

AMENDED AND RESTATED BYLAWS OF THE FLORIDA PDMP FOUNDATION, INC.

A Florida Not-For-Profit-Corporation Established as A Direct Support Organization of the Florida Department of Health

ARTICLE I NAME

The name of the Corporation shall be: THE FLORIDA PDMP FOUNDATION, INC. (hereafter the "Foundation").

ARTICLE II PRINCIPLE OFFICE

- a. Principal Office: The principal office of the Foundation in the State of Florida shall be located in Seminole, Florida, County of Pinellas.
- b. Other Offices: The Foundation may have such other office(s) at such suitable place(s) within the State of Florida as may be designated from time to time by the Board of Directors.

ARTICLE III PURPOSE

The Foundation is established to operate as a Direct Support Organization of the Florida Department of Health ("FLDOH") as provided by section 893.055(15), Florida Statutes, and shall operate exclusively for the direct or indirect benefit of the Florida Department of Health and Florida's Prescription Drug Monitoring Program ("PDMP") and must at all times operate in a manner consistent with the goals of the FLDOH and the best interests of the State of Florida. The Foundation shall provide direct-support to the FLDOH in carrying out its mission, in compliance with the requirements of Section 893.055, Florida Statutes. The Foundation shall act in accordance with the goals of the PDMP and in the best interests of the State as determined by the FLDOH. The Foundation is organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold and invest, in its own name, securities, funds, objects of value, or other property, either real or personal, and make expenditures or provide funding to or for the direct or indirect benefit of the FLDOH in furtherance of the Prescription Drug Monitoring Program (as more particularly described in Section 893.055, Florida Statutes and any subsequent successor Statutes). Pursuant to Section 893.055(15), Florida Statutes: and, consistent with the above, to exercise all powers available to not-for-profit corporations under Section 617.0302 of the Florida Not for Profit Corporation Act. Provided; however, pursuant to Section 893.055(7) (e.), the Foundation may not exercise any power under Section 617.0302(12) or (16), Florida Statutes. The purposes of the Foundation are to engage in charitable activities, within the meaning of Section 501(c)(3) and Section 170 of the Internal Revenue Code of 1986, as amended, and the applicable rules and regulations thereunder (the "Code"), together with all other activities permitted by Section 617.01011 et seq. of the Florida Not For Profit Corporation Act, as amended, which further its exempt purposes, as specified herein, including, but not limited to, the payment of overhead expenses, administrative costs, and reasonable salaries to its officers and employees where necessary to carry out the exempt purposes of the Foundation. The purposes for which this Foundation is organized shall be limited to those which are strictly charitable within the meaning of Section 501(c)(3) of the Code. Provided, however, that: (i) no part of the net earnings of the Foundation shall inure to the benefit of any member of the Foundation or other individual; (ii) no substantial part of the activities shall consist of carrying on propaganda or otherwise attempting to influence legislation; and (iii) the Foundation shall not conduct its business or affairs in such a

manner as to discriminate against any person on the basis of race, color, religion, sex, or age. It is the specific intention of the Board of Directors that the purposes and application of the Foundation be as broad as permitted by Section 617.0301 F.S, of the Not For Profit Corporation Act, but only to the extent that the Foundation qualifies as a tax exempt organization within the meaning of Section 501(c)(3) and Section 170 of the Code. In no event shall the Foundation engage in any activity which would be contrary to the purposes and activities: (1) permitted to be engaged in by any organization the activities of which are exempt from federal income tax under Section 501(c)(3) of the Code; or (2) of a corporation, contributions to which are deductible under Section 170(c)(2) of the Code, as hereafter amended, and the applicable rules and regulations thereunder. The Foundation shall not participate in or intervene in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office, nor shall the Foundation engage in subversive activities. The Foundation shall not be operated for the primary purpose of carrying on an unrelated trade or business as defined in Section 513 of the Code and the applicable rules and regulations thereunder. No compensation shall be paid to any officer, director, trustee, creator or organizer of the Foundation or substantial contributor to it except as a reasonable allowance for services actually rendered to or for the Foundation. The Foundation is organized to serve public interests. Accordingly, it shall not be operated for the benefit of private interests.

