

FILED

98 DEC -3 AM 8:28
SECRETARY OF STATE
STATE OF IDAHO

ARTICLES OF MERGER
OF
WILLIAM W. SCHUBERT, M.D., P.A.,
AND
DONALD A. DYER, M.D., P.A.
AND
COX & COX OB-GYN ASSOCIATES, P.A.
INTO
CDS, P.A.

IDAHO SECRETARY OF STATE
12/03/1998 09:00
CX: 9838 CT: 1100 IN: 166012
1 @ 30.00 = 30.00 MERGER # 2

The undersigned corporation, pursuant to Idaho Code §§ 30-1-1105 and 30-1312, does hereby certify the following:

1. That the names and states of incorporation of the constituent professional corporations which are parties to the merger are as follows:

NAME	STATE OF INCORPORATION
William W. Schubert, M.D., P.A.	Idaho
Donald A. Dyer, M.D., P.A.	Idaho
Cox & Cox OB-GYN Associates, P.A.	Idaho
CDS, P.A.	Idaho

2. That the above named constituent corporations have entered into an Agreement and Plan of Merger, an executed copy of which is attached hereto and incorporated by reference herein.

3. That the Agreement and Plan of Merger among the parties to the merger has been approved by their respective shareholders of each of the constituent corporations in accordance with Idaho Code §§ 30-1-1101 and 30-1-1103, as follows:

C64913

- A. William W. Schubert, M.D., P.A. has one voting common share issued, outstanding, and entitled to vote on the Agreement and Plan of Merger. That all votes were cast in favor of the adoption of the Agreement and Plan of Merger, and that such votes were sufficient for approval of said Agreement and Plan of Merger;
 - B. Donald A. Dyer, M.D., P.A. has one voting common share issued, outstanding, and entitled to vote on the Agreement and Plan of Merger. That all votes were cast in favor of the adoption of the Agreement and Plan of Merger, and that such votes were sufficient for approval of said Agreement and Plan of Merger;
 - C. Cox & Cox OB-GYN Associates, P.A. has 37 voting common shares issued, outstanding, and entitled to vote on the Agreement and Plan of Merger. That all votes were cast in favor of the adoption of the Agreement and Plan of Merger, and that such votes were sufficient for approval of said Agreement and Plan of Merger; and
 - D. CDS, P.A. has 3 voting shares issued, outstanding, and entitled to vote on the Agreement and Plan of Merger. That all votes were cast in favor of the adoption of the Agreement and Plan of Merger, and that such votes were sufficient for approval of said Agreement and Plan of Merger.
- 4. That the name of the surviving corporation of the merger is CDS, P.A., a corporation organized and existing under the laws of the State of Idaho.
 - 5. That the effective date of these Articles of Merger shall be the close of business on December 31, 1998.

DATED this 11th day of November, 1998.

CDS, P.A.

By: William W. Schubert
William W. Schubert, President

STATE OF IDAHO)
 : ss
County of Bannock)

On this 11th day of November, 1998, before me, the undersigned, a Notary Public in and for said States, personally appeared William W. Schubert known to me to be the president of CDS, P.A., the entity whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same on behalf of said corporation.

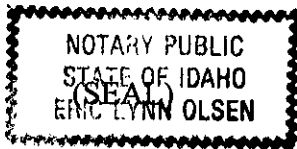
IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



NOTARY PUBLIC FOR IDAHO

Residing at: Bozette, ID

My Commission Expires: 9-12-2000



AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER ("Agreement") is made and entered into as of this ____ day of November, 1998, by and among CDS, P.A., a professional corporation organized and existing under the laws of the State of Idaho, having an office at 500 South 11th Avenue, 4th Floor, Pocatello, Idaho 83201 (hereinafter the "Merging Corporation"), William W. Schubert, M.D., P.A., a professional corporation organized and existing under the laws of the State of Idaho, having an office at 500 South 11th Avenue, 4th Floor, Pocatello, Idaho 83201 (hereinafter the "First Merged Corporation"), Donald A. Dyer, M.D., P.A., a professional corporation organized and existing under the laws of the State of Idaho, having an office at 500 South 11th Avenue, 4th Floor, Pocatello, Idaho 83201 (hereinafter the "Second Merged Corporation"), and Cox & Cox OB-GYN Associates, P.A., a professional corporation organized and existing under the laws of the State of Idaho, having an office at 500 South 11th Avenue, 4th Floor, Pocatello, Idaho 83201 (hereinafter the "Third Merged Corporation").

