

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Chief Executive Office

BOARD AGENDA # B-7

Urgent

Routine

AGENDA DATE May 5, 2009

CEO Concurs with Recommendation YES NO

4/5 Vote Required YES NO

(Information Attached)

SUBJECT:

Approval to Develop and Join a Consortium Organization as a Nonprofit Public Benefit Corporation Under Section 501(c)(3) of the Internal Revenue Code and Section 214 of the California Revenue and Taxation Code for the Purpose of Graduate Medical Education; and, to Transfer the Sponsorship of the Stanislaus Family Medicine Residency Program to the Consortium

STAFF RECOMMENDATIONS:

1. Authorize the development and joining of a Consortium organization as a Nonprofit Public Benefit Corporation under Section 501(c)(3) of the Internal Revenue Code and Section 214 of the California Revenue and Taxation Code, for the purpose of Graduate Medical Education; and to transfer the Sponsorship of the Stanislaus Family Medicine Residency Program to the Consortium.
2. Authorize the Chief Executive Officer or his designee to approve the Articles of Incorporation and initial bylaws of the Consortium organization on behalf of Stanislaus County.

(Continued on Page 2)

FISCAL IMPACT:

The current Fiscal Year 2008-2009 Clinic and Ancillary division budget is \$49,282,147. The Residency program budget is contained within the larger Clinic and Ancillary Budget. The Family Practice Residency Program direct program costs were approximately \$4.2 million last year. Until recent actions by the Federal Government's Centers for Medicare and Medicaid Services (CMS), Graduate Medical Education funding of approximately \$2.7 million per year offset most of the cost of the program, with the County and Doctors Medical Center sharing equally in the remaining costs, or shortfall, not covered by the federal reimbursement through the hospital.

(Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2009-300

On motion of Supervisor Grover, Seconded by Supervisor Monteith

and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Grover, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

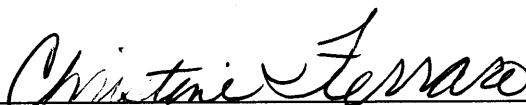
4) Other:

MOTION:

ATTEST:

CHRISTINE FERRARO TALLMAN, Clerk

File No.



Approval to Finalize the Development of a Not-For-Profit Consortium Organization and to Participate on the Board of Directors of the Consortium for the purpose of Graduate Medical Education and to transfer the Sponsorship of the Stanislaus Family Medicine Residency Program to the Consortium

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STAFF RECOMMENDATIONS (Continued):

3. Authorize the Chief Executive Officer to appoint representatives to fill the seats on the Consortium Board of Directors designated for Stanislaus County in accordance with the bylaws of the Consortium organization.
4. Authorize the Chief Executive Officer or his designee to perform activities necessary to cause the transfer of the Sponsorship of the Stanislaus Family Medicine Residency Program to the Consortium organization.
5. Authorize the Chief Executive Officer or his designee to enter Affiliation Agreements with the Consortium, as applicable and as may be necessary for Accreditation, funding and expense sharing arrangements, and management and employment arrangements.
6. Authorize the Chief Executive Officer or his designee to amend the existing contract for legal services with Davis Wright Tremaine LLP increasing the maximum amount payable by \$100,000 for continued legal services to the county and the Consortium for this effort, to be funded from existing budgeted appropriations.

FISCAL IMPACT (Continued):

The clinic budget includes one-half of the shared operating shortfall, which is reconciled equally between Doctors Medical Center and the Health Services Agency. For Fiscal Year 2008-2009, the Health Services Agency's share was originally budgeted in the amount of \$876,000 assuming continued federal funding. Given the mid-year recoupment and termination of current and future federal funding, that projected amount was increased by \$739,000 for each party. The development of the Consortium does not initially modify this sharing arrangement for the Family Medicine program. Initial development costs of the Consortium are projected to be approximately \$275,000, which would be shared amongst the Consortium participants and is based on the Family Medicine program as the start-up physician residency in the new Consortium model. Should the Consortium determine that additional programs for different specialties such as Emergency Medicine, Internal Medicine and Surgery, for example, are feasible and beneficial for the community, program development costs would be in addition to the \$275,000 initial estimated cost. The sharing of such additional costs would be negotiated between the Consortium Board and the participant organizations and then memorialized in affiliation agreements between the parties, however conceptually would be based upon the degree to which the participant organizations in the Consortium individually benefit from such specialties. For instance, the Family Medicine program is an essential component of the County's primary care clinics of the Health Services

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Agency, however a residency program in Emergency Medicine or another hospital based program, would not lend the same degree of benefit.

The Health Services Agency's Clinic and Ancillary Budget for the current fiscal year was balanced with the planned County General Fund contribution of \$4,617,204. Based on operating performance through March of 2009, the Clinic and Ancillary budget will require less than the planned General Fund contribution to break even. Since the projected fund balance is an amount greater than the projected development costs for the Consortium, staff proposes the use of existing Health Services Agency Clinic and Ancillary budget appropriations to fund the Stanislaus County and Stanislaus County Community Health Centers share of the development costs, resulting in no additional net impact from this recommended action.

On-going development expenses would be included in the final budget for Fiscal Year 2009-2010. With respect to the ongoing operation of the existing Family Medicine Residency program, in the Board of Supervisors action on March 24, 2009, the projected operating shortfall for the 2009-2010 Fiscal Year of \$764,000 was planned for and included in the borrowing from the Tobacco Securitization Fund. The preliminary estimates of the on-going costs of the Family Medicine Residency program under the consortium model are projected to be approximately equivalent to the historical shortfall after federal funding. The net cost would be dependent upon the distribution and posting of costs through the participating organizations. This manner of cost reporting in order to capture federal funding will be subject to the funding and expense sharing agreements to be negotiated with the participating organizations in the consortium.

DISCUSSION:

Background

Stanislaus County has provided health services to its underserved communities since 1893 when the first Stanislaus County hospital was built. The focus of the County government health system was compassionate, quality care to those in need.

The County's first physician residency training program was formed in 1935 and was affiliated with Stanford University. In 1975, the current Family Medicine Residency Program was established in affiliation with the University of California, Davis system. The Residency Program is a three year training program in the primary care area of Family Medicine. Completion of the Residency Program enables a licensed physician to take the Family Medicine Board exam to become "Board Certified." The program, now called the Stanislaus Family Medicine Residency Program, is a fully accredited program with the Accreditation Council for Graduate Medical Education (ACGME) and is noted for its gifted, diverse and culturally sensitive physicians. A critical component of the County's 1975 decision to participate in a family medicine residency program was to

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meet the ever-increasing local demand for obstetrical care for Medicaid (Medi-Cal) patients. The Residency Program also has focused on providing well-rounded training for residents to facilitate their operating independently in medically underserved areas, which includes delivering babies. The Residency Program, which has graduated 232 new primary care physicians since 1975, currently trains 27 residents a year.

From 1975 to 1997, the County operated the Residency Program through the County-owned Stanislaus Medical Center and seven healthcare sites. In the 1990s, the Board of Supervisors was faced with the multiple challenges of the defection of patients with commercial coverage to expanded private hospitals in the area, with the resulting payer mix affording little opportunity to break even, and rising costs of technology and labor. However, California's dramatically changing seismic requirements for facilities presented perhaps the greatest financial challenge to the County, prompting the Board of Supervisors in 1995 to conclude it would be too costly to renovate or rebuild the 1940s vintage medical center to satisfy State-mandated earthquake safety measures.

In light of these substantial challenges, the County took measures to close the County hospital and in November 1997, entered into an agreement with Doctors Medical Center (DMC) whereby DMC became the principal teaching hospital for the Residency Program. The residents and faculty carried forward the same responsibilities that were in place at the former County hospital, including responsibilities for unassigned patients requiring admission through the emergency room. The faculty and residents continued to provide outpatient services provided by the Residency Program and to continue providing care for the County's indigent patients through the Health Services Agency's ambulatory care clinics, which are staffed primarily with residents and faculty from the Residency Program. The Residency Program agreement includes funding commitments, as follows:

"II.A. Grant Commitment. HSA agrees that it will contribute to DMC by way of grant, an amount equal to 50% of the Agreed Formula Amount as defined below (such grant amount, the "Grant") for each Fiscal Year (or part thereof) during the term of this Agreement, commencing with the Fiscal Year ending May 31, 1998....

For purposes of this provision, "Agreed Formula Amount" for each Fiscal Year, shall mean the amount of Medicare reimbursement for the Family Practice Residency Program paid or payable to DMC upon finalization of the audited DMC cost report for such Fiscal Year, less the cost of the Family Practice Residency Program incurred by DMC pursuant to Section III.C. of this Agreement for such Fiscal Year; provided that the Agreed Formula Amount for each year shall not exceed the aggregate of the overheads set forth in Attachment B.

