

University of Florida Internal Operating Memorandum

No.: 07-22

Date: November 30, 2007 (Supercedes No. 07-19 dated June 15, 2007)

Subject: Health Services Support Organizations

Authority: Section 1004.29, Fla. Stat.

Purpose: To establish procedures for the establishment and operation of University of Florida health services support organizations.

I. Preliminary Statement

Florida Statutes Section 1004.29 provides for the establishment of health services support organizations (HSSOs) by state universities. Such organizations have the ability to enter into, for the benefit of the university's health center, arrangements with other entities as providers in other integrated health care systems or similar entities. To the extent required by law or rule, HSSOs shall become licensed as insurance companies, pursuant to Chapter 624, Florida Statutes, or be certified as health maintenance organizations, pursuant to Chapter 641, Florida Statutes.

Section 1004.29, Florida Statutes, also provides that each HSSO shall have sole responsibility for its acts, debts, liabilities, and obligations and that in no event shall the state or the university have any responsibility for such acts, debts, liabilities, and obligations. Section 1004.30, Florida Statutes, provides for the confidentiality of certain HSSO records and information.

In order to implement these statutory provisions, the Board of Trustees of the University of Florida has adopted this Internal Operating Memorandum to provide guidance with respect to the establishment and operation of HSSOs, and, when necessary, the termination of HSSO status at the University of Florida. These standards are uniform standards for the University's oversight of affiliated organizations and all affiliates should at least meet these standards. The University's Board of Trustees or their designee, the President, may have greater oversight and if there is greater University oversight already, this will not be changed.

II. Creation

- A. **BOT Responsibility.** The BOT has an oversight responsibility for HSSOs because they are supporting organizations of the University. In order to fulfill this responsibility, the BOT is requiring each HSSO to satisfy the requirements in this operating memorandum.
- B. **Purpose.** An HSSO may be established if necessary to provide clinical practice settings and opportunities in support of the teaching, research, and service missions of the J. Hillis Miller Health Science Center at the University of Florida.
- C. **Incorporation.** Pursuant to statute, an HSSO must be a Florida not-for-profit corporation organized under the provisions of Chapter 617 of the Florida Statutes.
- D. **Tax-Exempt Status.** A University HSSO must also be exempt from federal and state taxes. Exemption from federal taxation is not automatic even though the corporation is organized under the state's not-for-profit statute. A HSSO must qualify as a tax-exempt organization (typically referred to as a "501(c)(3) organization") by making application to the Internal Revenue Service. This is done by filing an Application for Recognition of Exemption (Form 1023) and is discussed further in section III.B.3.
- E. **Articles of Incorporation.** In order to incorporate, a corporation must prepare and file articles of incorporation with the Florida Secretary of State. The content of the articles of incorporation is prescribed by Florida Statute section 617.0202 but generally must include the name of the organization, its initial street address, the name and address of each incorporator, and, most important, the purposes for which the corporation is organized. A HSSO's purpose must be wholly in support of University of Florida J. Hills Miller Health Science Center programs. Because the corporation is organized solely to support one or more of the public or charitable purposes of the University, the HSSO should qualify as a not-for-profit corporation under state law as well as be recognized as a tax-exempt charitable organization by the Internal Revenue Service. HSSO articles of organization should be prepared by or in consultation with the Office of the University's Vice President and General Counsel, and must be confirmed by that Office to be consistent with this internal operating memorandum.
- F. **Bylaws.** The day-to-day governance of corporate affairs is provided in the corporation's bylaws. The bylaws must contain provisions dealing with election/appointment of directors, term of office, procedures for

calling meetings, quorum requirements, voting, appointment of committees, the establishment and appointment of corporate officers, and indemnification and insurance. The bylaws may not contain any provisions inconsistent with the HSSO statute, or this internal operating memorandum. HSSO bylaws should be prepared by or in consultation with the Office of the Vice President and General Counsel, and must be confirmed by that Office to be consistent with this internal operating memorandum.

G. Specific Requirements of Organizational Documents. In addition to the general requirements for articles of incorporation and bylaws, each HSSOs articles and/or bylaws must contain the following provisions, in addition to satisfying the general requirements set forth above:

1. The provisions required in Florida Statute Section 1004.29.
2. A provision that the corporation's board of directors shall include the members required under the applicable provision of IOM 01-1 and shall also include the Vice President for Business Affairs or designee, the Senior Vice President for Health Affairs or designee and the Dean of the College or designee .
3. A provision that a director, other than an ex officio director, may be removed for any reason by a vote of at least a majority of the corporation's board of directors and any director may be removed for cause by the President of the University after consultation with the corporation's board of directors.
4. A provision that any committee member may be removed for any reason by a vote of at least a majority of the corporation's board of directors, and that any committee member may be removed for cause by the President of the University after consultation with the conflict-free members of the corporation's board of directors.
5. A provision that the Board of Directors shall appoint an Audit Committee and shall, in conjunction with the Audit Committee, adopt an Audit Committee Charter, which shall be approved by the President of the University, to provide for oversight of the integrity of financial reporting, internal controls and the independence and performance of the audit function by the corporation's independent auditors.
6. A provision that the corporation's chief executive officer (regardless of actual title) shall be selected by (or appointed only

after approval of) the President of the University after consultation with the corporation's board of directors, and that the chief executive officer shall report to the President of the University or his/her designee and the corporation's board of directors.

7. A provision that the corporation's chief executive officer (regardless of actual title) may be removed for any reason by a vote of at least a majority of the board of directors and may be removed for cause or unacceptable performance by the President of the University after consulting with the corporation's board of directors.
8. A provision that as used in the bylaws:
 - (a) "For Cause" shall mean actions or omissions that may adversely affect or reflect on the interest and/or reputation of the corporation or the University of Florida, as determined by the President of the University after consulting with the corporation's directors. Any such determination may be made by the President of the University and need not depend on the conclusion of any external determination or process.
 - (b) "Unacceptable Performance" means a persistent failure to fulfill duties of the position to high standards and in a manner that serves the best interest of the corporation and the University of Florida, as determined by the President of the University after consulting with the corporation's board of director's.
9. A provision that amendments to the articles of incorporation and/or bylaws require a vote of at least a majority of the members of the corporation (if entitled to vote) or of the members of the board of directors and that any such amendments shall not become effective until ratified by the President of the University as the designee of the Board of Trustees.
10. A provision that the President of the University or his/her designee confirms that the corporation's mission is to support one or more of the purposes of the University.
11. A provision that the President of the University shall have the power to: monitor and control the use of university resources by the HSSO; control the use of the University name by the HSSO;

and monitor the HSSOs compliance with federal and state law and rules. The HSSO must also have a policy on ethics and conflicts of interest.

12. A provision that the corporation shall comply with IOM 07-22 and any amendments thereto.
13. The foregoing provisions shall apply to all existing HSSOs as well as any organization established as an HSSO.

III. Approval Process

A. Approval Authority. In order to be established as a HSSO, an organization must submit required documentation (as set forth hereafter) for review and approval. The following approvals are required:

1. The Dean(s) of the College(s) under whose auspices the HSSO will function.
2. Senior Vice President for Health Affairs.
3. Vice President for Business Affairs.
4. President.
5. Board of Trustees.
6. Vice President and General Counsel's office for the purpose of confirming consistency with this internal operating memorandum.

B. Required Submissions.

1. Articles of Incorporation
2. Bylaws
3. IRS Form 1023. The IRS grants tax-exempt status retroactive to the date of incorporation if it approves the application. A proposed HSSO must complete the Form 1023 for submission as part of the approval process, but will not be required to have actually received its tax-exempt determination letter in order to be approved.

4. Policy on ethics and conflicts of interest.
5. Audit Committee Charter
6. Names and qualifications of proposed initial members of the board of directors, initial members of all board committees and initial Chief Executive Officer.
7. Policy on records, which shall be consistent with the provisions of Section 1004.30, Florida Statutes.
8. Business Plan. The Business Plan must contain at least the following:
 - a. A statement of the specific purpose(s) for which the HSSO is organized and how it will benefit the University's J. Hillis Miller Health Science Center.
 - b. A statement of how the HSSO intends to use University facilities, property, personal services and/or the name of the University.
 - c. The names of, with biographical information, its initial board of directors.
 - d. The names of, with biographical information, its initial officers.
 - e. A proposed operating budget for the first two full years of corporate activity.
 - f. A balance sheet.
 - g. A detailed statement of proposed fund raising activities, if any.

(It should be noted that items e, f and g are required inclusions in Form 1023).

IV. Operations

- A. Organizational Document Amendments. The BOT has delegated to the President of the University the authority to review and approve amendments to a HSSO's articles of incorporation or bylaws. The President may further delegate this authority in writing. The HSSO

must submit the amendments to the President for review. An amendment shall not become effective until approved by the President or the President's designee.