RECITALS

WHEREAS, the authorized capital stock of the Merging Corporation consists of 3,000 shares of no par value common stock, of which 3 shares were issued and outstanding as of the date hereof;

WHEREAS, the authorized capital stock of the First Merged Corporation consists of 250 shares of common stock, one hundred dollars (\$100) par value, of which one share was issued and outstanding as of the date hereof;

WHEREAS, the authorized capital stock of the Second Merged Corporation consists of 50

shares of common stock, one hundred dollars (\$100) par value, of which one share was issued and outstanding as of the date hereof;

WHEREAS, the authorized capital stock of the Third Merged Corporation consists of 250 shares of common stock, one hundred dollars (\$100) par value, of which 37 shares were issued and outstanding as of the date hereof;

WHEREAS, the respective Boards of Directors of the Merging Corporation, the First Merged Corporation, the Second Merged Corporation, and the Third Merged Corporation have deemed it advisable and to the advantage of the four corporations that the First Merged Corporation, the Second Merged Corporation, and the Third Merged Corporation each merge into the Merging Corporation upon the terms and conditions herein provided;

WHEREAS, the Merging Corporation, the First Merged Corporation, the Second Merged Corporation, and the Third Merged Corporation intend that the merger contemplated hereby qualify as a tax-free reorganization within the meaning of Section 368(a)(1)(A) of the Internal Revenue Code of 1986, as amended; and

WHEREAS, the respective Board of Directors of the Merging Corporation, the First Merged Corporation, the Second Merged Corporation, and the Third Merged Corporation have approved this Agreement and have directed that this Agreement be submitted to a vote of the shareholders of said corporations, respectively.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual agreements and covenants set forth herein, the Merging Corporation, the First Merged Corporation, the Second Merged Corporation, and the Third Merged Corporation hereby agree to merge in accordance with the following plan:

1. Merger. Each of the First Merged Corporation, the Second Merged Corporation, and the Third Merged Corporation shall be merged with and into the Merging Corporation, and the Merging Corporation shall survive the merger, all as, and with the effect, provided by the corporation laws of the State of Idaho (Idaho Code §§ 30-1-1101, 30-1-1102, 30-1-1103, 30-1-1106, and 30-1312), and this Agreement. As soon as practicable after the shareholders of each of said corporations shall approve this Agreement, appropriate Articles of Merger for the Merging Corporation shall be signed, verified and delivered for filing with the Secretary of State of Idaho. This Agreement shall become effective for purposes of all applicable law at the close of business on December 31, 1998 if the Articles of Merger shall be filed prior to 5:00 p.m. local time on such date (hereinafter referred to as the "Effective Time").

2. Directors and Officers and Governing Documents. The directors and officers of the Merging Corporation shall be the same upon the Effective Time as they are for the Merging Corporation immediately prior thereto. The Certificate of Incorporation of the Merging Corporation shall continue to be the Certificate of Incorporation of the Merging Corporation as the surviving corporation without change or amendment until further amended in accordance with the provisions thereof and applicable laws. The By Laws of the Merging Corporation, as in effect at the Effective Time, shall continue to be the By Laws of the Merging Corporation as the surviving corporation without change or amendment until further amended in accordance with the provisions thereof and applicable laws.

3. Rights and Liabilities of First Merged Corporation, Second Merged Corporation, and Third Merged Corporation. At and after the Effective Time, the Merging Corporation shall possess all of the rights, privileges, immunities and franchises of a public and private nature of each

of the merged corporations; any and all property, real, personal and mixed, and any and all debts or obligations due either of the First Merged Corporation, of the Second Merged Corporation, or of the Third Merged Corporation on whatever account, and all other choses in action, and all and every other interest of either of the First Merged Corporation or the Second Merged Corporation or the Third Merged Corporation shall be taken and transferred to and vested in the Merging Corporation without further act or deed; and the title to any real estate, or any interest therein, vested in any of such corporations shall not prevent or be in any way impaired by reason of the merger.

4. Further Assurance. From time to time, as and when required by the Merging Corporation, there shall be executed and delivered on behalf of each of the First Merged Corporation, the Second Merged Corporation, and the Third Merged Corporation such deeds and other instruments, and there shall be taken or caused to be taken by it all such further and other action, as shall be appropriate or necessary in order to vest, perfect or confirm, of record or otherwise, in the Merging Corporation the title to and possession of powers, franchises and authority of each of the First Merged Corporation, the Second Merged Corporation, and the Third Merged Corporation, and otherwise to carry out the purposes of this Agreement, and the officers and the directors of the Merging Corporation are fully authorized in the name and on behalf of each of the First Merged Corporation, the Second Merged Corporation, and the Third Merged Corporation or otherwise to take any and all such action and to execute and deliver any and all such deeds and other instruments.

5. Stock of the Merging Corporation. Upon the Effective Time, by virtue of this Agreement, and without any action on the part of the holder thereof, each share of Common Stock of the Merging Corporation authorized immediately prior thereto shall retain the status of an

authorized and issued or unissued share of Common Stock of the Merging Corporation.