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II.B. Purpose of Grants. The parties acknowledge that the Grants will be used to pay for the general overheads of DMC as outlined in Attachment B hereto, and are not intended as reimbursement of resident salaries and fringe benefits, supervisory physician costs or other direct or indirect costs of the Family Practice Residency Program that are incurred by DMC.”

Additionally, the Agreement included language regarding the potential for increased or decreased funding:

“II.E. Cooperation in Seeking Additional Funding. HSA and DMC shall use all reasonable efforts to cooperate in applying for additional Medicare funding or in appealing any cost reimbursement determination related to the Family Practice Residency Program. The cost of such application, appeal or other action shall be borne equally between the parties. Any recovery shall be shared equally between HSA and DMC after the payment of costs related to the appeal....”

Funding Issue

Prior to closure of Stanislaus Medical Center, the County received federal GME funding to support the Residency Program. GME funding is based upon a complicated formula which among other components considers the number of resident physicians and the volume of Medicare services provided by the respective hospital. GME payments flow from a CMS contracted fiscal intermediary to the hospitals, based on interim payments and are subsequently reconciled through a hospital cost report submittal and reconciliation process between the hospital and the fiscal intermediary. Federal GME funding continued, albeit at a lower rate, as the inpatient training function transferred to DMC in late 1997. However, during this time period, Congress enacted the Balanced Budget Act of 1997, which included Full-time Equivalency (FTE) caps for residency training programs, but did not include clear guidance on how to determine if a program was “new” for the purposes of claiming GME funding. The fiscal intermediary, a private insurance company used by CMS to perform audit and payment functions under Medicare, did determine the program at DMC to be “new,” thereby generating a lower per resident rate of reimbursement. DMC has claimed the cost of providing graduate medical education for the Residency Program since the transfer occurred, and until recently received federal GME funds that were then passed through to the Health Services Agency to cover the majority of the costs of the program, with DMC and the County sharing equally in overpayments or underpayments and DMC’s direct overhead costs.

Recently, the County was notified by DMC of a potential exposure to the Residency Program, in that CMS had notified DMC of their intent to re-open the cost reports filed by DMC for the years 2001 through 2007, and to halt all current and future payments

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that support the Residency Program. This action was taken by CMS in their belief that the Residency Program was ineligible for federal funding.

As of the end of January, 2009, DMC was notified by CMS that the recoupment process for federal GME funding for the years 2001 through 2007 had begun, through the receipt of Notices of Program Reimbursement for each of the years in question. Subsequently, DMC has repaid CMS a total of \$19,274,099, which represents the total amount funded by CMS. In keeping with the County's responsibility for funding shortfalls under the Amended and Restated Affiliation Agreement approved by the Board of Supervisors on October 10, 2000, between DMC and the County for the management and operation of the Stanislaus Family Medicine Residency Program, the County had an exposure for one-half that amount.

The County's portion of the recoupment for years 2000-2001 through 2007-2008 was \$9,637,050. It was also estimated that the costs not covered for the 2008-2009 and 2009-2010 fiscal years would be in the amount of \$1,503,000. In order to accommodate the total payment to DMC for the recoupment/loss of federal GME funds, in addition to the estimated costs for the 2008-2009 and 2009-2010 fiscal years, a note secured by the Tobacco Securitization Fund was created between the Health Services Agency and the County's Treasury in the amount of \$11,140,040, as approved by the Board of Supervisors on March 24, 2009. The note is anticipated to be paid off in 2025.

Continuing Efforts to Sustain the Residency Program

It is in the best interest of the County to continue working with Doctors Medical Center in their pursuit of an appeal to this arbitrary, unfair and unreasonable decision of CMS. The County, the local medical community and the community at large place great value on the Residency Program. The Residency Program keeps the local hospital emergency departments from becoming completely overburdened. The faculty and resident physicians are a crucial component of the safety net health care available to Stanislaus County residents. If this program were to end, access to health care services for indigent and low-income residents of the County would be jeopardized, as the resident physicians and faculty are critical to meeting the needs of the County's Medi-Cal and indigent patients. The Residency Program helps to address the shortage of primary care physicians in an underserved area, and initial, positive discussions have occurred with staff from the University of California, Merced regarding the potential new UC Merced Medical School.

Residency Master Planning Efforts

Over the past several years, the Health Services Agency has developed and implemented numerous strategic initiatives in their pursuit of operating efficiencies, not the least of which is the designation as a Federally Qualified Health Center Look-Alike

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(FQHC-LA). Among the initiatives which had been identified but not fully developed was a review of the Residency Program, to include a possible expansion from the current family medicine program, or the potential to increase the number of residents in training. A variety of environmental factors have created an opportunity for the County to consider other organizational models for the continued nurturing and sustaining of the Family Medicine Residency Program and for addressing the physician shortage that exists currently and is projected to worsen over the next 15 years. The County embarked on a process of looking at the assets in the region, some of which are listed here:

- A well-respected Family Medicine Residency Program that graduates 9 residents per year and has demonstrated success in regional retention of those residents;
- Hospitals in the regions without current graduate medical education programs;
- Opening of new Kaiser Permanente Hospital in Modesto;
- The County's designation as an FQHC-LA; and
- Plans for a new UC Merced School of Medicine.

As part of the planning process, various residency program organizational models were explored and assessed for feasibility in our setting. Those considered included:

- County sponsored programs with rotations at various hospitals and ambulatory sites;
- Individual hospital sponsored programs with rotations at other hospitals and ambulatory sites;
- University sponsored programs with rotations primarily at university based sites, if available; and/or
- Consortium sponsored programs with rotations at various hospitals and ambulatory sites.

The Consortium Model was determined to be the most feasible, cost effective and strategically advantageous alternative in order to seek restoration of federal funding and potentially grow residency training to improve the workforce capacity of our growing county populations.

Consortium Development

The County is facilitating an ongoing series of meetings with representatives from Doctors Medical Center, Memorial Medical Center and Kaiser Permanente, and the Stanislaus County Community Health Centers, each of whom expressed interest in and support for preserving and expanding the critically needed physician training program. An expert in these programs has been retained by the County to assist with the development of a residency model which is sustainable in the future. Preliminary discussions prompted consideration of expansion of family medicine training as well as

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embarking on additional specialties for which recruitment is difficult and workforce capacity could be improved through local residency training availability.

Following a presentation on the Consortium planning efforts, approval to “continue the master planning efforts for the Family Medicine Residency Program and other Graduate Medical Education programs as may benefit the community”, was granted by the Board of Supervisors on March 24, 2009.

Each of the potential Consortium participants shared facility/hospital specific cost information in order for the workgroup to develop financial projections. Based on a complicated funding formula established by the federal government, each facility/hospital’s reimbursement rates applicable to residency training varies, and in some cases significantly. For instance, one component of the formula used to determine reimbursement is the volume of care provided to Medicare beneficiaries by that facility. This component is not based in any way on the actual costs to operate a residency training program, but can actually determine whether a program can contribute net revenues or function at a financial loss.

In addition to the preparation of financial projections, the County arranged for the development of draft bylaws for the participants to consider. The current draft bylaws, which are attached, anticipate two members to be appointed to the Consortium Board by each participant organization. Each organization may appoint a physician actively involved in physician training as one of the two board members. As drafted, if the Consortium were to disband, the sponsorship of the Residency program would revert back to Stanislaus County. Additionally, as written, in order for a Consortium Board vote to result in a material modification to the Family Medicine component of training, the votes by the Board members representing Stanislaus County would have to be in favor. It is envisioned that the present Residency Program Director would be the Executive Officer of the Consortium organization and a voting member of the Consortium Board.

Relationship of a Consortium to Accreditation and Restoration of Federal Funding

As emphasized during the Board of Supervisors meeting of March 24, 2009, the recent recoupment of funding by the federal Centers for Medicare and Medicaid has no impact on the full accreditation held by the Stanislaus Family Medicine Residency Program as conferred by the Accreditation Council for Graduate Medical Education (ACGME). It has been determined by staff through research of regulations, discussions with ACGME, input by our contracted expert (Believe Health LLC), and consideration of other Residency programs’ experiences, that other than DMC prevailing with the appeal which could take many years, the only means to ensure future federal funding is to submit and receive accreditation as a new program. A new program must in aggregate be materially different from what exists today in order to be considered a new program.

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by regulation and precedent has been a delegated authority of the accrediting body by the federal government. It should be noted that staff and the pending Consortium participant organizations, maintain that such work is to some degree inefficient and without "reasonable" cause, however it appears to be the only possible manner in which to seek restoration of federal funding for graduate medical education in our community.

