

# *State of Idaho*

## **Department of State**

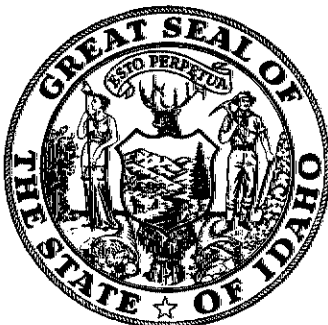
### **CERTIFICATE OF INCORPORATION OF**

**MINIMALLY INVASIVE SURGERY NORTHWEST, PA**  
**File number C 111156**

I, PETE T. CENARRUSA, Secretary of State of the State of Idaho, hereby certify that duplicate originals of Articles of Incorporation for the incorporation of the above named corporation, duly signed pursuant to the provisions of the Idaho Business Corporation Act, have been received in this office and are found to conform to law.

ACCORDINGLY and by virtue of the authority vested in me by law, I issue this Certificate of Incorporation and attach hereto a duplicate original of the Articles of Incorporation.

Dated: June 27, 1995



*Pete T. Cenarrusa*  
SECRETARY OF STATE

By *L. J. [Signature]*

ARTICLES OF INCORPORATION  
OF MINIMALLY INVASIVE SURGERY NORTHWEST, PA

The undersigned incorporator, being a person over the age of eighteen years, for the purpose of forming a corporation under the laws of the state of Idaho, Title 30 and in pursuance thereof does sign and deliver in duplicate to the Secretary of State of the state of Idaho the following Articles of Incorporation, and does state as follows:

ARTICLE I. NAME

The name of the Corporation shall be :

**Minimally Invasive Surgery Northwest, PA**

ARTICLE II. DURATION

The period of duration of the Corporation shall be perpetual.

ARTICLE III. PURPOSE

This corporation shall have unlimited power to engage in and to do any lawful act as defined under the Idaho Professional Service Incorporation Act including, but not limited to engaging in the practice of general surgery, to treat, prescribe, diagnose, or operate for disease, injuries, deficiencies, deformities, or physical conditions of the human body; and to operate an office or offices to perform these duties and procedures.

ARTICLE IV. AUTHORIZED SHARES

The aggregate number of shares which the Corporation shall have the authority to issue is as follows:

Total authorized shares is TEN THOUSAND (10,000) at one dollar (\$1.00) per share par value.

COMMON STOCK:

Class A - TEN THOUSAND (10,000) voting shares of common stock are authorized at one dollar (\$1.00) per share par value.

ALL SHARES SHALL BEAR NOTICE OF ALL RESTRICTIONS CONTAINED IN THE ARTICLES OF INCORPORATION, AS AMENDED.

4.1 The shares shall be issued only by unanimous consent of all shareholders of record at the time of issuance.

4.2 Shares shall be issued to an officer of the Corporation only upon unanimous consent of all stockholders.

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4.3 All shares issued shall be restricted and nontransferable except according to the method set out in these articles and the By-Laws.

4.4 If any person or entity desires or is compelled to sell or otherwise transfer any share of stock in the Corporation, the Corporation shall have the first right to purchase the shares before any transfer or sale. If the Corporation does not exercise its right to purchase, then the officers and shareholders shall have the second right to purchase. Only if the Corporation, officers and shareholders do not exercise their rights to purchase the shares, may the shares be purchased by or transferred to any other person or entity. The purchase price shall be computed by using the method set out in the By-Laws.

4.5 The rules, regulations, and procedures as set out in these Articles for the acquisition, transfer or voting of shares shall supersede any rule, regulation, or procedure in the By-Laws or any other instrument.

4.6 All holders of common stock shall have cumulative voting rights. This may be changed, modified, or amended only by unanimous consent of the shareholders.

4.7 All shareholders shall enjoy the right to pre-emptive acquisition of shares. This may be changed, modified, or amended only by unanimous consent of the shareholders.

4.8 Only the legal owner of any share of common stock shall be entitled to exercise voting rights.

4.9 Only those action which are adopted or directed by unanimous consent of the Board of Directors or Stockholders shall be valid.

#### ARTICLE V. BOARD OF DIRECTORS

The management of this Corporation shall be vested in a Board of Directors. The number of Directors shall not be less than one nor more than the number of officers of the Corporation. The initial member of the Board of Directors shall be the incorporator, JOHN L. PENNING, M.D. who shall serve as Chairman.