- B. Fiscal Year. The corporation shall observe a fiscal year of July 1 – June 30 unless approval for a different fiscal year has been granted during the approval process.
- C. Budgets. Each HSSO shall prepare an annual budget using either a cash or accrual basis. HSSO budgets shall be prepared in the format attached to this policy and shall include:
1. Estimated revenues delineated by source of funds.
 2. Budgeted expenditures for the construction of physical facilities by project.
 3. Budgeted expenditures for salaries, wages and benefits of HSSO employees.
 4. Budgeted transfers of HSSO assets to the University for the purpose of funding salary supplements, compensation and benefits to be provided to University faculty and staff.
 5. All other budgeted expenditures and transfers classified in a manner appropriate for the mission and purpose of the HSSO.
 6. A schedule of the names of the governing board members and their dates of service. The board members appointed by the Board of Trustees and the President shall be identified.
- D. Budget Approval. Proposed budgets shall be received and approved by the HSSOs governing board and submitted to the President of the University or his/her designee for approval not later than 60 days after the first day of the fiscal year to which the proposed budget pertains. The President or his/her designee shall periodically, but not less than annually, make a report concerning the approved HSSOs' budgets and financial performance to the BOT.
- E. Supplemental Notification. Whenever the governing board of a HSSO proposes to make or becomes aware of a material or significant change to any item contained in budget awaiting approval or in an approved budget, it shall immediately notify the President of the University or his/her designee of the change, together with a complete explanation

for the change and impact that such change may have on the HSSOs operations.

- F. Annual Audits. Each HSSO shall annually have a financial audit of its accounts and records conducted by an independent certified public accountant. The audit shall be completed and, together with management's responses, shall be submitted to the President of the University or his/her designee for review not later than three months after the close of the corporation's fiscal year. The President or his/her designee shall periodically, but not less than annually, make a report concerning material results of the HSSOs' audits to the BOT.
- G. Florida Retirement System and Salary Supplements.
1. Full or part-time employees of HSSOs may not participate in the State of Florida Retirement System. Other fringe benefits available to University of Florida employees may be made available to HSSO employees if allowed by law and approved by the University of Florida Board of Trustees.
 2. Salary supplements provided for University of Florida employees must be approved by the President of the University or his/her designee. Salary supplements will be paid using the University of Florida payroll process.
 3. Prior to increasing the salary or changing the salary source for an individual who receives compensation from a HSSO fund source that does not contribute to the Florida Retirement System (FRS) and from a fund source that does contribute to FRS, the university shall request a written analysis from the Division of Retirement, Florida Department of Management Services, or other appropriate state agency, if the proposed change in salary increases the proportion of the total salary that is paid from state funds. This analysis, assessing the potential impact of such action on FRS, shall be provided to the President prior to the President's approval of the change in salary. If the change in salary results in a significant fiscal impact on the FRS, an assessment payable to the FRS may be required.
- H. Personnel Policies. HSSOs with employees must have appropriate personnel policies, including discrimination and sexual harassment policies.

- I. Purchasing. HSSOs must adopt purchasing policies that establish good business practices and insure that appropriate internal control over procurement activities is in effect.
- J. Insurance. HSSOs shall follow good business practices and all applicable legal requirements to obtain appropriate insurance protection in amounts sufficient to adequately protect the assets of the HSSO.
- K. Leasing. Any leases of real property entered into by an HSSO must be approved by University's Office of the General Counsel prior to execution. Any subleases of real property by the HSSO to the University must utilize a sublease agreement approved by University's Office of the General Counsel.
- L. Construction.
 - 1) All construction funded by the HSSO on the University campus in Gainesville, including new facilities, renovations, remodeling and repairs, must comply with University of Florida policies and rules.
 - 2) Construction of new facility or that adds square footage to an existing facility on the University campus in Gainesville, or any construction of a facility or additional square footage to an existing facility off-campus, for which plant operations and maintenance funding will be requested from the state, shall not be funded by the HSSO without the prior approval of the University's Board of Trustee.

V. Periodic Review.

Not less frequently than every five years, the Senior Vice President for Health Affairs shall certify to the President in writing that the HSSO continues to meet all criteria for being considered a HSSO pursuant to applicable statutes and this operating memorandum and that the corporation's continued status as a HSSO is in the best interest of the University.

VI. Termination of HSSO Status.

At any time the President of the University may recommend to the BOT that an organization's status as an HSSO be terminated. Such a recommendation shall be based on a determination that the organization or the organization's status as a HSSO no longer serves the best interests of the University and/or

that the functions of the HSSO can be accomplished within the existing University framework. In addition, the administrative dissolution of the corporation by the Florida Secretary of State, if not immediately reinstated, or the denial or revocation of tax-exempt status of the corporation by the Internal Revenue Service, or the persistent failure to materially comply with applicable laws, rules or this operating memorandum shall constitute grounds for termination of HSSO status.

Any recommendation for termination of HSSO status shall include a plan for the disposition of the corporation's assets and liabilities.

History: New 9-11-2004. Revised 6-15-2007; 11-30-2007

HSSO Operating Memorandum