Staff have determined multiple means of establishing new program components that when considered in comparison to what exists today, appear to so materially change the program as to consider it "new". Those changes include ownership/sponsorship, hospital training sites and curriculum. Staff have identified that in order to minimize the duration of financial exposure, adherence to strict ACGME timing requirements is necessary. Nationally, training years run from July 1 through June 30 each year. In order to submit to ACGME an application as a "new" program which could be effective July 1, 2010 at the earliest, a New Program Information package must be submitted by July 15, 2009 for consideration at the ACGME Residency Review Committee in September 2009. The significant changes noted herein must be in place including the sponsorship change.

In order for the Consortium to be the program sponsor, the filing of the Articles of Incorporation and the first meeting of the newly established Consortium Board during which the Bylaws are accepted, must occur prior to and be referenced in that July 15, 2009 submission. In order to file for the new program, a voluntary withdrawal of the existing program would have to be submitted simultaneously with a proposed effective date of June 30, 2010. Essentially, the residents' participation in the current program would terminate on June 30, 2010 and participation in the new program would begin on July 1, 2010, with no interruption in training. Except for a contract change with the resident and faculty physicians, this transfer from the existing program (that would cease to exist) to the new program would be transparent to the Resident Physician, the faculty and the patients. Such voluntary withdrawals and simultaneous starts of new programs have occurred in other settings in the country and have been approved by ACGME and honored by the federal Centers for Medicare and Medicaid.

At this time, conceptual agreement to develop, participate and share in the costs of a Consortium for Graduate Medical Education, has been reached with Doctors Medical Center, Memorial Medical Center, and is under consideration by Kaiser Permanente. A staff recommendation to the Stanislaus County Community Health Center Board is planned for May 6, 2009. In addition to Stanislaus County, these organizations would be the consortium participant organizations with representatives serving on the Consortium Board. That board could determine in the future that additional organizations could be added to the Consortium.

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Financial Considerations

The current Fiscal Year 2008-2009 Clinic and Ancillary division budget is \$49,282,147. The Residency program budget is contained within the larger Clinic and Ancillary Budget. It includes one-half of the shared operating deficits which is reconciled equally between Doctors Medical Center and the Health Services Agency. For Fiscal Year 2008-2009, the Health Services Agency's share was originally budgeted in the amount of \$876,000 assuming continued federal funding. Given the mid-year recoupment and termination of current and future federal funding, that projected amount was increased by \$739,000. The development of the Consortium does not modify this sharing arrangement, initially. Start-up development costs of the Consortium are projected to be approximately \$275,000, which would be shared amongst the Consortium participants and is based on the Family Medicine program only. Should the Consortium determine that additional programs for different specialties such as Emergency Medicine and Surgery, for example, are feasible and beneficial for the community, program development costs would be in addition to the \$275,000 estimate. The sharing of such additional costs would be negotiated between the Consortium Board and the participant organizations and then memorialized in affiliation agreements between the parties, however conceptually would be based upon the degree to which the participant organizations in the Consortium individually benefit from such specialties. For instance, the Family Medicine program is an essential component of the County's primary care clinics of the Health Services Agency, however a residency program in Emergency Medicine or another hospital based program, would not lend the same degree of benefit.

The Health Services Agency's Fiscal Year 2008-2009 operating performance to date is projected to result in a fund balance in excess of the projected development costs, and as such staff proposes the use of existing Health Services Agency Clinic and Ancillary budget appropriations to fund the Stanislaus County and Stanislaus County Community Health Centers share of the development costs.

On-going development expenses would be included in the Health Services Agency proposed budget for Fiscal Year 2009-2010. In the Board of Supervisor action on March 24, 2009, the projected operating shortfall directly related to the existing Family Medicine Residency program for the 2009-2010 Fiscal Year of \$764,000 was planned for and included in the borrowing from the Tobacco Securitization Fund. The preliminary estimates of the on-going costs of the Family Medicine Residency program under the consortium model are projected to be approximately equivalent to the historical shortfall after federal funding. The net cost would be dependent upon the distribution and posting of costs through the participating organizations. This manner of cost reporting in order to capture federal funding will be subject to the funding and expense sharing agreements to be negotiated with the participating organizations in the consortium.

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UC Merced Medical School

Given the potential of a future University of California at Merced Medical School and the intended distributive model of training, this community would benefit if medical school students received training within the local medical community in the County. Further, it is anticipated that the Family Medicine Residency Program could be a key training site for these future medical school graduates. Studies have shown a strong relationship between the location of residency training and where a physician decides to practice upon completion. The Stanislaus Residency Program's experience has been that approximately 30% of the graduates stay and practice in our county, contributing greatly to filling the workforce capacity needs of our community. That retention percentage has been shown in other areas to increase dramatically, when the physician has attended medical school and completed a residency program in the same area. As such, meetings with UC Merced staff have occurred and support for an expanded residency program appears promising.

Summit on Graduate Medical Education

The planning of a "summit" of the local medical community is under consideration by the pending Consortium participant organizations and will likely occur during the summer of 2009. The purpose of such an event would be to provide information and garner community physician support in expanded physician training opportunities in the County.

The Agency briefed the Health Executive Committee of the Board of Supervisors on Consortium development progress and Summit planning at the meeting of April 14, 2009.

POLICY ISSUE:

Approval of this recommendation is consistent with the Board of Supervisors' priorities of *A healthy community*, *Effective partnerships* and *Efficient delivery of public services*, by implementing a multi-organizational model for Graduate Medical Education which seeks to preserve and potentially expand physician workforce capacity for our community.

STAFFING IMPACT:

The Residency Program Director and the resident physicians are presently employees of the County. Historically however, the provision of services related to the Assistant Director of the Residency Program was arranged for under a contract between the Health Services Agency and the Scenic Faculty Medical Group. Based on these master planning efforts, it is evident that the needs and structure for these services are

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changing. As such and in order to accommodate the programmatic and Consortium organization needs, staff are proposing the reclassification of an existing vacant Family Practice Physician position to a new classification of an Assistant Director of Residency Program. The actual recommendation is contained in the Third Quarter Budget Report to the Board of Supervisors of May 5, 2009.

Based on preliminary discussions with the organizations intending to also participate in the Consortium, it is anticipated that the future Consortium board may prefer to enter a contractual relationship with the County to continue this labor arrangement. As the Consortium matures, the Consortium Board may determine that developing the internal capability to manage the labor component is more appropriate and beneficial.

BYLAWS OF

[_____ CONSORTIUM]

BYLAWS OF

_____ CONSORTIUM

PREAMBLE

_____ (the "Corporation") is a California nonprofit public benefit corporation, organized exclusively for charitable, scientific and educational purposes, as set forth in Article I of these Bylaws.

ARTICLE I OBJECTIVES AND PURPOSES

1.1 Objectives. The objectives of the Corporation shall be to:

(a) Enhance the quality of primary and specialty medical services in Stanislaus County and adjacent communities by sponsoring and supporting allopathic and osteopathic physician post-graduate training programs and developing resources to meet the current and future needs for physicians;

(b) Coordinate and assist participating hospitals, physicians, clinics and sponsoring schools of medicine and osteopathy in conducting physician residency programs; and

(c) Carry on educational activities, medical and health care research and other health-related programs provided in conjunction with the physician residency programs sponsored and coordinated by the Corporation.

(d) Support the educational activities of allopathic and osteopathic schools of medicine in the training of medical students.

(e) Provide education and training opportunities for other health professions in response to community needs.

(f) Support the assignment of family medicine residents to public and nonprofit ambulatory care providers, including the Stanislaus County Community Health Centers (as defined in Section 3.1(a)(1)) in order to ensure that there are sufficient residents to maintain the "safety net" for primary ambulatory care services to the indigent population of Stanislaus County.

1.2 Purposes; Limitations. The Corporation is organized exclusively for charitable, scientific and educational purposes as a nonprofit corporation within the meaning of Internal Revenue Code §501(c)(3) (or the corresponding section of any future federal internal revenue law).

Notwithstanding any other provision of these Bylaws, the Corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the purposes of the Corporation, and the Corporation shall not carry on any other activities not permitted to be carried on (i) by a corporation exempt from federal income tax under Internal Revenue Code §501(c)(3) (or the corresponding provision of any future federal internal revenue law), or (ii) by a corporation, contributions to which are deductible under Internal Revenue Code §170(c)(2) (or the corresponding provision of any future federal internal revenue law).

