



**STATE OF NEW YORK - DEPARTMENT OF HEALTH**

**M E M O R A N D U M**

**TO:** Public Health and Health Planning Council  
**FROM:** James Dering, General Counsel *Jed*  
**DATE:** November 8, 2012  
**SUBJECT:** Proposed Restated Certificate of Incorporation of  
Asian & Pacific Islander Coalition on HIV/AIDS, Inc.

---

Attached is the proposed Restated Certificate of Incorporation of Asian & Pacific Islander Coalition on HIV/AIDS, Inc., a not-for-profit diagnostic and treatment center licensed under Article 28 of the Public Health Law. This not-for-profit corporation seeks Public Health and Health Planning Council approval to change its name to "APICHA Community Health Center." Public Health and Health Planning Council approval for a change of corporate name is required in this instance by Not-for-Profit Corporation Law § 804 (a) and 10 NYCRR § 600.11 (a)(1).

Also attached is a letter dated October 23, 2012 from Helen Pfister, attorney for the corporation. As explained in that letter, the name change is intended to ensure that the facility is more closely aligned with its mission and scope of services, which include the provision of health care services and community advocacy in addition to HIV/AIDS services.

The Department has no objection to the proposed name change, and the proposed Restated Certificate of Incorporation of Asian & Pacific Islander Coalition on HIV/AIDS, Inc. is in legally acceptable form.

Attachments

**RESTATED CERTIFICATE OF INCORPORATION**  
**OF**  
**ASIAN & PACIFIC ISLANDER COALITION ON HIV/AIDS, INC.**

Under Section 805 of the New York Not-for-Profit Corporation Law

.....

I, the undersigned, being the Chief Executive Officer of the Asian & Pacific Islander Coalition on HIV/AIDS, Inc. (hereinafter the "Corporation") do hereby certify that:

1. The name of the Corporation is Asian & Pacific Islander Coalition on HIV/AIDS, Inc.
2. The initial Certificate of Incorporation of the Corporation was filed at the New York State Department of State on December 29, 1992, and was amended by Certificate of Change filed at the Department of State on June 23, 2011, and was further amended by Certificate of Amendment filed at the Department of State on June 21, 2012, and was further amended by Certificate of Change filed at the Department of State on August 9, 2012.
3. The Corporation's Certificate of Incorporation is amended to effect the following amendments authorized by the New York Not-For-Profit Corporation Law (the "N-PCL"):

a. Article FIRST setting forth the name of the Corporation is amended to read in its entirety as follows:

**FIRST:** The name of the corporation is APICHA Community Health Center (the "Corporation").

b. Article ELEVENTH designating the post office address to which the Secretary of State shall mail a copy of any process against the Corporation is hereby amended to read in its entirety as follows:

**ELEVENTH:** The Corporation hereby designates the Secretary of State as its agent upon whom process against it may be served. The post office address to which the Secretary shall mail a copy of any process against the Corporation served upon him is:

APICHA Community Health Center  
400 Broadway  
New York, NY 10013

4. The text of the certificate of incorporation is hereby restated as amended to read as herein set forth in full:

**FIRST:** The name of the corporation is APICHA Community Health Center (the "Corporation").

**SECOND:** The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-for-Profit Corporation Law and shall be a Type B Corporation under Section 201 of the Not-for-Profit Corporation Law having the purposes set forth in Article Third below.

**THIRD:** (a) The Corporation is formed for the purposes of providing HIV/AIDS-related information, including prevention information to individuals and organizations; assisting and supporting individuals in connection with their applications in the community at large (and particularly to individuals in the Asian and Pacific Islander Community) to receive benefits from health and human services agencies; establishing a diagnostic and treatment center to provide health care and related services to expand health care access for all individuals; and conducting all lawful activities which may be useful in accomplishing the foregoing purposes; (provided, however, that the corporation shall not practice law, medicine, or any other profession) and

(b) Nothing herein shall authorize the Corporation to operate a secondary school or an institution of higher learning, or otherwise to engage in any activities that would require the approval of the State of New York or approval as required by Section 404(b) through (v) of the Not-for-Profit Corporation Law, except to the extent such approvals have been obtained.

**FOURTH:** In furtherance, but not in limitation, of the purposes set forth in Article Third above, the Corporation shall have the following power and authority:

(a) to solicit grants and contributions by private or public appeal, by advertisement or by other lawful means for the purposes set forth in Article Third above;

(b) to receive and administer money, securities negotiable instruments, real estate and other property of every kind and description, and rights and services of every kind and description, received by grant, contribution, gift, deed, bequest, devise or loan from any source, private, public or governmental, and otherwise to acquire money, securities, negotiable instruments, real estate and other property of every kind and description, and rights and services of every kind and description, and to own, hold, invest, lease, loan, expend, contribute, use, sell, transfer, pledge, hypothecate, encumber, grant a security interest in or otherwise dispose of or deal with any

and all such money, securities, negotiable instruments, real estate and other property, and any and all such rights and services, acquired for the purposes set forth in Article Third above;

(c) to enter into such contracts and do all such acts as are necessary or convenient to accomplish the objects and purposes herein set forth, to the extent not forbidden by law, this Certificate of Incorporation or the By-laws of the Corporation;

(d) to have all the general powers enumerated in Section 202 of the Not-for-Profit Corporation Law and all other powers set forth elsewhere in the Not-for-Profit Corporation Law.

