

State of West Virginia



Certificate

*I, Mac Warner, Secretary of State of the
State of West Virginia, hereby certify that*

WEST VIRGINIA FIRST FOUNDATION, INC

Control number: 9B59Q

has filed its application for "Certificate of Incorporation" in my office according to the provisions of the West Virginia Code. I hereby declare the organization to be registered as a corporation from its effective date of May 18, 2023, until a certificate of dissolution has been filed with Secretary of State.

Therefore, I hereby issue this

CERTIFICATE OF INCORPORATION



*Given under my hand and the
Great Seal of the State of
West Virginia on this day of
May 18, 2023*

Mac Warner

Secretary of State

556956

**ARTICLES OF INCORPORATION
OF
WEST VIRGINIA FIRST FOUNDATION, INC.**

FILED
MAY 18 2023
IN THE OFFICE OF
WV SECRETARY OF STATE

Pursuant to the provisions of West Virginia Code §§ 31E-2-202 and 31E-2-203, the undersigned Corporation hereby adopts the following Articles of Incorporation for such Corporation:

**ARTICLE I
Name**

Article I: Name. The name of the Corporation is “West Virginia First Foundation, Inc.”

Article II: Duration. The period of duration of the Corporation shall be perpetual.

Article III: Principal Office and Address. The address of the principal office of said Corporation shall be 3510 MacCorkle Ave SE, Charleston, West Virginia 25304. The e-mail address to which informational notices and reminders of annual filings may be sent is: John.Jenkins@schcpa.com.

Article IV: Agent. The name of the person to whom notice of process may be sent is John Jenkins, 3510 MacCorkle Ave SE, Charleston, WV 25304.

Article V: Non-Profit. The Corporation is organized as a non-profit under West Virginia Code § 31E-1-1 et seq., as amended, or any successor law. The Corporation shall not have the power or authority to issue capital stock or to make distributions.

Article VI: No Members. The Corporation shall have no members.

Article VII: Incorporator. The full name and address of the incorporator is John Jenkins, 3510 MacCorkle Ave SE, Charleston, WV 25304.

Article VIII: Purposes. The Corporation is organized and at all times hereafter shall be operated exclusively for charitable, scientific, and educational purposes within the meaning of § 501(c)(3) of the Internal Revenue Code of 1986, as amended (hereinafter referred to as the “Code,” which shall include any subsequent corresponding Code of Federal tax law). More specifically, the purposes of the Corporation are as follows:

A. To promote the health and safety of West Virginians by implementing evidence-based strategies, programming and/or services used to (i) expand the availability of treatment for individuals affected by substance use disorders and/or addiction; (ii) develop, promote and provide evidence-based substance use prevention strategies; (iii) (iv) provide substance use avoidance and awareness education; (v) engage in enforcement to curtail the sale, distribution, promotion or use of opioids and other drugs; and (vi)

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decrease the oversupply of licit and illicit opioids and to support recovery from addiction to be performed by qualified providers

B. To advocate for the interests of West Virginians by working with the State of West Virginia, and its counties, cities, villages, etc., to determine the best way to provide West Virginians with the programs and services described in Section A above.

C. To promote the design, implementation, operation, and maintenance of a fully interoperable statewide network to facilitate the best use of abatement funds and information in West Virginia.

D. To fund the programs and services described in Section A above by disbursing through a competitive grant process funds to private organizations and government agencies engaged in such programs.

E. The Corporation shall not engage in activities which do not further the exempt purposes of the corporation, except for those nonexempt activities which are an insubstantial part of its activities as determined by the Internal Revenue Service.

F. To perform any lawful act for which corporations may be created and transact business in the state of West Virginia, consistent with not-for-profit status.

G. To do any and all lawful acts and engage in any and all activities consistent with or in furtherance of its general purpose.

Article IX : Limitation.

A. The Corporation shall be operated solely and exclusively for the objects and purposes set forth in Article VIII hereof. No part of the net earnings of the Corporation shall inure to the benefit of any directors, officers, person, or other individual, except that the Corporation shall possess the power or authority to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the objects and purposes set forth in Article VIII hereof.

B. No part of the activities of the Corporation shall consist of carrying on propaganda or otherwise attempting to influence legislation. The Corporation shall not participate in, or intervene in (including publishing or distributing statements) any political campaign on behalf of or in opposition to any candidate for public office.

C. Notwithstanding any other provision of these Articles of Incorporation to the contrary, the Corporation shall have no powers that are inconsistent with the laws of the State of West Virginia or that are inconsistent with or that would disqualify the Corporation as an exempt organization under Section 501(c)(3) of the Code, by an organization contributions to which are deductible under §170 of the Code, or any successor or other law of like import. The Corporation shall not exercise any powers inconsistent with those set forth in the West Virginia First Memorandum of Understanding.

Article X: Board of Directors.

A. The affairs of the Corporation shall be managed by and under the authority of the Board of Directors (sometimes referred to herein as the “Board”).

B. The number of Directors constituting the Board of Directors shall be eleven. At any meeting of the Board of Directors, six members of the Board of Directors shall constitute a quorum.

