

# **HIMMELSTEIN EXHIBIT 1**

**AMENDED AND RESTATED  
FLORIDA CHAPTER OF THE AMERICAN COLLEGE OF PHYSICIANS, INC.  
BYLAWS  
As of 9/16/2006**

**ARTICLE I  
NAME**

- 1.1 The name of the Corporation shall be the Florida Chapter of the American College of Physician, Inc. It shall be known internally as the Division of Education and Membership (the Division).

**ARTICLE II  
PURPOSES**

- 2.1 The purposes for which the Division is organized are:
- A. The purposes of the Chapter are exclusively charitable and educational as set forth in the Articles of Incorporation of the Chapter and include the organization of those members of the American College of Physicians (the College) who are members of the Chapter, in order to further the objects and purposes of the College.
- B. The Division is subject to any limitations and restrictions imposed upon it by the Bylaws of the College or by any resolutions passed by the Board of Regents of the College, and if it does not comply with such restrictions the Division shall be required (without limiting any other actions which may be required of it), upon request of the College, to cease being a chapter of the College or using the name of the College.

**ARTICLE III  
MEMBERSHIP**

- 3.1 Membership in the Division shall consist of those persons who are members in good standing of the College and whose mailing address for purposes of receiving notices and publications of the College is in Florida.
- 3.2 A Division member shall automatically be accorded the same class of membership as such member holds in the College. Only a member who belongs to the Member, Fellow, or Master class of membership shall be entitled to hold an office of the Division or vote on Division matters, provided, however, that other members may vote in the election of members of advisory boards or committees composed solely of members of such class, and may be appointed to serve as a voting member of a Division committee
- 3.3 A member may resign by declaring his or her intention in writing to the Secretary of the Division. There shall be no refund of dues.

**ARTICLE IV  
MEETINGS OF THE MEMBERS**

- 4.1 An annual meeting of the Division shall be held at a time and place designated by the Council for the purpose of transaction of such business as may come before the meeting.
- 4.2 Special meetings of the members, for any purpose or purposes other than those regulated by statute, these Bylaws or by the Articles of Incorporation, may be called at any time by the President, any two members of the council, the Council or at least ten percent of the members entitled to vote, upon written request to the Secretary of the Division.
- 4.3 Written notice of any meeting of members, stating the place, the date and hour and the general nature of the business to be transacted thereat, shall be served upon or mailed, postage prepaid, to each member at such address as appears on the books of the Division, not less than ten nor more than fifty days before such meeting, unless a greater notice is required by statute.

- 4.4 Except as may be otherwise provided by statute or by these Bylaws, a quorum for the transaction of business at any meeting shall consist of at least twenty (20) those members entitled to vote who are present in person. One or more members may participate in any meeting by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear and communicate with each other, and all members so participating shall be deemed to be present in person at the meeting.
- 4.5 Except as may be otherwise provided by statute, these Bylaws, or the Articles of Incorporation, the vote of a majority of the members entitled to vote who are present shall decide any question brought before any meeting.

