (subject, however, to any contrary or inconsistent provision of the articles of incorporation or bylaws of such nonprofit corporation); provided, however, that if the board of directors of an authority adopts, and files for record in the office of the judge of probate of that county in which its certificate of incorporation or certificate of reincorporation is filed, a certified copy of a resolution to such effect, the election by such authority of any member of the board of directors of any nonprofit corporation who it would otherwise have the right to elect shall be effective only upon the consent of the governing body of each authorizing subdivision with respect to such authority;

(38) To create, establish, acquire, operate or support subsidiaries and affiliates, either for profit or nonprofit, to assist such authority in fulfilling its purposes;

(39) To create, establish or support nonaffiliated for profit or nonprofit corporations or other lawful business organizations which operate and have as their purposes the furtherance of such authority's purposes;

(40) Without limiting the generality of the preceding subdivisions, to accomplish and facilitate the creation, establishment, acquisition, operation or support of any such subsidiary, affiliate, nonaffiliated corporation or other lawful business organization, by means of loans of funds, leases of real or personal property, gifts and grants of funds or guarantees of indebtedness of such subsidiaries, affiliates and non-affiliated corporations;

(41) To indemnify any person (including for purposes of this subdivision such person's estate and personal representatives) made or threatened to be made a party to any action or proceeding, whether civil or criminal, by reason of the fact that he or she is or was a board member, officer, or a physician acting as an agent of such authority in the performance of duties delegated by the board of directors as contained in the medical staff bylaws, medical staff rules and regulations, or policies adopted by the board of directors of such authority, or serves or served any other corporation or other entity or organization (whether for profit or not for profit) in any capacity at the request of the authority while he or she was a board member, officer of the authority, or a physician acting as an agent of such authority as stated above, against all judgments, fines, amounts paid in settlement and reasonable expenses (including, without limitation, attorneys' fees actually and necessarily incurred) as a result of any such action or proceeding, or any appeal therein; provided, however, that nothing herein shall be construed as permitting indemnification of any person:

(a) In connection with any malpractice action or proceeding arising out of or in any way connected with such person's practice of his profession;

(b) In connection with an action or proceeding by such authority in which a person is adjudged liable to such authority; or

(c) In connection with any other action or proceeding in which such person is adjudged liable on the basis that personal benefit was improperly received by such person.

42. To make any other indemnification now or hereafter authorized by law; and

43. To have and exercise all powers necessary or convenient to effect any or all of the purposes for which authorities are organized.) Acts 1990, No. 90-532, § 2.)

b. Anything herein contained to the contrary notwithstanding, the Authority shall not be operated for private profit and no part of the assets or the net earnings of the Authority shall at any time inure to the benefit of any Director, officer or other private person, except that the Authority shall be authorized and empowered to pay reasonable compensation for services rendered, to reimburse expenditures incurred in the performance of their duties by directors and officers and to make payments and distributions in furtherance of the objects and purposes set forth in this Article.

c. No substantial part of the activities of the Authority shall be the carrying on of propaganda, or otherwise

attempting to influence legislation, and the Authority shall not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of any candidate for public office.

d. The foregoing clauses of this Article shall be construed equally as objects, purposes and powers and the foregoing enumeration of specific objects, purposes or powers shall not be construed or held to limit or restrict in any manner the powers of the Authority expressly conferred by law, except as expressly stated.

4. The Authority is to have no stockholders.

5. The number of directors constituting the initial Board of Directors of the Authority shall be five (5). The names and addresses of the initial directors of the Authority are as follows:

<u>NAME</u>	<u>ADDRESS</u>
1. Kenneth Hammitte	Rt. 6, Box 214 Hamilton, AL 35570
2. Al Tidwell	P. O. Box 787 Hamilton, AL 35570
3. Clyde S. Nix	Rt. 4, Box 153 Hamilton, AL 35570
4. Bobby J. Wallace	P. O. Box 400 Hamilton, AL 35570
5. Judith F. Wilson	Rt. 6, Box 238 Hamilton, AL 35570

The number of directors constituting the Board of Directors of the Authority thereafter shall be determined in the manner set forth in the bylaws of the Authority.

6. The members of the first Board of Directors shall hold office until their death or resignation or until they are sooner removed from office as herein provided. Successor directors of the Authority shall be elected in the manner and for the term specified in the bylaws of the Authority.

7. Any member of the Board of Directors may be removed from office, with or without cause, by the affirmative vote of a majority of the directors of the Authority.

8. There shall be no personal or individual liability of any director or officer for any debts, liabilities or obligations of the Authority of any kind whatsoever.

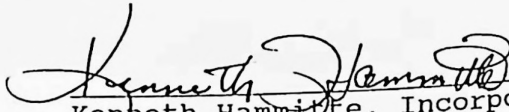
9. The initial registered office of the Authority shall be located at: 1513 South Military Street, Hamilton, Alabama 35570 and its mailing address shall be 1513 South Military Street, Hamilton, Alabama 35570. The name of the initial registered agent of the Authority at such address is Tom Moore.