C. The initial Board of Directors shall be elected within sixty (60) days of the chartering of the Corporation using the procedures set forth herein:

- a. Five (5) initial Directors shall be appointed by the Governor of West Virginia. The initial Directors shall serve as initial Directors until formally confirmed or rejected by the Senate. The Governor shall not appoint more than one person from any given Region. However, this provision may be waived by a vote of four of the six Local Government members.
- b. One (1) Director shall be selected from each of the six Regions to represent the interests of the Local Governments. The Local Governments in each Region shall make the selection of the Director to represent their Region pursuant to the following process:
 - i. The President of the County Commission of the county with the largest population in each region, as determined by the 2020 census, shall convene and give notice of a meeting of all of the Local Governments in the region for the purpose of electing the Director for that Region. Notice shall be provided to the Incorporator and each Local Government in the region two weeks prior to the date set for the meeting.
 - ii. Each Local Government shall select one person as their delegate who is authorized to represent the Local Government and vote on the selection of the Director for that Region.
 - iii. The Regions should select initial Directors who have the requisite knowledge, skill, and experience to further the Corporation’s mission and purposes. Directors should have expertise in one or more of the following disciplines: substance abuse treatment, mental health, law enforcement, pharmacology, finance, and healthcare policy and management. Initial Directors shall be residents of the State of West Virginia and the region from which they are selected. Applications from current elected officials are strongly discouraged.

- iv. Any delegate from a Region may nominate any person to serve as the initial Director for that Region. After nominations are closed, each nominee shall have the opportunity to address the delegates prior to the vote being taken.
- v. The Incorporator or his designee shall conduct the election and count the votes. Votes for Director will be weighted by the final allocation percentages for distributions to all Local Governments as set forth in Exhibit C W/CT2 of the West Virginia First Memorandum of Understanding ("MOU") as may be modified as set forth in Paragraph B2(b)(i) of the MOU.
- vi. After the votes are counted, the Incorporator shall report the totals and certify the results to the Governor and the Attorney General within one week after the selection of the Board Member.

D. The bylaws of the Corporation shall provide for the election of the Directors at or near the expiration of their terms, or, in the event of resignation, death, or incapacity of any director.

E. No individual shall become an officer of the Corporation if the election or appointment thereof would cause the Corporation to be determined or adjudicated by a competent administrative or judicial authority to be controlled directly or indirectly by a disqualified person, as defined in section 509(a)(3)(C) of the Code or any successor law.

F. Each Director, when discharging the duties of a Director, shall act in good faith and in a manner that the director reasonably believes to be in the best interests of the Corporation.

G. The Board may provide Directors with reasonable allowance for expenses actually incurred in connection with their duties.

H. Any Director is entitled to inspect and copy the books, records and documents of the Corporation at any reasonable time to the extent reasonably related to the performance of the Director's duties as a director, including duties as a member of a committee, but not for any other purpose or in any manner that would violate any duty to the Corporation.

Article XI : Liability. Pursuant to W. Va. Code § 31E-2-202(b)(4) or any successor law, the Directors shall not, as such, be liable for monetary damages for any action taken, or any failure to take any action, as a director, except liability for any of the following:

A. The amount of a financial benefit that the Director received to which he is not entitled;

- B. An intentional infliction of harm on the Corporation;
- C. A violation of W. Va. Code § 31E-8-833 or any subsequent law of like import;
- D. An intentional violation of criminal law; or
- E. Damages incurred in the case of a Director who votes for or assents to a distribution in violation of the law of the State of West Virginia or the Articles of Incorporation of the Corporation, as amended.

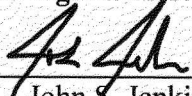
Article XII : Indemnification. The Corporation shall indemnify any Director or officer who is wholly successful, on the merits or otherwise, in the defense of any proceeding to which he was or is a party because he is a Director or officer of the Corporation against reasonable expenses that he incurs in connection with the proceeding. The Corporation shall further indemnify any Director or officer to the extent that the laws of the state of West Virginia permit if (a) he conducted himself in good faith; he reasonably believed, in the case of conduct in his official capacity, that his conduct, was in the best interests of the Corporation; and, in all other cases, that his conduct was at least not opposed to the best interests in the Corporation; and, in the case of a criminal proceeding, he had not reasonable cause to believe his conduct was unlawful; or (b) he engaged in conduct for which broader indemnification has been made permissible or obligatory under these Articles of Incorporation. The Corporation may obligate itself in advance of the act or omission of a Director or officer giving rise to a proceeding to provide indemnification in accordance with W. Va. Code § 31E-8-851 or advance funds to pay for or reimburse expenses in accordance with W. Va. Code § 31E-8-853.

Article XIII : Insurance. The Corporation may purchase and maintain one or more policies of insurance on behalf of the Directors or officers of the Corporation to insure against losses or damages with respect to the Corporation's assumption of liability for their acts of omission or commission in their capacities as Directors or officers.

Article XIV : Distribution Upon Dissolution. Upon the dissolution of the Corporation, all property of the Corporation or the proceeds of liquidation thereof shall be distributed, in such amounts and proportions as the Board acting through the vote of a majority of its Directors shall determine to one or more corporations, trusts, funds or foundations created and situated in the State of West Virginia and under the laws of the State of West Virginia, the United States, or some other state thereof, organized and operated solely and exclusively for educational objects and purposes as such are defined in Section 501(c)(3) of the Code or any successor law, and no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation, which does not participate in or intervene in any political campaign on behalf of any candidate for public office, and no part of such property or proceeds of liquidation shall be distributed to or among any private persons. Any property of the Corporation not so distributed shall be distributed according to the laws of West Virginia solely and exclusively for the purposes set forth in Article VIII hereof or to any or some organizations that are organized and operated solely and exclusively for such purpose. Notwithstanding anything stated herein,

the Corporation shall not be dissolved until such time as all payments have been made under the terms of the settlements subject to the West Virginia First Memorandum of Understanding unless otherwise required by judicial order or law.

West Virginia First Foundation, Inc.

By: 

John S. Jenkins, CPA, Incorporator