In compliance with the Idaho Business Corporation Act, this Corporation may enter into, contract, and otherwise transact as vendor, purchaser, or otherwise, with one or more of its directors, officers, or shareholders or with any corporation, association, firm, or entity in which one or more of them are or may become interested as directors, officers, shareholders, members, or otherwise.

A Director of this corporation shall not be personally liable to this corporation or its stockholders for monetary damages for breach of fiduciary duty as a Director, except for liability for: 1) any breach of the Director's duty of loyalty to this corporation or its stockholders; 2) acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; 3) under Idaho Code Section 3-1-48; or 4) any transaction from which the Director derived any improper personal benefit. The foregoing sentence notwithstanding, if the Idaho Business Corporation Act hereafter is amended to authorize further limitations of the liability of a director of a corporation, then a director of this corporation, in addition to the circumstances in which a director is not personally liable, as set forth in the preceding sentence, shall not be liable to the fullest extent permitted by the Idaho Business Corporation Act as so amended. Any repeal or modification of the foregoing provisions of

this Article by the stockholders of this corporation shall not adversely affect any right or protection of a Director of this Corporation existing at the time of such repeal or modification.

A simple majority of the directors elected shall constitute a quorum for the transaction of business. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

#### ARTICLE VI. BY-LAWS

The authority to make By-Laws for the Corporation is hereby expressly vested in the Board of Directors of the Corporation, subject to the power of the shareholders to change or repeal such By-Laws by unanimous consent of the shareholders. The Board of Directors shall not make or alter any By-Laws fixing their qualifications, classifications, terms of office, or compensation. Those powers shall be left to the unanimous consent of the Board of Directors and the shareholders.

#### ARTICLE VII. REGISTERED AGENT

The name and address of the initial registered agent of the Corporation shall be as follows:

John L. Pennings, M.D., 916 Ironwood Drive, Suite C, Coeur d'Alene, Idaho 83814

The address of the registered office and agent shall be changed only upon unanimous consent of the shareholders.

#### ARTICLE VIII. INCORPORATOR

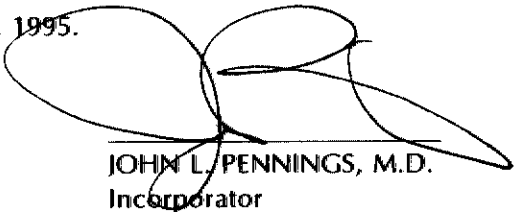
The name of the incorporator is JOHN L. PENNINGS, M.D. Dr. Pennings' address is noted above. The powers of the incorporator are to terminate upon the filing of these Articles of Incorporation.

#### ARTICLE X. CONFLICT RESOLUTION PROCESS

In the event of any conflict or dispute between or among directors, officers, or shareholders, or in the event the Corporation cannot act because of a failure of unanimous consent on any issue, any director, officer, or shareholder may apply to the Presiding Judge of the Kootenai County District Court for the appointment of an arbitrator to resolve any issue. The party or parties applying to the District Court for arbitration shall bear all expenses of arbitration. A decision of the arbitrator shall be appealable to the Kootenai County District Court, as a matter of right. An appeal of any issue shall be successful only when the Court determines that the arbitrator was clearly erroneous in his decision concerning any fact or issue.

In WITNESS WHEREOF, the incorporator has hereunto set his hand.

DATED this 21 day of June, 1995.

  
JOHN L. PENNINGS, M.D.  
Incorporator

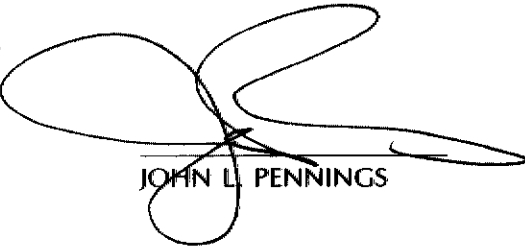
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CONSENT OF AGENT

The undersigned hereby consents to serve as the Registered Agent for Minimally Invasive Surgery Northwest, Inc. to receive all communications from the Idaho State Secretary of State and other purposes.

The Agent promises to promptly inform the Secretary of State of any State of any change of address or agent for the Corporation.

DATED this 21 day of June, 1995.



JOHN L. PENNINGS

ADDRESS OF AGENT:

916 Ironwood Drive, Suite C  
Coeur d'Alene, Idaho 83814