ARTICLE IV OPERATING AGREEMENT & ANNUAL DEPARTMENT CERTIFICATION

The Foundation shall operate under written contract (the "Contract") with the Florida Department of Health pursuant to Paragraph 15(c) of Section 893.055, F.S. Among the other requirements of the Contract, the Foundation must obtain certification by the Florida Department of Health that the Foundation is complying with the terms of the Contract in a manner consistent with and in furtherance of the goals and purposes of the Prescription Drug Monitoring Program (more particularly described in Section 893.055, F.S.) and in the best interest of the State of Florida. Such certification must be made annually and reported in the official minutes of a meeting of the Foundation.

ARTICLE V BOARD OF DIRECTORS

- a. Creation: The individuals listed in the Articles of Incorporation, as amended, shall comprise the members of the Board of Directors, with subsequent members appointed by the State Surgeon General pursuant to Paragraph 15(c) of Section 893.055, F.S. The Board of Directors of the Foundation is subject to the Contract between the Foundation and the Florida Department of Health and is subject to annual certification by the FLDOH.
- b. Manner of Appointment and Terms: The manner of appointment and terms of the members of the Board of Directors shall be in accordance with the Articles of Incorporation.
- c. Qualifications: Board members do not have to be a current resident of the state of Florida, but must be a resident of the United States of America. The Directors shall receive no compensation; except for reasonable reimbursement of authorized travel expenses not exceeding the reimbursement authorized for State of Florida employees. Each member of the Board should have demonstrated active interest in the principle objectives, concepts, and goals of the Foundation and the ability or desire to raise funds. Further, membership in the Board should incorporate representation of skills, knowledge and/or background in the areas of community service, local and state knowledge of government and other funding mechanisms, the general community and other

areas deemed appropriate. No person shall be denied membership on the Board of Directors by reason of race, creed, national origin, age, disability, color marital status, sex or religion.

Membership on the Board of Directors may include: state employees other than state employees from the Department of Health, and any other non-state employees as appropriate to serve on the Board e.g. health care practitioners licensed under Chapters 458, 459, 461, 462, 463, 464, 465, and 466, Florida Statutes and those members of the public who are interested in improving patient standard of care and reducing controlled prescription drug abuse and controlled prescription drug diversion.

d. Powers: The Foundation shall have all powers authorized under section 617.0302 and 617.0303, F.S., and shall exercise that power through the Board of Directors, or persons designated in the Articles of Incorporation, these Bylaws, or Board resolution.

e. Vacancies: Vacancies as they occur on the Board of Directors by removal, resignation, death, incapacity, or the like of one or more of the members thereof, shall be filled by the State Surgeon General in accordance with the requirements set forth in the Articles of Incorporation, (893.055(15)(c), F.S.).

f. Resignation: Any Director may resign at any time by giving written notice to the Chairperson of the Board. Such resignation shall take effect at the time specified therein, or, if no time is specified, at the time of acceptance thereof, as determined by the Chair of the Board of Directors. All Board resignations shall be forwarded to the State Surgeon General who shall make a new appointment to fill the vacant Board position.

g. Quorum: A simple majority of the Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. An affirmative vote of a majority of Directors constituting such quorum shall be necessary to take any official action. All votes will be recorded in the meeting's minutes.

h. Compensation: Directors shall not receive any compensation for service as Director. The Board of Directors may authorize reimbursement expenses incurred by Directors in connection with Board business or other activities directly related to the Foundation, including travel, at rates comparable to those authorized for state of Florida officers and employees.

ARTICLE VI BOARD MEETINGS

a. Meetings: The Board of Directors of the Foundation shall meet at least four (4) times a year live or by electronic conferencing. One of the meetings shall be the annual meeting of the Board of Directors. The executive director in cooperation with the Chair shall develop the Board meeting agenda. The agenda shall be forwarded to the Board of Directors electronically at least seven days prior to the scheduled meeting. The agenda will also be placed on the Foundation website for public review. Notice of the meeting will be published in the Florida Administrative Registry at least two weeks prior to the meeting date.

b. Special Meetings: Special meetings of the Board of Directors may be called at the direction of the Foundation Executive Director or the Chair of the Board to be held at such time, day, and place as shall be designated in the notice of the meeting.

c. Quorum: As stated in Article V g., a simple majority of all sitting Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. Directors may attend meetings of the Board by phone, with attendance counted towards a quorum. All such Directors shall be deemed to be present in person at such a meeting.