#### **ARTICLE V THE COUNCIL**

- 5.1 The affairs of the Division shall be managed by a Council, in accordance with these Bylaws.
- 5.2 Any active member in good standing shall be eligible to serve on the Council, although no member may serve in the same capacity as a Council member for more than two full terms.
- 5.3 The geographical area of the Division shall be divided into three districts in such a manner as may be decided from time to time by the Council, the names and geographical boundaries of which are set forth in Appendix I of these Bylaws.
- 5.4 The Council shall consist of no less than 25 and no more than 38 Division members; the number shall be set from time to time by the Council on the following basis. At least half of the Council members (other than officers) shall be elected by the members of the Division entitled to vote pursuant to Section 3.2 and as prescribed in Section 8.4, and the remaining Council members shall be appointed as provided by the council structure outlined below. Moreover, the Council shall consist of those individuals simultaneously serving as Council members of the Florida Chapter, ACP Services, Inc., to wit:
- A. A President who shall be a Governor of the region, a Vice-President who shall be a Governor of the region, Secretary, Treasurer and Governor-elect, if any.
  - B. Four Council members from each District representing a geographic area of the State.
  - C. The Program Director of each internal medicine resident training program within the State.
  - D. The Chairman or Vice-Chairman of the Associates (a/k/a/ Residents) Council, as elected by the members of the Associates Council.
  - E. The immediate past two Governors of the College representing the State of Florida or, to the extent that such immediate past Governor(s) do not yet exist, the immediate past Governor of the American College of Physicians representing the State of Florida.
  - F. Those residing in Florida who have served as Regents of the American College of Physicians at any time during the previous two years.
  - G. Each and every Governor-Elect.
  - H. The President may, at his discretion, appoint an internist representative of the Florida Medical Association as a voting member of the Council.
  - I. The President may, at his discretion, appoint the editor of the Chapter newsletter as a voting member of the Council.
  - J. The President may, at his discretion, appoint a Specialty Society Representative to the Florida Medical Association as a voting member of the Council.
  - K. The Chairs of each Committee established pursuant to Article VIII.
- 5.5. Members of the Council elected by the membership shall be elected as follows:
- A. All officers and elected councilors shall be elected as provided in Article VIII of these Bylaws and shall assume office during the Annual Meeting during the year in which they are elected.

- B. Elected Council members representing Districts may be nominated by the Nominating Committee and elected for three- year terms by the members of the respective Districts in which the Council members reside. Incumbent regional representatives of the Florida Chapter, American College of Physicians as of the effective date of these Bylaws shall continue in such a capacity in the Division until the expiration of their respective elected terms.
  - C. The Nominating Committee may nominate two individuals for each position to be elected. In the event that the Nominating Committee is unable to acquire two nominations, the Board may, by a two-thirds vote, waive the requirement of a second nomination.
- 5.6 Vacancies in the elected Council positions (other than among the officers), including vacancies resulting from an increase in the number of members constituting the Council, shall be filled by a majority vote of the remaining Council members. Each person so elected shall be a Council member until a successor is elected by the members entitled to vote at the next election of members of the Council or at any special meeting of the members duly called for that purpose and held prior thereto.
- 5.7 Unless the Council determines that there are extenuating circumstances, any elected regional representative to the Council will be replaced on the Council if he/she misses two consecutive Council meetings.
- 5.8. The duties of the Council shall be those ordinarily performed by a Board of Directors of a Corporation, and the Council may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute, these Bylaws, or the Articles of Incorporation directed or required to be exercised and done by members of the Division or by the President.

#### **ARTICLE VI COUNCIL MEETINGS**

- 6.1. The meetings of the Council may be held at such places within Florida or elsewhere as a majority of the Council members may designate from time to time or as may be designated in the notice calling the meeting.
- 6.2. Regular meetings of the Council shall be held at such times and places as shall be determined from time to time, by resolution of the Council. Notice of each regular meeting of the Council shall specify the time and place of the meeting and shall be given to each Council member at least thirty (30) days before the meeting
- 6.3. Special meetings of the Council may be called by the President or the Secretary upon written request of any two members of the Council on 24 hours notice to each Council member. Notice of each special meeting of the Council shall specify the time and place of the meeting
- 6.4 A majority of the Council members shall be necessary to constitute a quorum for the transaction business, and the acts of a majority of Council members present at a meeting at which a quorum is present shall be the acts of the Council, except as may be otherwise specifically provided by Statute, these bylaws, or the Articles of Incorporation. If a quorum shall not be present at any Council meeting, the Council members present thereat may adjourn the meeting. It shall not be necessary to provide any notice of the adjourned meeting or of the business transacted thereat other than by announcement at the meeting at which such adjournment is taken.
- 6.5 One or more Council members may participate in a meeting of the Council by means of telecommunication by means of which all persons participating in the meeting can hear each other, and all Council members so participating shall be deemed to be present in person at the meeting.
- 6.6 Actions of the Council may be taken without a meeting if a consent or consents in writing setting forth the action so taken shall be signed by all of the Council members and shall be filed with the Secretary of the Division and with the minutes of the proceedings of the Council.