10. The name and address of the incorporators of the Authority are Ken Hammitte, Clyde S. Nix, Al Tidwell, Bobby J. Wallace and Judith F. Wilson, all of whom are permanent resident citizens of the City of Hamilton, Alabama.

11. The Articles of Incorporation may be amended from time to time in accordance with the terms and provisions of the Act; provided, however, that no such amendment shall be made which would in any way result in the operation of the Authority for the private advantage of pecuniary profit of any director thereof or permit the operation of the Authority for any purpose other than those permitted by the Act.

12. At all times, the Hospital operated by the Authority shall remain the County Hospital as previously designated.

The undersigned, acting as incorporator of the Authority named herein in accordance with the Act, executes the Articles of Incorporation this 27th day of APRIL, 1993.

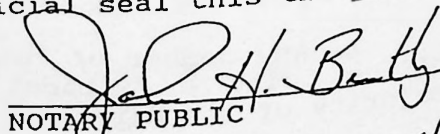

Kenneth Hammitte, Incorporator

STATE OF ALABAMA)

COUNTY OF MARION)

I, the undersigned, a Notary Public, in and for said County, in said State, do hereby certify that Kenneth Hammitte, an individual whose name is signed to the foregoing Articles of Incorporation, and who is known to me, acknowledged before me on this day, that, being informed of the contents of said Articles, he/she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 27th day of APRIL, 1993.


NOTARY PUBLIC

MY COMMISSION EXPIRES: 7/1/96

Al Tidwell
Al Tidwell, Incorporator

STATE OF ALABAMA)
COUNTY OF MARION)

I, the undersigned, a Notary Public, in and for said County, in said State, do hereby certify that Al Tidwell, an individual whose name is signed to the foregoing Articles of Incorporation, and who is known to me, acknowledged before me on this day, that, being informed of the contents of said Articles, he/she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 27th day of APRIL, 1993.

J. H. Bentley
NOTARY PUBLIC
MY COMMISSION EXPIRES: 7/1/96

Clyde S. Nix
Clyde S. Nix, Incorporator

STATE OF ALABAMA)
COUNTY OF MARION)

I, the undersigned, a Notary Public, in and for said County, in said State, do hereby certify that Clyde S. Nix, an individual whose name is signed to the foregoing Articles of Incorporation, and who is known to me, acknowledged before me on this day, that, being informed of the contents of said Articles, he/she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 27th day of APRIL, 1993.

J. H. Bentley
NOTARY PUBLIC
MY COMMISSION EXPIRES: 7/1/96

Bobby J. Wallace
Bobby J. Wallace, Incorporator

STATE OF ALABAMA)
COUNTY OF MARION)

I, the undersigned, a Notary Public, in and for said County, in said State, do hereby certify that Bobby J. Wallace, an individual whose name is signed to the foregoing Articles of Incorporation, and who is known to me, acknowledged before me on this day, that, being informed of the contents of said Articles, he/she executed the same voluntarily on the day the same bears date.

Judith F. Wilson
Judith F. Wilson, Incorporator

STATE OF ALABAMA)
COUNTY OF *MARION*)

I, the undersigned, a Notary Public, in and for said County, in said State, do hereby certify that Judith F. Wilson, an individual whose name is signed to the foregoing Articles of Incorporation, and who is known to me, acknowledged before me on this day, that, being informed of the contents of said Articles, he/she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 27th day of APRIL, 1993.

J. R. Bentley
NOTARY PUBLIC
MY COMMISSION EXPIRES: 7/1/96

STATE OF ALABAMA)
COUNTY OF MARION)

ASSIGNMENT

COMES NOW the City of Hamilton, a municipal corporation, in return for good and valuable consideration, the receipt whereof as hereby acknowledged does hereby assign, convey, transfer, and grant all of its rights, title and interest in a ninety-nine (99) year sublease of October 29, 1980 whereunder the County of Marion, a political subdivision, is the lessor, and the City of Hamilton is the sublessee for a period of ninety-nine (99) years, to have and hold the real estate. This sublease is attached hereto as Exhibit "A" and incorporated herein by reference.

In making this assignment, it is the full intent of the assignor, the City of Hamilton, Alabama, to grant, convey and transfer all its rights, title and interest in such sublease to the Marion County Health Authority for its benefit, use and operation of said hospital during the remaining years of said sublease.

Marion County Health Care Authority does hereby accept by execution of this Assignment, the rights and obligations therewith.

DONE this the 28th day of APRIL, 1993.

CITY OF HAMILTON
E. T. [Signature]
BY:
ITS:
MARION COUNTY HEALTH CARE AUTHORITY

FILED
MAR 23 AM 9:20