1.3 Dedication of Assets. The Corporation's assets are irrevocably dedicated to public and charitable purposes. No part of the net earnings, properties or assets of the Corporation, on dissolution or otherwise, shall inure to the benefit of any private person or individual, or to any director or officer of the Corporation. Upon the dissolution or winding up of the Corporation, its assets remaining after payment, or provision for payment, of all debts and liabilities of this Corporation shall be distributed to one or more organizations that are then qualified for exemption under the provisions of Section 501(c)(3) of the Internal Revenue Code and Section 214 of the California Revenue and Taxation Code; provided, however, that any assets related to any family medicine residency program then operated by the Corporation shall be distributed to the County of Stanislaus, a political subdivision of the State of California, so long as it then qualifies as a governmental entity, or to any successor governmental entity, or, if it does not then qualify as a governmental entity or if it is unable or unwilling to use such assets for similar or identical exempt purposes, then to one or more organizations that are then qualified for exemption under the provisions of Section 501(c)(3) of the Internal Revenue Code and Section 214 of the California Revenue and Taxation Code

1.4 Governing Law. The provisions of the California Nonprofit Public Benefit Corporation Law ("Law") shall govern the conduct of the affairs of the Corporation, except as otherwise provided or modified herein or in the Articles of Incorporation to the extent permitted by the Law. The Corporation shall have and exercise all rights and powers conferred on nonprofit corporations under the Law.

ARTICLE II **OFFICES**

2.1 Principal Office. The principal office for the transaction of the business of the Corporation shall be located in the County of Stanislaus, State of California. The Board of Directors may change the principal office to another location within the County by resolution duly adopted and entered in the minutes of the Corporation. The Corporation may establish or maintain additional offices at such other places as the Board of Directors may determine.

ARTICLE III **PARTICIPANTS**

3.1. Qualifications.

(a) A "Participant" shall be an organization (including a public entity) that meets the following qualifications ("Participant Eligibility Requirements"):

- (1) The organization meets one of the following:
 - (i) The County of Stanislaus;
 - (ii) An organization that operates a general acute care hospital licensed by the State of California; or
 - (iii) A organization that operates one or more clinics that are certified by the Medicare program as federal qualified health centers or FQHC

Look-Alikes that meet the requirements of Section 330 of the Public Health Service Act; and

- (2) The organization has entered into a Participation Agreement with the Corporation which remains in full force and effect and which has not expired or otherwise terminated. A Participation Agreement is an agreement between the Corporation and an organization that satisfies the Participant Eligibility Requirements defined in this Article III, under which the Participant provides some form of direct or indirect financial support to the Corporation as specified in the Participation Agreement.

(b) Participants shall not be deemed to be “members” of the Corporation within the meaning of the Law and shall not have any rights or obligations of “members.” The Corporation has no members within the meaning of the Law.

3.2. Initial Participants. The following organizations shall be the initial Participants, and shall have the right to appoint one or more Voting Directors as described in Section 4.2(a) of these Bylaws.

- (a) County of Stanislaus, a political subdivision of the State of California (“County”).
- (b) Doctors Medical Center of Modesto, Inc., a California corporation (“DMC”).
- (c) Kaiser Foundation Hospitals, a California nonprofit public benefit corporation (“Kaiser”).
- (d) Memorial Hospitals Association, a California nonprofit public benefit corporation (“Memorial”).
- (e) Stanislaus County Community Health Center, a federally qualified health center operated by the County under the oversight of the Stanislaus County Community Health Centers Board of Directors (“CHC”).

3.3. New Participants. Additional organizations may become Participants (“New Participants”) with the approval by two-thirds of the Voting Directors, provided that the organization meets the Participant Eligibility Requirements set forth in Section 3.1(a) of this Article III. Approval of a New Participant is subject to an opinion of legal counsel to the Corporation that the New Participant will not jeopardize the federal and state tax-exemption status of the Corporation or the recognition of the any physician residency programs by its accrediting agency or the federal Medicare Program.

3.4. Substitute Participants. If a Participant resigns or becomes ineligible to serve as a Participant, it may designate by notice to the Secretary/Treasurer a substitute organization (“Substitute Participant”) that meets the Participant Eligibility Requirements set forth in Section 3.1(a) of this Article III and assumes and guarantees the obligations of the resigning Participant under its Participation Agreement and these Bylaws. A Substitute Participant may become a Participant upon approval by two-thirds of the Voting Directors and an opinion of legal counsel to the Corporation that the New Participant will not jeopardize the federal and state tax-exemption status of the Corporation or the recognition of any physician residency programs by its accrediting agency or the federal Medicare Program.

3.5 Affiliated Organizations. The University of California, Davis, School of Medicine and [school awarding degree in osteopathic medicine] may be affiliated organizations (“Affiliation Organization”) of the Corporation, each of which shall be entitled to appoint one (1) Ex Officio Director in accordance with Article IV of these Bylaws. The Board, by a two-thirds vote of the Voting Directors, may approve the designation of one or more additional organizations involved in physician residency programs as an Affiliation Organization of the Corporation.

ARTICLE IV BOARD OF DIRECTORS

4.1 Powers. Subject to the limitations imposed by the Law or contained in the Articles of Incorporation or these Bylaws, the activities and affairs of the Corporation shall be conducted and all corporate powers shall be exercised by or under the ultimate direction of the Board of Directors.

4.2 Number. The authorized number of voting directors (“Voting Directors”) of the Corporation shall be not less than nine (9) nor more than fifteen (15), with the exact number to be fixed within these limits by resolution of the Board of Directors.

(a) **Voting Directors.** The initial number of Voting Directors shall be fixed at eleven (11) until changed by resolution of the Board of Directors, and shall consist of the following:

- (1) Two (2) Voting Directors appointed by the County, one of whom may be a California licensed physician who is actively involved in residency program training and education.
- (2) Two (2) Voting Directors appointed by DMC, one of whom may be a California licensed physician who is actively involved in residency program training and education.
- (3) Two (2) Voting Directors appointed by Kaiser, one of whom may be a California licensed physician who is actively involved in residency program training and education.
- (4) Two (2) Voting Directors appointed by Memorial, one of whom may be a California licensed physician who is actively involved in residency program training and education.
- (4) Two (2) Voting Directors appointed by the CHC Board of Directors, one of whom may be a California licensed physician who is actively involved in residency program training and education.
- (5) The Chief Executive Officer of the Corporation shall serve as a Voting Director by virtue of holding the office of the Chief Executive Officer.

(b) **Ex Officio Directors.** The following shall be ex officio, non-voting members of the Board of Directors (“Ex-Officio Directors”), each of whom may attend and participate in meetings of the Board of Directors, but shall not be entitled to vote on matters before the Board of Director;

- (1) Each Affiliated Organization may appoint one (1) representative to serve as an Ex-Officio Director.
- (2) Each program director of a physician residency program sponsored by the Corporation shall serve as an Ex-Officio Director.

(c) Not more than forty-nine percent (49%) of the persons serving on the Board of Directors at any time may be "interested persons" within the meaning of §5227 of the Law. Under §5227 of the Law, an interested person is (i) any person currently being compensated by the Corporation for services rendered to it within the previous twelve (12) months, whether as a full-time or part-time employee, independent contractor or otherwise, excluding any reasonable compensation paid to a director as a director; and (ii) any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of any such person. However, any violation of the provisions of this Section shall not affect the validity or enforceability of any transaction entered into by the Corporation.

4.3 Term of Office and Vacancies.

(a) Subject to Section 4.4 below, the term of office for each Voting Director (except the Chief Executive Officer) shall be three (3) years. Each Voting Director shall serve until his or her successor is duly appointed by the Participant authorized to appoint the Voting Director. A vacancy of a Voting Director (except the Chief Executive Officer) shall be filled only by the Participant who appointed the Voting Director whose office is vacant. Each Voting Director so appointed shall hold office until the expiration of the term of office of the Voting Director whose departure created the vacancy.

(b) The Chief Executive Officer shall serve on the Board of Directors until he or she resigns, is removed as the Chief Executive Officer, or is replaced as the Chief Executive Officer of the Consortium. Each Ex Officio Directors shall serve on the Board of Directors until he or she resigns or is removed by the Affiliated Organization appointing the Ex Officio Director to the Board of Directors.

(c) A vacancy on the Board of Directors shall be deemed to exist in case of death, resignation or removal of any Director, if the authorized number of Directors is increased or if a Participant fails to appoint one or more Voting Directors or an Affiliated Organization fails to appoint an Ex Officio Director.

(d) Participants entitled to appoint or remove a Voting Director, and Affiliated Organizations authorized to appoint or remove an Ex Officio Director, shall do so by written notice to the Secretary/Treasurer.

(e) No reduction of the authorized number of Voting Directors shall have the effect of removing any Voting Director prior to the expiration of his or her term of office.

4.4 Removal.

(a) **By the Designating Participant.** Any Voting Director or Ex Officio Director may be removed from the Board, with or without cause and at any time, by the Participant or Affiliated

Organization that appointed the Voting or Ex Officio Director. The Participant or Affiliated Organization shall designate the replacement Voting Director or Ex Officio Director.