- 6.7 Written or printed notice stating the place, day and hour of any Annual, regular, or specially-called meeting of the Council shall be delivered either personally, by mail or air delivery, by the Secretary, to each member of the Council no less than ten or more than thirty days prior to any Annual, regular or special meeting. Notice shall be deemed to have been given on the date on which such notice is mailed or shipped.

## **ARTICLE VII OFFICERS**

- 7.1 The officers of the Division shall be the President (who shall be a Governor of the Region), the Vice-President (who shall be a Governor at the time he assumes office), the Governor-elect, if any, a Secretary, and a Treasurer. All officers shall be members of the Division.
- 7.2 The office of President and Chief Executive Officer shall be held by a Governor of the College serving the initial two years of the term as Governor. The office of Vice-President shall be held by a Governor of the College serving the final two years of the term as Governor.
- 7.3 Except with respect to the position of Governor and Governor-elect and except as hereinafter provided in the case of vacancies, the officers shall be elected to two year terms by the members of the Division entitled to vote as set forth in Section 3.2 and as prescribed in Section 8.4 and shall serve in their respective offices until the next annual meeting of the members and until their successors are duly elected.
- 7.4 Any officer other than President, Vice president and Governor elect may be removed by the Council whenever, in its judgment, the best interests of the Division will be served thereby. A vacancy in the office of Secretary or Treasurer shall be filled for the unexpired term by appointment by the Senior Governor, subject to confirmation by the Executive Committee. Any person so elected shall serve until a successor is elected pursuant to the process as described in Article VIII. If the President ceases to serve, the Vice-President shall become President.
- 7.5 The Council may appoint such other officers, assistant officers, and agents as the needs of the Division may require who shall hold their terms for such terms and shall have such authority and shall perform such duties as shall be determined by resolution of the Council from time to time.
- 7.6 The salaries and expense allowances, if any, for all officers and agents of the Division shall be determined by the Council.

### **THE GOVERNOR (PRESIDENT)**

- 7.7 The Governor/President (as provided in Section 7.2) shall be elected pursuant to the provisions of the Bylaws of the College and shall serve for such term and shall perform such functions as are set forth in such Bylaws.
- 7.8 The Governor/President shall be the chief executive officer of the Division and shall ensure that all orders and resolutions of the Council are carried into effect. The President shall also (1) preside over meetings of the members and of the Council, (2) at his or her discretion, attend meetings of the committees, (3) act as a liaison between the Division and the College and other Divisions (4) report periodically to the College's Board of Governors on activities of the Division, (5) promote applications for membership in the College and evaluate the recommendations of the Division's Credentials/Membership Committee for such membership; and (6) perform such other duties as the Council may prescribe or delegate to him.
- 7.9 The Governor/President shall execute bonds, mortgages and other contracts requiring a seal, under the seal of the Division, except where required by law to be otherwise signed and executed and except where the signing and execution thereof shall be expressly delegated by the Council to some other officer or agent of the Division.

## **THE GOVERNOR/VICE PRESIDENT**

- 7.10 The Governor/Vice President (as provided in Sections 7.2 and 7.7.1 shall be elected pursuant to the provisions of the Bylaws of the College and shall serve for such term and shall perform such functions as are set forth in such Bylaws.
- 7.10.1 The Governor/Vice-President shall, in the absence or disability of the President, shall perform the duties and exercise the powers of the Governor/President, and shall perform such other duties as the Council may prescribe or delegate to this office.