6. Stock Certificates. At and after the Effective Time, each certificate representing shares of Common Stock of the First Merged Corporation and each certificate representing shares of Common Stock of the Second Merged Corporation shall be exchanged for certificates representing an equal number of shares of Common Stock of the Merging Corporation, and each certificate representing shares of Common Stock of the Third Merged Corporation shall be exchanged for a certificate representing one share of Common Stock of the Merging Corporation. Promptly upon such exchange, the Merging Corporation shall cause to be canceled and retired each such certificate representing shares of Common Stock of the First Merged Corporation, the Second Merged Corporation, and the Third Merged Corporation received pursuant to the immediately preceding sentence. Until so exchanged, canceled and retired, each such certificate, upon and after the Effective Time, shall be deemed for all purposes, other than the payment of dividends or other distributions, if any, to stockholders, to represent the number of shares of Common Stock of the First Merged Corporation, the Second Merged Corporation, or the Third Merged Corporation represented thereby.

7. Employee Benefit Plans. As of the Effective Time, the Merging Corporation shall assume all obligations of each of the First Merged Corporation, the Second Merged Corporation, and the Third Merged Corporation under any and all employee benefit plans in effect as of such time or with respect to which employee rights or accrued benefits are outstanding as of such time.

8. Book Entries. As of the Effective Time, entries shall be made upon the books of the Merging Corporation in respect of this Agreement in accordance with the following:

(a) The assets and liabilities of each of the First Merged Corporation, the Second Merged

Corporation, and the Third Merged Corporation immediately prior to the Effective Time shall be separately recorded on the books of the Merging Corporation at the same amounts at which they were carried on the books of the First Merged Corporation, the Second Merged Corporation, or the Third Merged Corporation immediately prior to the Effective Time.

(b) There shall be recorded on the books of the Merging Corporation those entries of the various tax attributes of the First Merged Corporation, the Second Merged Corporation, and the Third Merged Corporation as provided in IRC §§ 381, 382, and 383.

(c) There shall be credited as surplus in respect of the retained earnings of the Merging Corporation the aggregate of the amount carried in the Retained Earnings account of each of the First Merged Corporation, the Second Merged Corporation, and the Third Merged Corporation immediately prior to the Effective Time.

9. Appointment of Agent. The Merging Corporation's registered agent hereby consents to service of process in the State of Idaho in any action or special proceeding for the enforcement of any liability or obligation of the First Merged Corporation, the Second Merged Corporation, or the Third Merged Corporation.

10. Amendment. At any time before or after approval and adoption by the shareholders of the First Merged Corporation, the Second Merged Corporation, or the Third Merged Corporation and prior to the Effective Time, this Agreement may be amended in any manner as may be determined in the judgment of the respective Boards of Directors of the First Merged Corporation, the Second Merged Corporation, and the Third Merged Corporation to be necessary, desirable or expedient; provided, however, that, after approval of the shareholders of each of the First Merged Corporation, the Second Merged Corporation, and the Third Merged Corporation, any such


amendment may not materially and adversely affect the rights and interests of the shareholders of each of the First Merged Corporation, the Second Merged Corporation, or the Third Merged Corporation.

11. Abandonment. At any time before the Effective Time, this Agreement may be terminated and the merger may be abandoned by the Board of Directors of either the First Merged Corporation, the Second Merged Corporation, or the Third Merged Corporation or all three, notwithstanding approval of this Agreement and Plan of Merger by the shareholders of the Merging Corporation or by the shareholders of the First Merged Corporation, the Second Merged Corporation, or the Third Merged Corporation, or any of them.

12. Counterparts. In order to facilitate the filing and recording of this Agreement, the same may be executed in two or more counterparts, each of which shall be deemed to be an original and the same agreement.

IN WITNESS WHEREOF, each of the corporate parties hereto, pursuant to authority granted by the Board of Directors of each of the First Merged Corporation, the Second Merged Corporation, the Third Merged Corporation, and the Merging Corporation has caused this Agreement to be executed by its President and attested to by its Secretary or Assistant Secretary and its corporate seal to be affixed hereto, as of the date first above written.

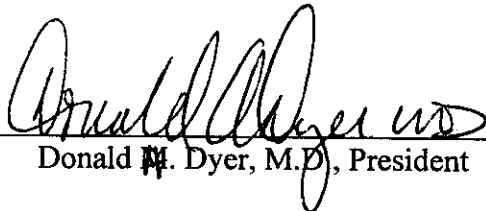
WILLIAM W. SCHUBERT, M.D., P.A.

By: 
William W. Schubert, M.D., President

ATTEST:

By: _____
Name: _____
Title: _____

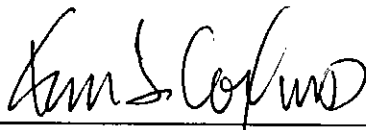
DONALD A. DYER, M.D., P.A.

By: 
Donald A. Dyer, M.D., President

ATTEST:

By: _____
Name: _____
Title: _____


COX & COX ASSOCIATES, P.A.

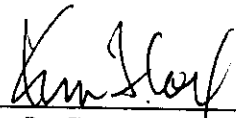
By: 
Kim L. Cox, M.D., President

ATTEST:

By: _____
Name: _____
Title: _____

CDS, P.A.

By: 
William W. Schubert, President

ATTEST:
By: 
Kim L. Cox, Secretary