**FIFTH:** Notwithstanding any other provision of this Certificate of Incorporation, the Corporation is organized exclusively for one or more of the purposes specified in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), and shall not carry on any activities not permitted to be carried on by a corporation exempt from federal income tax under Section 501(c)(3) or by a corporation, the contributions, transfers, or gifts to which are deductible under Sections 170(c)(2), 2055(a)(2) and 2522(a)(2) of the Code. All references in this Certificate of Incorporation to sections of the Code shall be to corresponding provisions of subsequent United States internal revenue laws.

**SIXTH:** The Corporation is not formed for pecuniary profit or for financial gain, and no part of its assets, income or profit shall be distributed to or inure to the benefit of any private individual. Reasonable compensation, however, may be paid for services rendered to or for the Corporation in furtherance of one or more of its purposes.

**SEVENTH:** No substantial part of the activities of the Corporation shall be devoted to carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided in Section 501(h) of the Code), and the Corporation shall not participate or intervene (including by publication or distribution of statements) in any political campaign on behalf (or in opposition to) any candidate for public office.

**EIGHTH:** For those periods, if any, during which the Corporation is a private foundation as described in Section 509(a) of the Code, and as provided by Section 406 of the Not-for-Profit Corporation Law:

(a) the Corporation shall distribute its income for such period, at such time and in such manner as not to subject it to tax under Section 4942 of the Code;

(b) the Corporation shall not engage in any act of self-dealing that is subject to tax under Section 4941(d) of the Code;

(c) the Corporation shall not retain any excess business holdings that are subject to tax under Section 4943(c) of the Code;

(d) the Corporation shall not make any investments in such manner as to subject the Corporation to tax under Section 4944 of the Code; and

(e) the Corporation shall not make any taxable expenditures that are subject to tax under Section 4945(d) of the Code.

**NINTH:** The office of the Corporation shall be located in the County of New York, State of New York.

**TENTH:** The Corporation shall have no members. The number of directors of the Corporation shall be as specified in the By-Laws of the Corporation but in no event shall there be fewer than three (3) directors. The names and addresses of the persons constituting the initial Board of Directors of the Corporation are as follows:

<u>Name</u>	<u>Address</u>
Joey Almoradie	131 E. 23rd Street, #8C New York, New York 10010-4513
Haruko Brown	147-11A Roosevelt Avenue Flushing, New York 11354
John Chin	596 7th Street, #1 Brooklyn, New York 11215
Glenn Izutsu	42-42 Ithaca Street, #2J Elmhurst, New York 11373
Margaret Donghyang Lukoff	750 Columbus Avenue, #14 New York, New York 10025
Martin Manalansan	316 W. 19th Street, #GE New York, New York 10011
Gene Nakajima	155 E. 29th Street, #19H New York, New York 10016
Tami Ogata	65 W. 90th Street New York, New York 10024
Douglas Paul	509 East 77th Street, #6A

New York, New York 10021

Suki Terada Ports

440 Riverside Drive, #92  
New York, New York 10027

Randall Wilson

334 W. 20th Street  
New York, New York 10011-3302

Darryl Wong

140-21 31st Road, #4F  
Flushing, New York 11354

(b) The Corporation shall indemnify its directors and officers to the full extent permitted by Article 7 of the Not-for-Profit Corporation Law.

**ELEVENTH:** The Corporation hereby designates the Secretary of State as its agent upon whom process against it may be served. The post office address to which the Secretary shall mail a copy of any process against the Corporation served upon him is:

APICHA Community Health Center  
400 Broadway  
New York, NY 10013

**TWELFTH:** In the event of dissolution, the assets and property of the Corporation remaining after payment of its expenses and satisfaction of its liabilities shall be distributed as determined by the Board of Directors of the Corporation, subject to the approval of a Justice of the Supreme Court of the State of New York if such approval is then required by law, but only to such organizations as shall at the time qualify as exempt organizations under Section 501(c)(3) of the Code.

5. This restatement of the Corporation's Certificate of Incorporation was authorized by the affirmative vote of a majority of the board of directors of the Corporation at a duly held and constituted meeting of its board of directors on October 9, 2012.

IN WITNESS WHEREOF, this certificate has been subscribed this 9th day of October, 2012 by the undersigned who affirm that the statements made are true under the penalties of perjury.