## **THE SECRETARY**

- 7.11 The Secretary shall be responsible for the keeping of the minutes of the meetings of the members and of the Council and of the Executive Committee (said minutes to be kept in one or more books provided for that purpose); be responsible for the sending of all notices in accordance with these Bylaws, or as required by law; be responsible for the custody of all corporate records and the Seal of the Division; be responsible for seeing that the Seal of the Division is affixed to all pertinent documents, and the execution of which on behalf of the Division, under its Seal, is duly authorized in accordance with the provisions of these Bylaws; be responsible for keeping a register of the post office address of each members, which shall be furnished to the Secretary by each member; furnish committees with material referred to them; send copies of the minutes of each and every meeting of the Division and Council to every member of the Council; conduct the general correspondence of the Division, as directed by the President; notify Officers and members of committees of their appointments and election; and notify those members who have forfeited membership.
- 7.12 The Secretary shall be elected according to the provisions of Section 8.4 . The Secretary shall serve a term of two years and would be eligible for re-election for a maximum term of four years. Moreover, the Secretary shall serve a simultaneous term as secretary of the Florida Chapter, ACP Services, Inc.

## **THE TREASURER**

- 7.13 The Treasurer or his designee shall have the custody of the Division funds and securities and shall keep full and accurate accounts or receipts and disbursements in books belonging to the Division, and shall deposit all monies and other valuable effects in the name of and to the credit of the Division in such depositories as shall be designated by the Council. He or his designee shall also disburse the funds of the Division as may be ordered by the Council, taking proper vouchers for such disbursements, and shall render to the Council, whenever it may require, an account of all his transactions as Treasurer and of the financial condition of the Division. He shall also be bonded in such sums and with such surety or such sureties as may be satisfactory to the Council for the faithful discharge of the duties of the office.
- 7.14 The Treasurer will be elected according to provisions of Article 8.4 and will serve a two year term. The maximum term of the office of Treasurer shall be four years. Moreover, the Treasurer will serve a simultaneous term as treasurer of the Florida Chapter, ACP Services, Inc.

## **ARTICLE VIII COMMITTEES**

- 8.1 The President may from time to time designate and create standing or temporary committees, in addition to those provided for in these Bylaws, which committees shall have duties and responsibilities and shall function in such manner as the Council may deem appropriate. Except as provided below, the Chairs and members of all committees need not be members of the Council, and shall be appointed by the President.

- 8.2 The Executive Committee shall consist of the Governor/President, Governor/Vice-President, Immediate Past Governor, Governor-Elect (if any), Secretary, Treasurer and two members elected by the Council who shall be Council members. Moreover, the Executive Committee shall consist of those individuals simultaneously serving as Executive Committee members of the Florida Chapter, ACP Services, Inc.
- 8.3 The president and Vice-President shall each appoint two members of the Nominating Committee, and the most immediate past Governor shall serve as Chairman. Moreover, the Nominating Committee will consist of those individuals simultaneously serving as members of the corresponding Nominations Committee of the Florida Chapter, ACP Services, Inc. The diversity of the Division's composition should be a consideration when appointing the committee.
- 8.4 The Committee shall submit to the Division membership at least one month prior to the annual meeting of members a list of candidates for the Council and for the offices Governor/President and Governor/Vice-president, when appropriate, and for secretary and treasurer. Only those candidates duly nominated by the Nominating Committee according to the provisions of Section 5.5(c) shall be eligible for election. Elections will be conducted by mail ballot.