d. Manner of Acting: Section 1: The vote of a majority of the Directors at a meeting of the Board of Directors shall be the act of the Board of Directors. In the absence of a quorum, any action taken shall be a recommendation only, but may be valid if subsequently confirmed by a majority vote, in conformance with quorum requirements, of the Board of Directors. Section 2: Each Director shall be entitled to one (1) vote in a matter coming before the Board. Directors may vote by proxy. Directors may participate in a meeting by means of a conference telephone call or similar communication equipment whereby all persons participating can hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

e. Attendance/Presumption of Assent: Board members are responsible for the effective management of the Foundation. Therefore, the active involvement at Board meetings is essential. Members missing more than two meetings within one year may be required by the Board of Directors to resign from the Board. Mitigating circumstances will be considered. Meeting structure may include telephone conference calls. A Director of the Foundation who is present at a meeting of the Board at which action on any Foundation matter is taken shall be conclusively presumed to have assented to the action taken unless his or her dissent shall be entered into the minutes of the meetings.

f. Notice; Waiver of Notice: Notice of Board meetings shall be given by the Executive Director of the Foundation at the request of any person authorized under these Bylaws; Sunshine Law notification is required also. Whenever any notice of a meeting of the Board of Directors is required to be given under provisions of the Articles of Incorporation or these Bylaws, such notice shall be given either personally, by telephone, facsimile, e-mail, or mail addressed to the director at his or her address as it appears on the records of the Foundation and, unless otherwise provided in these Bylaws, at least ten days before the date designated for such meeting. A waiver of notice, in writing, signed by the person or persons entitled to such notice and filed with the records of the meeting, whether before or after the holding thereof, shall be equivalent to the giving of such notice. Notice shall be deemed given at the time when the same is personally delivered, deposited in the United States mail, with postage thereon prepaid, transmitted by facsimile, or sent by e-mail. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting. Presence at any meeting without objection shall constitute waiver of any required notice.

g. Sunshine Law Compliance: Notwithstanding anything to the contrary in these Bylaws, the Board of Directors of the Foundation shall conduct its activities and its meetings (regular and special) in accordance with the Florida Open Meetings Laws (also Florida Sunshine Law) as set forth in Article I, Section 24 of the Florida Constitution as it may exist from time to time and in Florida Statutes Chapter 286.011 as amended or restated from time to time, and must comply with all applicable requirements of Chapter 26, Florida Statutes, including, but not limited to: • Meetings of

the Board of Directors must be open to public; • Notice of such meetings must be given as set forth in such laws; and • Minutes of the meetings must be taken and published for public review.

ARTICLE VII BOARD OFFICERS; EXECUTIVE COMMITTEE

Section 1. Officers: The officers of the Foundation shall consist of a Chair, Vice Chair, Secretary and Treasurer, each of whom shall be elected annually by the Board of Directors at the Annual Meeting of the Board of Directors, and shall serve until their successors are chosen and qualify. Such other officers and assistant officers and agents as may be deemed necessary may be elected or appointed by the Board of Directors from time to time. The Executive Director shall serve as an ex-officio member of the Board without vote. Any two (2) or more offices may be held by the same person. The failure to elect a Chair, Vice Chair, Secretary or Treasurer shall not affect the existence of the Foundation.

Section 2. Chair: The Chair shall be the chief executive officer of the Foundation and shall preside at all meetings of the members and Board of Directors. The Chair shall coordinate with the Executive Director the general management of the affairs of the Foundation and shall see that all orders and resolutions of the Board of Directors are carried into effect.

Section 3. Vice Chair: During the absence or disability of the Chair, the Vice Chair shall have all the powers and functions of the Chair. The Vice Chair shall perform such other duties as the Board of Directors shall prescribe.

Section 4. Secretary: The Secretary shall provide the initial review of the minutes of the meetings of the Board of Directors in conjunction with the Executive Director and shall assign the custody of the seal of the Foundation to such administrative staff of the Foundation as appropriate. The Secretary shall have the power to affix and attest the seal of the Foundation to documents when duly authorized by the Board of Directors. The Secretary shall review with the Executive Director the giving and serving of all notices of the Foundation, and shall, in cooperation with the Executive Director, assign and supervise the custody and keeping of such books and papers as the Board of Directors may direct. The Secretary shall also coordinate with the Executive Director such correspondence as may be assigned, and perform or assign and supervise all duties incidental to the office.