(b) **By the Board of Directors.**

- (1) **With Cause.** The Board of Directors may declare vacant the office of a Voting or Ex Officio Director who has been declared of unsound mind by a final order of court, or convicted of a felony, or has been debarred or excluded from any federal health care program, or been found by a final order or judgment of any court to have breached any duty under Part 2, Chapter 2, Article 3 (relating to standards of conduct) of the Law.
- (2) **Without Cause.** The Board of Directors may not remove without cause a Voting Director who was appointed by a Participant or an Ex Officio Director. To the extent consistent with any contract between the Corporation and the Chief Executive Officer, the Chief Executive Officer may be removed by the Board of Directors without cause.
- (3) **Withdrawal of Participant.** The Voting Directors appointed by a Participant shall serve only during the period that their appointing organization is a Participant. Immediately upon a Participant ceasing to be a Participant, the Voting Director(s) appointed by that Participant shall cease being Voting Directors, and the Board of Directors may by resolution reduce the number of authorized Voting Directors to eliminate the vacancy or vacancies created by the resignation.
- (4) **Withdrawal of an Affiliated Organization.** The Ex Officio Director appointed by an Affiliated Organization shall serve only during the period that his or her appointing organization is an Affiliated Organization. Immediately upon an Affiliated Organization ceasing to be an Affiliated Organization, the Ex Officio Director appointed by that Affiliated Organization shall cease being an Ex Officio Director, and the Board of Directors may by resolution reduce the number of Ex Officio Directors to eliminate the vacancy created by the resignation.

- (c) **Attendance.** The Board of Directors shall have the power to adopt by resolution the establishment of minimum attendance requirements for Voting Directors, and effect the removal of any Voting Director who fails to satisfy those requirements.

4.5 Resignation. Any Director may resign by giving notice to the Chair of the Board, the Chief Executive Officer, the Secretary/Treasurer or the Board of Directors. The resignation of a Director shall be effective when notice is given unless the notice specifies a later time. The resignation shall be effective regardless of whether it is accepted by the Corporation. Except upon notice to the Attorney General of the State of California, no Voting Director may resign if the Corporation would then be left without a duly appointed Voting Director or Directors in charge of its affairs.

4.6 Compensation. The Directors shall not receive any compensation for their service on the Board of Directors or on any committees of the Board of Directors.

4.7 Conflict of Interest. The Board of Directors shall adopt and enforce a policy on conflicts of interest and self-dealing that requires disclosure by all Directors and officers of the Corporation, and other persons who are in a position to influence corporate decisions, of actual and potential conflicts of interest, and that will assure that no person holding such a position is permitted to vote on any issue, motion or resolution that directly or indirectly inures to his or her benefit financially or with respect to which he or she may have any other conflict of interest, except that a Voting Director who has a conflict of interest may be counted in order to constitute a quorum, and may participate in the discussion of the issue, motion or resolution to the extent permitted by the conflict of interest policy or as otherwise determined by the Board of Directors.

4.8 Quorum and Required Vote.

(a) A majority of the Voting Directors then in office shall constitute a quorum of the Board of Directors for the transaction of business. Every act or decision done or made by a majority of the Directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board of Directors, unless a greater number be required by Section 4.8(b) of these Bylaws or by the Law. Except as otherwise provided in these Bylaws or by the Law, a meeting at which a quorum is initially present may continue to transact business despite the withdrawal of some Voting Directors if any action taken or decision made is approved by at least a majority of the required quorum for that meeting.

(b) **Actions Requiring Super-Majority Voting.** The Board of Directors shall approve each of the following actions only by a vote of two-thirds (2/3) of all Voting Directors then in office at any regular or special meeting of the Board:

- (1) Merger, consolidation, reorganization, or dissolution of the Corporation or any subsidiary;
- (2) Amendment or restatement of the Articles of Incorporation or the Bylaws of the Corporation or any subsidiary;
- (3) The creation or acquisition of any subsidiary;
- (4) Contracting with an unrelated third party for all or substantially all of the management of the assets or operations of the Corporation or any subsidiary;
- (5) Any activity (other than a clearly insubstantial and incidental activity) that is not primarily directed toward graduate medical education;
- (6) The establishment of a new residency program, as defined by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association (or designated accreditation body);
- (7) The termination or material modification of a Participation Agreement of a Participant;
- (8) Approval of a New Participant under Section 3.3 of these Bylaws, a proposed Substitute Participant under Section 3.4 of these Bylaws or a new Affiliated Organization under Section 3.5 of these Bylaws.

- (9) The termination or material modification of any family medicine residency program conducted or sponsored by the Corporation, including any material reduction in the number of family medicine residents in the CHC clinics, provided also that the Voting Directors appointed by the County must vote in favor of the termination or material modification; and
- (10) Long-term or material agreements with a transaction value in excess of \$250,000.00, including but not limited to borrowings, equity financings, capitalized leases, installment contracts, or the purchase, sale, lease, disposition, hypothecation, exchange, gift, pledge, or encumbrance of any real or personal asset.

4.9 Meetings. Regular meetings of the Board of Directors may be called by the Chair of the Board, the Vice Chair of the Board, the Chief Executive Officer or any two (2) Voting Directors, except that the Board of Directors shall hold a regular meeting at least quarterly. All meetings of the Board of Directors shall be held at the principal office of the Corporation or at such time and place within the County of Stanislaus as may be designated from time to time by resolution of the Board of Directors or by written consent of all Voting Directors.

4.10 Annual Meeting. The Board of Directors shall hold an annual meeting for the purpose of the election of the officers of the Corporation (other than the Chief Executive Officer), the election of Directors to committees of the Board of Directors and for the transaction of other business. The annual meeting of the Board of Directors shall be held in the _____ quarter of each [calendar/fiscal] year at such date and at such time as shall be designated by the Board of Directors. Notice of date, time and place of the annual meeting shall be given in accordance with Section 4.11 below.

4.11 Special Meetings. Special meetings of the Board of Directors for any purpose or purposes shall be called at any time by the Chair of the Board, the Vice Chair of the Board, the President, the Secretary/Treasurer or by any two (2) Voting Directors. Written notice of the time and place of special meetings shall be delivered personally to the Directors or sent to each Director by mail or other form of written communication, charges prepaid, or by telephone (including voice messaging or other system designed to record and communicate messages), or by facsimile, email or other means of electronic transmission permitted by California Corporations Code §20. If the notice is mailed, it shall be deposited in the United States mail at least four (4) days before the time of the holding of the meeting. If the notice is delivered personally or by telephone or by facsimile, email or other means of electronic transmission, it shall be delivered at least forty-eight (48) hours prior to the time of the holding of the meeting. Oral notice given personally or by telephone may be communicated either to the Director or a person at the office of the Director, who the person giving the notice has reason to believe will promptly communicate it to the Director. The notice need not specify the purpose of the meeting.

4.12 Waiver of Notice. Notice of a meeting need not be given to any Director who, either before or after the meeting, signs a waiver of notice, a written consent to the holding of the meeting or an approval of the minutes of the meeting. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting need not be given to any Director who attends the meeting without protesting, prior thereto or its commencement, the lack of notice to that Director. All such waivers, consents and approvals shall be made a part of the minutes of the meeting.

4.13 Adjournment. A majority of the Voting Directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than twenty-four (24) hours, notice of the date, time and place for the reconvened meeting shall be given prior to the time the adjourned meeting is reconvened, in accordance with Section 4.11, to the Directors who were not present at the time of the adjournment.

4.14 Action Without Meeting. Any action required or permitted to be taken by the Board of Directors may be taken without a meeting if all Voting Directors shall individually or collectively consent in writing to such action. An action by written consent shall have the same force and effect as any other action taken by the Board of Directors at a duly called meeting at which a quorum is present. The written consent or consents shall be filed with the minutes of the proceedings of the Board of Directors.

4.15 Entry of Notice. Whenever any Director has been absent from any special meeting of the Board of Directors, an entry in the minutes to the effect that notice has been duly given shall be prima facie evidence that due notice of such special meeting was given to such Director, as required by the Law and these Bylaws.

4.16 Participation in Meetings by Conference Telephone. Members of the Board of Directors may participate in a meeting of the Board of Directors through use of conference telephone or other communications equipment if all of the following shall apply: (a) each Director participating in the meeting can communicate with all other directors concurrently; (b) each Director is provided the means of participating in all matters before the Board of Directors, including the capacity to propose or to interpose an objection to a specific action to be taken by the Corporation; and (c) the Corporation adopts and implements some means of verifying both that (i) a person communicating by telephone, video or other communications equipment is a director or other person entitled to participate in the Board meeting, and (ii) all actions of, or votes by, the Board of Directors are taken or cast only by the Voting Directors and not by any other person not permitted to participate as a Director. Participation in a meeting pursuant to this Section 4.16 constitutes presence in person at that meeting.