#### **ARTICLE IX GENERAL PROVISIONS**

- 9.1 Report to members. The Council shall submit at the annual meeting of the members a full report of conditions and finances of the Division together with a review of its acts for the preceding year.
- 9.2 Checks and Notes. All checks or demands for money and notes of the Division shall be signed by such officer or officers as the Council may from time to time designate.
- 9.3 Fiscal year. The fiscal year of the Division shall be from July 1 of one year to June 30 of the following year.
- 9.4 Notices. Whenever, under the provisions of the statutes of the Articles of Incorporation or of these Bylaws, notice is required to be given to any person, it may be given to such person either personally or by sending a copy thereof through the mail or by telegram, charges prepaid, or by facsimile transmission or electronic mail, or by recognized delivery service to the appropriate address appearing on the books of the Division or supplied by him to the Division for the purpose of notice. Notice shall be deemed to have been given when delivered in person, or sent by facsimile or electronic mail or one day after being deposited in the mail or with a recognized delivery service or sent by telegram.
- 9.5 Waiver of Notice. Whenever any written notice is required to be given by statute or by the Articles of Incorporation or by these Bylaws, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent of the giving of such notice. Except in the case of a special meeting of members, neither the business to be transacted nor the purpose of the meeting need be specified in the waiver of notice of such meeting. Attendance of any person entitled to vote at any meeting shall constitute a waiver of notice of such meeting, except where a person attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called or convened.
- 9.6 Liability and Indemnification. A Council member shall not be personally liable for monetary damages as Council member for any action taken, or any failure to take any action, unless the Council member has breached or failed to perform the duties of Council member and the breach or failure to perform constitutes self-dealing, willful misconduct or recklessness; provided, however, the foregoing provision shall not apply to the responsibility or liability of a Council member pursuant to any criminal statute or the liability of a Council member for the payment of taxes pursuant to local, state or federal law.

To the fullest extent permitted by the provisions of the Florida Not for Profit Corporation Act, as the same may be amended and supplemented, the Division shall indemnify any officer, Council member or employee who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suite or proceeding, whether civil, criminal, administrative or investigative, (and whether or not by, or in the right of, the Division) by reason of the fact that such person is or was a representative of the Division, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with such action or proceeding if such person acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Division, and with respect to any criminal proceeding, had no reason to believe such conduct was illegal, provided, however, that no persons shall be entitled to indemnification pursuant to these Bylaws in any instance in which the action or failure to take action giving rise to the claim for indemnification is determined by a course to have constituted willful misconduct or recklessness; and provided, further, however, in instances of a claim by or in the right of the Division, indemnification shall not be made under this section in respect of any claim, issue or matter as to which the person has been adjudged to be liable to the Division unless and only to the extent that the court determines upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses that the court shall deem proper.

Unless ordered by a court, any indemnification under section 9.6 or otherwise permitted by law shall be made by the Division only as authorized in the specific case upon a determination that indemnification is proper in the circumstances because the applicable standard of conduct set forth under that section has been met. Such determination shall be made by the Council by a majority vote of a quorum consisting of Council members who were not parties to the action or proceeding; if such a quorum is not obtainable or if obtainable and a majority vote of a quorum of disinterested Council members so directs, by independent legal counsel in a written opinion; or by the members.

- 9.7 Dues and Fees. The dues shall be established by the Council annually. The annual dues for the various classes of membership shall not exceed the annual dues for the same respective classes of membership in the College. The annual dues shall not be assessed against any member who is exempt from the payment of annual dues to the College, unless such member is exempt solely because of the payment of a life membership fee to the College. All dues, fees and assessments applicable to the Division shall be collected by the College, transferred to the Florida Chapter ACP Services, Inc. and remitted to the Florida Chapter of the American College of Physician, Inc.

#### **ARTICLE X SEAL**

- 10.1 The Seal shall contain the name of the Division, as well as its date and State of Incorporation.

#### **ARTICLE XI AMENDMENTS**

- 11.1 The Articles of Incorporation or Bylaws may be altered, amended or repealed by a majority vote of the members entitled to vote thereon at any regular or special meeting duly convened after notice to the members of that purpose, or to the extent permitted by law, by a majority vote of the members of the Council at any regular or special meeting duly convened, subject always to the power of the members to change such action by the Council members; provided, however, that no such fundamental change as the foregoing or such as a merger, division, or dissolution shall be effective without the approval of the Board of Regents of the College.



**ARTICLE XII  
DISSOLUTION**

- 12.1 Upon dissolution of the Division, all of the assets thereof, after the payment of all debts, shall be distributed to such non-profit organizations as are qualified as tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code, with preference being given to any such organization whose purposes are consistent with those of the Division.

**ARTICLE XIII  
PARLIAMENTARY AUTHORITY**

- 13.1 Robert's Rules of Order shall govern the proceedings of all meetings of the Council and of the Division in all cases not provided for in these Bylaws.