Section 5. Treasurer: The Treasurer shall have the care and custody of the funds and securities of the Foundation, and shall deposit or designate in writing the Executive Director to deposit said funds in the name and to the credit of the Foundation in such bank or trust company as the Board of Directors may elect; and shall, when duly authorized by the Board of Directors sign and execute all contracts in the name of the Foundation, when countersigned by the Chair or Executive Director or their designee; and shall also sign or designate in writing the Executive Director to sign in the Treasurer's place all checks, drafts, notes and orders for payment of money, which shall be duly authorized by the Board of Directors. Any payment in excess of \$5,000.00 shall require signatures by two (2) authorized signers to include either of the Chair, the Treasurer and the Executive Director. The Treasurer shall, with the approval of the Chair, direct in writing the Executive Director to provide the financial statements to any Director of the Foundation upon request within three (3) business days. At the end of each corporate or fiscal year, the Treasurer shall designate in writing the Executive Director to have an audit of the accounts for the Foundation made by a Certified Public Accountant approved by the Board of Directors, and shall present such audit in writing at the regular annual meeting of the Board of Directors and at which time shall also present an annual report setting forth

in full the financial condition for the Foundation. The annual audit and the annual report shall be presented in writing to the Florida Department of Health and Department of Financial Services of the State of Florida.

Section 6. Executive Committee: The Executive Committee, shall consist of the Board Officers with an additional Director as a member at large. Board Officers and members of the Executive Committee may be removed or replaced at any time with or without cause by the Board of Directors. Except where its actions would be prohibited by law, or in conflict with the Operating Agreement (the Contract between the Foundation and the Florida Department of Health), the Articles of Incorporation, these Bylaws or a resolution of the full Board of Directors, the Executive Committee shall have complete authority to conduct the Foundation's business between meetings of the Board, without additional Board authorization. The Executive Committee shall meet at the call of the Chair or Vice Chair of the Foundation. Executive Committee meetings may be held live or via electronic conferencing. A majority vote of the Executive Committee shall be the will and the act of the committee.

Section 7. Committees: The Board of Directors may, from amongst its members, establish one or more committees as may be deemed necessary to carry out the purposes of the Foundation, each with the authority to perform duties as prescribed by the Board of Directors. The chair shall appoint one Board member as chair of all appointed committees.

Article VIII FOUNDATION OFFICERS AND PROGRAM STAFF

The Board may employ or designate a person as Executive Director to oversee the daily operation of the Foundation and program implementation. The Executive Director shall act as Chief Operating and Development Officer of the Foundation. Program staff may also be hired to manage and administer Foundation programs as set forth by the Board. The Executive Director and all Foundation staff shall be employed as independent contractors and not full-time employees. The Board shall terminate or remove the Executive Director and/or program staff as it deems appropriate.

Article IX FISCAL PROCEDURE

Section 1. Annual Budget: The Executive Director in consultation with the Budget Committee shall develop a preliminary budget taking into account the projected revenue and program and operating expenses for the fiscal year. The Budget Committee shall then submit its proposed budget to the Executive Committee for review. The Executive Committee shall, after its review and revision, submit the proposed annual budget to the Board. The final adopted budget shall be forwarded by the Board of Directors to the Department of Health for its review and approval.

Section 2. Depository: The Executive Committee shall designate a depository or depositories in which funds of the Foundation shall be maintained. The Executive committee may make determinations as to how funds not immediately needed shall be invested in a manner, which will maximize earnings of the Foundation while at the same time retaining sufficient liquidity for carrying out the objectives of the Foundation.

Section 3. Disbursements: Disbursements from Foundation funds shall only be made pursuant to the approved budget and shall require a written request identifying the payee, the nature of the disbursement and the program to which the disbursement is to be charged. All disbursements by check for more than

\$5,000 shall require signatures by two authorized signers which shall include the Chair, the Treasurer and the Executive Director.

Section 4. Records: The Treasurer in cooperation with the Executive Director shall maintain at the office of the Foundation, or a location approved by the Board, the records of all receipts and disbursements of the Foundation in sufficient detail to permit a complete accounting for the reconciliation of all receipts and expenditures. These records will be audited annually by an independent firm of certified public accountants. The Treasurer shall make a report of financial activities of the Foundation at each meeting of the Executive Committee and the Board of Directors.

Section 5. Annual Audit: The Foundation shall make provision for an annual audit of its financial accounts to be conducted by an independent certified public accountant.

ARTICLE X MEMBERS; PARTNERS; SUPPORTERS; AFFILIATIONS

The Foundation may have one or more categories of members, partners and supporters as may be approved by resolution of the Board of Directors from time to time. All memberships of any type shall be non-voting. In addition, the Foundation may affiliate with other organizations at the state, national, or local level and may form additional related organizations where it would further the purposes of the Foundation to do so.