ARTICLE V OFFICERS

5.1. Officers. The officers of the Corporation shall be a Chair of the Board, Vice Chair of the Board, a Chief Executive Officer, a Secretary/Treasurer and a Chief Financial Officer. The Chair of the Board, the Vice Chair and the Secretary/Treasurer shall not be employed by the Corporation or otherwise accept any consulting, advisory or other compensatory fee from the Corporation. The Corporation may also have, at the discretion of the Board of Directors, one or more additional Vice Chairs, one or more Vice Presidents, one or more Assistant Secretaries, one or more Assistant Treasurers, and such other officers as may be appointed in accordance with the provisions of Section 5.3. Any number of offices may be held by the same person, except that the Secretary/Treasurer and the Chief Financial Officer may not serve concurrently as President or Chair of the Board.

5.2 Election; Term of Office. The Chair of the Board, the Vice Chair and the Secretary/Treasurer shall be elected by the Board of Directors to serve a one (1) year term, plus the portion of any unexpired term, as applicable, of any previous Chair of the Board, Vice Chair or Secretary/

Treasurer who shall have died, resigned, or been removed from office prior to the expiration of his or her term of office. The Chief Executive Officer and Chief Financial Officer shall serve until he or she shall die, resign, be removed from office by the Board of Directors.

5.3 Subordinate Officers. The Board of Directors may appoint or authorize the Chief Executive Officer to appoint such other officers as the business of the Corporation may require, each of whom shall hold office for such period, have such authority and perform such duties as are provided in the Bylaws or as the Board of Directors or Chief Executive Officer may from time to time determine.

5.4 Removal and Resignation. Subject to the rights of any officer under any contract of employment, the officers of the Corporation shall serve at the pleasure of the Board of Directors or as to subordinate officers appointed by the Chief Executive Officer, at the pleasure of the Chief Executive Officer. Any officer may be removed by a majority of the Voting Directors then in office, at any regular or special meeting of the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors, the Chair of the Board, the Chief Executive Officer or Secretary/Treasurer, without prejudice, however, to the rights, if any, of the Corporation under any contract to which such officer is a party. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

5.5 Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or any other cause, shall be filled in the manner prescribed in these Bylaws for regular election or appointments to such office, provided that such vacancies shall be filled as they occur and not on an annual basis.

5.6 Chair of the Board. The Chair of the Board shall preside at all meetings of the Board of Directors, and shall exercise and perform such other power and duties as may be designated by the Board of Directors. He or she shall act as the duly authorized representative of the Board of Directors in all matters in which the Board of Directors has not formally designated some other person to so act.

5.6 Vice Chair of the Board. The Vice Chair of the Board shall perform the duties of the Chair of the Board in his or her absence, and shall exercise and perform such other power and duties as may be designated by the Board of Directors.

5.7. Chief Executive Officer. The Chief Executive Officer shall serve as the chief executive officer of the Corporation. The Chief Executive Officer shall be a physician licensed to practice in the State of California, and may be either an employee or an outside consultant and shall have oversight of the administrative and financial transactions of this Corporation. The Chief Executive Officer shall be the individual designated by the Board of Directors to oversee and direct the implementation of the residency programs of the Corporation in accordance with the guidelines of the organizations accrediting the residency programs of the Corporation. In addition to functioning as the chief executive officer of this Corporation, the Chief Executive Officer shall also perform such other duties as may be authorized or prescribed by the Board of Directors.

5.8 Secretary/Treasurer. The Secretary/Treasurer shall serve as the secretary and treasurer of the Corporation. The Secretary/Treasurer shall keep, or cause to be kept, at the principal office of

the Corporation or such other place as the Board of Directors may order, a book of minutes of all meetings of Directors with the time and place of holding, whether regular or special, and if special, how authorized, the notice thereof given, the names of those present at the meetings of the Board of Directors, and the proceedings thereof. The Secretary/Treasurer shall keep, or cause to be kept, at the principal office of the Corporation in the State of California, the original or a copy of the Articles of Incorporation and Bylaws, as amended to date, of the Corporation.

The Secretary/Treasurer shall give, or cause to be given, notice of all meetings of the Board of Directors required by the Bylaws or by the Law to be given, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors, the Bylaws or by the Law. The Secretary/Treasurer shall also perform such other duties as the Board of Directors may prescribe.

5.9 Chief Financial Officer. The Chief Financial Officer shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the Corporation. The Chief Financial Officer shall cause to be given to the directors such financial statements and reports as are required to be given by the Law, these Bylaws or by the Board of Directors. The Chief Financial Officer shall deposit, or cause to be deposited, all monies and other valuables in the name and to the credit of the Corporation with such banks, trust companies and/or other depositories as may be designated by the Board of Directors. The Chief Financial Officer shall disburse, or cause to be disbursed, the funds of the Corporation and shall render or cause to be rendered to the Board of Directors, whenever requested, an account of all transactions of the Corporation and an account of the financial condition of the Corporation. The Chief Financial Officer shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or the Chief Executive Officer.

5.10 Compensation. The Board of Directors shall fix the compensation of the Chief Executive Officer and the Chief Financial Officer and may fix the compensation of other officers, employees or consultants to the Corporation. If the Board does not fix the compensation of the other officers, the Chief Executive Officer shall fix such compensation.

ARTICLE VI COMMITTEES

6.1 Committees of the Board. The Board of Directors may, by resolution, create one or more committees, each consisting of two or more Directors, to serve at the pleasure of the Board, and appoint the members to such committees. The Board of Directors may appoint one or more Directors as alternate members of any such committee, who may replace any absent member at any meeting of the committee. Each committee shall be solely advisory to the Board of Directors except as the Board of Directors, by resolution creating and empowering a committee consisting solely of Voting Directors, shall grant the committee all the authority of the Board of Directors; provided that no committee may do any of the following:

- (a) Take any final action on any matter that, under the Law, requires the approval of the members or approval of a majority of members of a nonprofit public benefit corporation;
- (b) Elect directors or fill vacancies on the Board of Directors;

- (c) Fix compensation of the Directors for serving on the Board of Directors or any committee of the Board of Directors;
- (d) Amend or repeal bylaws or adopt new Bylaws for the Corporation;
- (e) Amend or repeal any resolution or action taken by the Board of Directors that by its express terms is not so amendable or repealable;
- (f) Create any other committees of the Board of Directors or appoint the members of committees of the Board, including any appointments to fill vacancies on committees of the Board of Directors;
- (g) Expend corporate funds to support a nominee for Director; or,
- (h) Approve any contract or transaction in which one or more Directors has a direct or indirect material financial interest, except as provided for in §5233(d)(3) of the Corporations Code.

The chair of each committee of the Board of Directors shall cause to be kept minutes of committee proceedings and provide copies of such minutes to the members of the Board of Directors in a timely fashion and regularly report to the Board of Directors on the actions taken by such committee.

6.2 Audit Committee. To the extent required by law, there shall be an Audit Committee to consist of three (3) members. The Audit Committee may include persons who are not members of the Board of Directors, but the member or members of the Audit Committee shall not include the Chief Executive Officer or the Chief Financial Officer. Members of the Audit Committee shall not receive any compensation from the Corporation and shall not have a material financial interest in any entity doing business with the Corporation. Subject to the supervision of the Board of Directors, the Audit Committee shall be responsible for recommending to the Board of Directors the retention and termination of the independent auditor and may negotiate the independent auditor's compensation, on behalf of the Board of Directors. The Audit Committee shall confer with the auditor to satisfy its members that the financial affairs of the Corporation are in order, shall review and determine whether to accept the audit, shall assure that any nonaudit services performed by the auditing firm conform with standards for auditor independence, and shall approve performance of nonaudit services by the auditing firm.

6.3 Special Committees. A special committee may be appointed at any time by the Board of Directors for the purpose of reviewing and reporting on a particular matter. The committee shall serve until its report has been rendered to the Board of Directors. A special committee may consist wholly or partially of individuals who are not members of the Board of Directors. A special committee shall not be deemed a committee of the Board of Directors, and shall not exercise the authority of the Board of Directors.

ARTICLE VII TRANSACTIONS WITH DIRECTORS OR OFFICERS

7.1 Contracts with Directors. No Director of this Corporation, nor any other corporation, firm, association, or other entity in which one or more of this Corporation's Directors are directors or in

which they have a material financial interest, shall be interested, directly or indirectly, in any contract or transaction with this Corporation, unless (a) the material facts regarding that Director's financial interest in such contract or transaction or regarding such common directorship, officership, or financial interest are fully disclosed in good faith and noted in the minutes, or are known to all members of the Board of Directors prior to the Board of Directors' consideration of such contract or transaction; (b) such contract or transaction is authorized in good faith by a majority of the Board of Directors by a vote sufficient for that purpose without counting the votes of the interested directors; (c) before authorizing or approving such contract or transaction, the Board of Directors considers and in good faith decides after reasonable investigation that the Corporation could not obtain a more advantageous arrangement with reasonable effort under the circumstances; and (d) the contract or transaction is fair and reasonable to the Corporation at the time the transaction is entered into.