  
Name: Teresita Rodriguez  
Chief Executive Officer

**RESOLUTIONS OF THE BOARD OF DIRECTORS OF ASIAN & PACIFIC ISLANDER  
COALITION ON HIV/AIDS, INC.**

At a meeting of the Board of Directors held on  
this 9th day of October 2012

The following resolutions were duly adopted by the Board of Directors of Asian & Pacific Islander Coalition on HIV/AIDS, Inc., a New York not-for-profit corporation (the "Corporation") at a duly called and constituted meeting of the Board of Directors held on October 9, 2012, a quorum being present at all times during the meeting.

**WHEREAS**, the Board of Directors has determined that it is in the best interests of the Corporation to change its legal name from "Asian & Pacific Islander Coalition on HIV/AIDS, Inc." to "APICHA Community Health Center"; and

**WHEREAS**, as a New York not-for-profit corporation, the Corporation must amend its Certificate of Incorporation to change its legal name;

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Restated Certificate of Incorporation of the Corporation (the "Certificate"), attached hereto as Exhibit A, be and it hereby is approved and adopted; and be it further

**RESOLVED**, that the Chief Executive Officer and each of the officers of the Corporation be, and each of them hereby is, authorized and directed to execute and file the Certificate on behalf of the Corporation; and be it further;

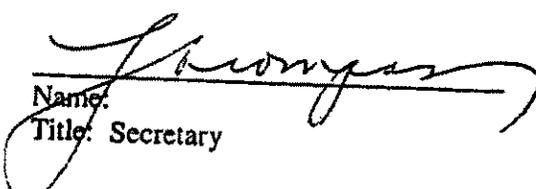
**RESOLVED**, that prior to filing the Certificate, the Chief Executive Officer and the officers of the Corporation shall ensure that all necessary consents and approvals to the name change are properly obtained and affixed to the Certificate; and be it further

**RESOLVED**, that the Chief Executive Officer and the officers of the Corporation be, and each of them hereby is, authorized and directed to take any and all further action and to execute, delivery and file any and all instruments and documents, in the name and on behalf of the Corporation, and to pay and any all fees and expenses, as in his or her judgment may be necessary, proper or advisable in order to carry out the intent and purposes of the foregoing resolutions.

**Certification of Secretary**

The undersigned, as Secretary of the Corporation, hereby certifies that the foregoing is a true and accurate copy of the resolutions passed by the Directors of the Corporation at a meeting duly held on October 9, 2012.

Dated: October 9 2012

Name:   
Title: Secretary

**manatt**  
manatt | phelps | phillips

Heleen R. Pfister  
Manatt, Phelps & Phillips, LLP  
Direct Dial: (212) 830-7277  
E-mail: hpfister@manatt.com

October 23, 2012

**COPY**

**BY FEDERAL EXPRESS**

Ms. Colleen Frost  
Executive Secretary, Public Health and Health Planning Council  
New York State Department of Health  
Health Facility Planning  
Hedley Building, 6th Floor  
433 River Street  
Troy, New York 12180

**RECEIVED**

OCT 25 2012

NYS DEPARTMENT OF HEALTH  
DIVISION OF LEGAL AFFAIRS  
BUREAU OF HOUSE COUNSEL

**Re: Request for Approval of Name Change for Asian & Pacific Islander  
Coalition on HIV/AIDS, Inc. (Op. Cert. No. 7002173R)**

Dear Ms. Frost:

Pursuant to 10 N.Y.C.R.R. § 600.11(1), enclosed at Exhibit A for the approval of the Public Health and Health Planning Council please find a copy of a Restated Certificate of Incorporation that would change the official name of Asian & Pacific Islander Coalition on HIV/AIDS, Inc. (the "Corporation") to "APICHA Community Health Center." Also enclosed at Exhibit B, as per your request, please find a copy of the Corporation's initial Certificate of Incorporation, filed with the New York State Department of State on December 29, 2012. As the Restated Certificate of Incorporation indicates, the initial Certificate of Incorporation of the Corporation was filed at the Department of State on December 29, 1992, and was amended by Certificate of Change filed at the Department of State on June 23, 2011, and was further amended by Certificate of Amendment filed at the Department of State on June 21, 2012, and was further amended by Certificate of Change filed at the Department of State on August 9, 2012.

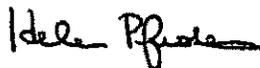
Asian & Pacific Islander Coalition on HIV/AIDS, Inc. is a not-for-profit diagnostic and treatment center licensed under Article 28 of the New York Public Health Law. It currently does business under the assumed name, "APICHA Community Health Center" and is seeking to change its formal name in order to ensure that it is more closely aligned with its mission and scope of services, which include the provision of health care services in addition to HIV/AIDS and other advocacy services to the community. A copy of the Corporation's Certificate of Assumed Name, which was filed with the Department of State on February 10, 2012, is enclosed at Exhibit C.

**manatt**  
manatt | phelps | phillips

Ms. Colleen Frost  
October 23, 2012  
Page 2

If you have any questions concerning this submission, please do not hesitate to contact me at 212-830-7277. I look forward to your response.

Sincerely,



Helen R. Pfister

Enclosures

cc: Mary Callahan, Director, Bureau of House Counsel, New York State Department of Health

200764840.1