ARTICLE XI THE FISCAL YEAR

The fiscal year of the Foundation shall commence July 1 of each calendar year and terminate on June 30 of the following calendar year.

ARTICLE XII SEAL

The Board of Directors of the Foundation may authorize the creation of its own seal, may request permission of the FLDOH to use its seal and may upon appropriate authorization use the Great Seal of the State of Florida.

ARTICLE XIII INDEMNIFICATION AND LIMITS ON LIABILITY

a. Indemnification: Unless otherwise prohibited by law, the Foundation shall fully indemnify any Officer, Employee, Contract Service provider or Board Member who is made, or threatened to be made, a party to an action, suit or proceeding (whether civil, criminal, administrative, or investigative) by reason of the fact that such Officer, Employee, Contractor, or Board Member or such person's testator or intestate estate, is or was a director, officer, employee or agent of the Foundation or serves or served any other enterprise at the request of the Foundation, against all expenses (including attorney's fees), judgments, fines and amounts paid or to be paid in the settlement incurred in connection with such action, suit, or proceeding. Unless otherwise expressly prohibited by law, the Foundation shall have the option of providing a defense or reimbursing for the expenses of a defense.

b. Limitation of Liability: Section 1: Furthermore, in any proceeding against an officer, employee, contract service provider or director who receives compensation for his or her services as such, the damages assessed arising out of a single transaction, occurrence or course of conduct shall not

exceed the amount of compensation received by the officer or director from the Foundation during the twelve months immediately preceding the act or omission for which liability was imposed. An officer or director who serves the Foundation without compensation for his or her services shall not be liable for damages in any such proceeding. Notwithstanding the foregoing, the liability of an officer or director shall not be limited as provided in this section if the officer or director engaged in willful misconduct or a knowing violation of the criminal law. Section 2: The Foundation shall keep Directors and Officers insurance for Board members.

ARTICLE XIV CERTIFICATION

In compliance with Chapter 893.055 (15) 7(F.S.). it is required that the Department of Health provide certification that the direct-support organization is complying with the terms of the contract in a manner consistent with and in furtherance of the goals and purposes of the prescription drug monitoring program and in the best interests of the state. Such certification must be made annually and reported in the official minutes of a meeting of the direct-support organization.

ARTICLE XV BOOKS AND RECORDS

The Foundation shall keep complete books and records of account, and shall keep minutes of the proceedings of its members, Board of Directors, the Executive Committee and each other committee of the Board of Directors. The books and records of accounts will be subject to an annual audit as required by Section 215.98, F.S. Audit findings will be made available to the Board of Directors, the Department of Revenue and the Florida Department of Health pursuant to the Articles of Incorporation.

ARTICLE XVI AMENDMENTS TO BYLAWS

These Bylaws may be amended by a majority vote at any meeting of the Board of Directors and must be approved by the Florida Department of Health. No action shall be taken to amend these Bylaws unless written notice (email is acceptable) of the action to be approved shall have been discussed at a previous meeting of the Board of Directors or distributed to the Board of Directors at least seven (7) days prior to the meeting of the members of the Board where action will be taken.

ARTICLE XVII PUBLIC RECORDS

The Foundation shall make its records available in accordance with Chapter 119, F.S., and the exemptions thereto, and the Florida laws governing the maintenance of corporate records under Chapter 617, F.S.

ARTICLE XVIII GOVERNING LAWS

The Foundation shall be governed by the corporate and general laws of the State of Florida.

ARTICLE XIX DISSOLUTION

Upon the liquidation or dissolution of the Foundation, its assets, if any, remaining after payment (or provision for payment) of all liabilities of the Foundation, shall revert to the Florida Department of Health or to the State of Florida if the Florida Department of Health no longer exists. Any such assets not so disposed of shall be disposed of by the circuit court of the county in which the principal office of the Foundation is located, exclusively for such purposes described herein, or to such organization or organizations, as said court shall determine, which are organized and operated exclusively for charitable, educational or scientific

purposes and which have a mission and purpose substantially similar to this. No part of the assets or the net earnings current or accumulated of the Foundation shall inure to the benefit of a private individual.

THESE AMENDED AND RESTATED BYLAWS are hereby accepted and approved by the Florida Department of Health and by majority vote of the Board of Directors of The Florida PDMP Foundation, Inc. at its meeting held this ____ day of ____, 2020. Witness the Hand and Seal of:

_____, Jill Rosenthal, MD, MPH, Chair of the Board

_____ Date

_____, Lee Ann Brown, DO, Secretary of the Board

_____ Date