7.2 Loans to Directors or and Officers. The Corporation shall not lend any money or property to nor guarantee the obligation of any Director or officer without the approval of the California Attorney General; provided, however, that the Corporation may advance money to a director or officer of the Corporation for expenses reasonably anticipated to be incurred in the performance of his or her duties if that Director or officer would be entitled to reimbursement for such expenses by the Corporation. The above provision shall not apply to (a) the payment of premiums in whole or in part by the Corporation on a life insurance policy on the life of a director or officer so long as repayment to the Corporation of the amount paid by the Corporation is secured by the proceeds of the policy and its cash surrender value, and (b) a loan of money to or for the benefit of an officer in circumstances where the loan is necessary, in the judgment of the Board of Directors, to provide financing for the purchase of a principal residence of the officer in order to secure the services or continued services of the officer, and the loan is secured by the real property.

ARTICLE VIII INDEMNIFICATION, INSURANCE AND DIRECTOR LIABILITY

8.1 Definitions. For the purposes of this Article VIII, "agent" means any person who (a) is or was a director, officer, employee, or other agent of the Corporation, or (b) is or was serving at the request of the Corporation as a director, officer, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, or other enterprise, or (c) was a director, officer, employee, or agent of a foreign or domestic corporation which was a predecessor corporation of the Corporation, or (d) was a director, officer, employee, or agent of another enterprise at the request of such predecessor corporation; "proceeding" means any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative, or investigative; and "expenses" includes without limitation attorneys' fees and any expenses of establishing a right to indemnification under Section 8.4 or Section 4.5(b) of this Article VIII.

8.2 Indemnification in Actions by Third Parties. The Corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of the Corporation to procure a judgment in its favor, an action brought under §5233 of the Law, or an action brought by the Attorney General or a person granted relator status by the Attorney General for any breach of duty relating to assets held in charitable trust) by reason of the fact that such person is or was an agent of the Corporation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in a manner such person

reasonably believed to be in the best interests of the Corporation and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct was unlawful. The termination of any 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 the person reasonably believed to be in the best interests of the Corporation or that the person had reasonable cause to believe that the conduct was unlawful.

8.3 Indemnification in Actions by or on the Right of the Corporation. The Corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action by or in the right of the Corporation, or brought under §5233 of the Law, or brought by the Attorney General or a person granted relator status by the Attorney General for any breach of duty relating to assets held in charitable trust, to procure a judgment in its favor by reason of the fact that such person is or was an agent of the Corporation, against expenses actually and reasonably incurred by such person in connection with the defense or settlement of such action if such person acted in good faith, in a manner such person believed to be in the best interests of the Corporation, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances; provided that no indemnification shall be made under this Section 8.3 if otherwise prohibited under §5238 or any other provision of the Law.

8.4 Indemnification of Expenses. To the extent that an agent of the Corporation has been successful on the merits in defense of any proceeding referred to in Section 8.2 or 8.3 or in defense of any claim, issue, or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

8.5 Required Determinations. Except as provided in Section 8.4 of this Article VIII, any indemnification under this Article VIII shall be made by the Corporation only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in Sections 8.2 or 8.3 of this Article VIII, by:

(a) A majority vote of a quorum consisting of directors who are not parties to such proceeding; or

(b) The court in which such proceeding is or was pending upon application made by the Corporation or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney, or other person is opposed by the Corporation.

8.6 Advance of Expenses. Expenses incurred in defending any proceeding may be advanced by the Corporation prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this Article VIII.

8.7 Other Indemnification. No provision made by the Corporation to indemnify its directors or officers for the defense of any proceeding, whether contained in the Articles of Incorporation, Bylaws, a resolution of directors, an agreement or otherwise, shall be valid unless consistent with

this Article VIII. Nothing contained in this Article VIII shall affect any right to indemnification to which persons other than such directors and officers may be entitled by contract or otherwise.

8.8 Forms of Indemnification Not Permitted. No indemnification or advance shall be made under this Article VIII, except as provided in Sections 8.4 or 8.5(b), in any circumstances where:

(a) It would be inconsistent with a provision of the Articles of Incorporation, these Bylaws, a resolution of the Board of Directors, or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

(b) It would be inconsistent with any condition expressly imposed by a court in approving a settlement.

8.9 Personal Liability of Volunteer Directors or Executive Officers. To the fullest extent permitted by the Law, as now in effect or as may hereafter be amended, there shall be no personal liability to a third party for monetary damages on the part of a volunteer director or volunteer executive officer of the Corporation (such as the Secretary), caused by the director's or officer's negligent act or omission in the performance of that person's duties as a director or officer, provided that the person's act or omission was (a) within the scope of the director's or executive officer's duties, performed in good faith and was not reckless, wanton, intentional or grossly negligent, and (b) the damages caused are covered pursuant to a liability insurance policy issued to the corporation (either in the form of a general liability policy or a director's and officer's liability policy) or issued personally to the director or executive officer. In the event the damages are not covered by a liability insurance policy, the volunteer director or volunteer executive officer shall not be personally liable for the damages if the Board of Directors and the person have made all reasonable efforts in good faith to obtain available liability insurance. "Volunteer" means the rendering of services without compensation. "Compensation" means remuneration whether by way of salary, fee, or other consideration for services rendered. However, the payment of per diem, mileage, or other reimbursement expenses to a person who otherwise qualifies as a volunteer director or volunteer executive officer shall not affect that person's status as a volunteer within the meaning of this Section. Nothing in this section shall limit the liability of the Corporation for any damages caused by acts or omissions of the volunteer director or volunteer executive officer.

8.10 Insurance. The Corporation shall have the power to purchase and maintain insurance on behalf of any agent of the Corporation against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not the Corporation would have the power to indemnify the agent against such liability under the provisions of this Article VIII, provided, however, that the Corporation shall have no power to purchase and maintain such insurance to indemnify any agent of the Corporation for a violation of §5233 of the Law (or any successor provision thereto).

8.11 Non-Applicability to Fiduciaries of Employee Benefit Plans. This Article VIII does not apply to any proceeding against any director, investment manager, or other fiduciary of an employee benefit plan in such person's capacity as such, even though such person may also be an agent of the corporation as defined in Section 1 of this Article VIII. The corporation shall have the power to indemnify such director, investment manager, or other fiduciary to the extent permitted by §207(f) of the California Corporations Code.

If any part of this Article VIII shall be found in any action, suit or proceeding to be invalid or ineffective, the validity and the effectiveness of the remaining parts shall not be affected.

ARTICLE IX GENERAL PROVISIONS

9.1 Checks, Drafts, Notes. All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to the Corporation, shall be signed or endorsed by such person or persons and in such manner as from time to time shall be determined by resolution of the Board of Directors,

9.2 Contracts; Instruments. The Board of Directors shall determine, from time to time, who shall be authorized to enter into any contract or execute an instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

9.3 Maintenance of the Corporate Records. The Corporation shall keep the following:

- (a) Adequate and correct books and records of account, and
- (b) Written minutes of the proceedings of its Board and committees of the Board.

Minutes shall be kept in written form. Other books and records shall be kept in either written form or in any other form capable of being converted into written form or other clearly legible tangible form.

9.4 Rights of Inspection. Subject to the Corporation's obligation to keep healthcare information confidential as a matter of law and such obligations of confidentiality as exist under written agreement, every director shall have the absolute right at any reasonable time to inspect and copy all books, records and documents of every kind and to inspect the physical properties of the Corporation. The inspection may be made in person or by the director's agent or attorney. The right of inspection includes the right to copy and make extracts of documents.

9.5 Annual Report. The Board of Directors shall cause an annual report with respect to the Corporation to be sent to the members of the Board of Directors within 120 days after the end of the fiscal year of the Corporation. That report shall contain the following information in appropriate detail:

- (a) The assets and liabilities, including the trust funds, of the Corporation as of the end of the fiscal year;
- (b) The principal changes in assets and liabilities, including trust funds, during the fiscal year;
- (c) The revenues or receipts of the Corporation, both unrestricted and restricted to particular purposes, for the fiscal year;
- (d) The expenses or disbursements of the Corporation for both general and restricted purposes during the fiscal year;

(e) Any information required by Section 9.6 of this Article IX; and

(f) An independent accountant's report or, if none, the certificate of an authorized officer of the Corporation that such statements were prepared without audit from the books and records of the Corporation.

The annual report and accompany materials, including the annual statement of certain transactions and indemnifications referenced in Section 9.6 below, may be sent by electronic transmission.

9.6 Annual Statement of Certain Transactions and Indemnifications. As part of the annual report provided pursuant to Section 9.5 above, the Corporation shall, within 120 days after the end of the fiscal year, annually prepare and furnish to each Director a statement of any transaction or indemnification of the following kind:

(a) Any transaction in which the Corporation or any parent or subsidiary was a party, (i) in which an "interested person" had a direct or indirect material financial interest, and (ii) which involved more than Fifty Thousand Dollars (\$50,000) or was one of several transactions with the same interested person involving, in the aggregate, more than Fifty Thousand Dollars (\$50,000). For this purpose, an "interested person" is any director or officer of the Corporation or any parent or subsidiary of the Corporation (but mere common directorship shall not be considered such an interest). The statement shall include a brief description of the transaction, the names of interested persons involved, their relationship to the Corporation or any parent or subsidiary thereof, the nature of their interest in the transaction and, if practical, the amount of that interest, provided that if the transaction was with a partnership in which the interested person is a partner, only the interest of the partnership need be stated.

(b) Any indemnifications or advances aggregating more than Ten Thousand Dollars (\$10,000) paid during the fiscal year to any officer or Director of the Corporation under Sections 8.2 and 8.3 of Article VIII.

ARTICLE X AMENDMENT

10.1 Amendment of Articles of Incorporation and Bylaws. The Articles of Incorporation and the Bylaws of the Corporation may be restated, altered, amended or repealed in whole or in part, or new bylaws adopted, only upon the affirmative vote of two-thirds (2/3) vote of all the Voting Directors then in office at any regular or special meeting of the Board.

IN WITNESS WHEREOF, these Bylaws are hereby certified to be the duly enacted and currently in force Bylaws of the _____ by the certificate of its Secretary which is herein below set forth.

CERTIFICATE

The undersigned hereby certifies as follows:

S/he is the duly elected and acting Secretary/Treasurer of _____, a California nonprofit public benefit corporation, and

Attached is a true copy of the Bylaws of that Corporation as adopted by the incorporator dated effective _____, 2009.

Signature

Date: _____



Stanislaus Family Medicine Residency Program

May 5, 2009

Background

- Family Medicine Residency Program accredited since 1975
- 1997 closure of County Hospital resulted in all inpatient training at Doctors Medical Center (DMC)
- County clinic system expanded

Background continued...

- After County hospital closure, Federal review of program resulted in reduced level of reimbursement as a new program
- Eleven years of Graduate Medical Education (GME) funding
- In 2008, Centers for Medicare and Medicaid Services (CMS) reconsidered program funding eligibility
- In 2009, CMS recouped \$19,274,099, shared equally by County and DMC

Background continued...

- DMC/Tenet has filed an appeal
- Engaged Legislative Representatives
- Engaged Several Key Organizations
- Initiate Consortium planning to preserve and expand physician training program
- County and DMC commit to continued interim funding

Going Forward – Consortium Development & Participation

- Proposing a new Non-Profit Consortium Organization as Sponsoring Institution of Graduate Medical Education
- County clinics and other hospitals would join the Consortium
- Consortium would be the Sponsoring Institution of the Family Medicine Residency Program and Future Residency Programs, such as Emergency Medicine, Surgery, Internal Medicine, etc.

Going Forward...

- Part of HSA Strategic Planning prior to CMS funding issue
- To ensure preservation of County clinics and enhance physician training
- To position community for relationship with future UC Merced Medical School
- To preserve safety net
- To provide doctors in this underserved region

Consortium as Structure for New Program

- Consortium would be the Sponsoring Institution
- Consortium would have County and hospitals involved in training, resource sharing and funding
- Consortium would be a Non-Profit 501(3)(c) governed by a Board of Directors
- Each participating organization would have two seats on Board – one could be a Physician

Stanislaus Family Medicine Residency Program Today

- Stanislaus County is Sponsoring Institution
- Trains 27 medical school graduates over 3 years
- Critical component of safety net health care access
- Vital source of physicians for community
- A collaborative program between DMC and the Health Services Agency
- Inpatient Training at DMC
- Outpatient Training in County Clinics

What is a Residency Program?

- Trains Medical School Graduate Physicians
- Residency Programs are by Specialty
 - Ours is a Family Medicine Program
- National standards dictate the length
 - Family Medicine is three years
- Completion enables physician to take exam for Board Certification
- Programs must be accredited to receive federal funding

Accreditation

Accreditation Council for
Graduate
Medical Education

Funding

US Dept of
Health & Human Services






Centers for
Medicare &
Medicaid Services

Medicare –
Hospital Cost Report
Reimbursement

Program Must be “New”

- “Existing” accredited programs cannot after October 1997, be transferred when a hospital closes and relinquishes its Medicare Provider Number
- “New” Programs with an Accreditation (and Accreditation Number) issued after January 1, 1995 can establish GME funding levels at a hospital
- New Proposed Regulations issued by CMS on May 1, 2009, currently being analyzed

Consortium – What's different?

- Sponsorship – County  Consortium (non-profit)
- Curriculum Changes  Adding Integrated Behavioral Health, Patient Centered Medical Home, Dermatology, Electronic Medical Record in FQHC, etc
- Accreditation - Single (ACGME)  Dual for Family Medicine (ACGME and AOA)
- Specialties – One Family Medicine  Multiple – possibilities: Emergency Medicine, Surgery...
- Teaching Facility Sites DMC, Clinics  Clinics and 3 or more community hospitals

Next Steps

- Goal is to begin a new program on July 1, 2010 for two primary reasons
 - Earliest possibility to restore GME funding
 - Stability perception for future medical school candidates and existing Resident Physicians
- Sponsor and Affiliation Agreements with participating organizations and other facilities part of the New Program Application
- Accreditation review can take up to one year

Consortium Planning and Development

- Ongoing series of meetings
- Potential Initial Participant Organizations
 - Stanislaus County/Community Health Center clinics
 - Doctors Medical Center
 - Memorial Medical Center
 - Kaiser Permanente
- Next step – file Articles of Incorporation for the new Non-profit

Development Costs

- \$40,000 initial costs to form non-profit to be shared by participating organizations
- Remaining Initial Development Costs estimated at \$235,000 to be shared by participating organizations, for finalizing bylaws, establishing Board of Directors, preparation of the new Program application to the Accrediting Body
- County share of development costs to be paid from existing budget
- Additional Specialty Programs would be in addition to \$275,000 and subject to a sharing agreement

Ongoing Costs

- Current Family Medicine program costs \$4.2M annually
- Previous GME funding of \$2.7M left a net cost of \$1.5M shared equally between County & DMC
- New Consortium build-out is intended to result in more hospitals, more physician training and more Federal revenue for about the same local cost

Consortium Development Status

- Potential Participant Status
 - Conceptual Agreement
 - Doctors Medical Center
 - Memorial Medical Center
 - Under Consideration
 - Kaiser Permanente
 - Stanislaus County Community Health Center Board
- Federal funding remains uncertain

Critical Future Considerations

- New Program Application and Voluntary Withdrawal of existing program is required
- Detailed implementation plan is in development and subject to Federal approval

Staff Recommendations

- Authorize the development and joining of a Consortium Organization as a Nonprofit Public Benefit Corporation for the purpose of Graduate Medical Education; and to transfer the Sponsorship of the Stanislaus Family Medicine Residency Program to the Consortium
- Authorize the Chief Executive Officer or his designee to approve the Articles of Incorporation and initial bylaws of the Consortium Organization on behalf of Stanislaus County

Staff Recommendations continued...

- Authorize the Chief Executive Officer to appoint representatives to fill the seats on the Consortium Board of Directors designated for Stanislaus County in accordance with the bylaws of the Consortium organization
- Authorize the Chief Executive Officer or his designee to perform activities necessary to cause the transfer of the Sponsorship of the Stanislaus Family Medicine Residency Program to the Consortium organization

Staff Recommendations continued...

- Authorize the Chief Executive Officer or his designee to enter Affiliation Agreements with the Consortium, as applicable and as may be necessary for Accreditation, funding and expense sharing arrangements, and management and employment arrangements
- Authorize the Chief Executive Officer or his designee to amend the existing contract for legal services with Davis Wright Tremaine LLP increasing the maximum amount payable by \$100,000 for continued legal services to the county and the Consortium for this effort, to be funded from existing appropriations

Future Actions

- Evolving program plan will have regular reports to Board of Supervisors and partner hospitals
- New Proposed Regulations may result in changes which will be returned to the Board for consideration