MEMORANDUM

TO: Mr. Paul Skidmore
FROM: John B. Hicks
RE: Certified Copy of Resolution

Attached is a certified copy of a resolution adopted by the Board of Trustees on June 27, 1997, authorizing the execution of the Restated Affiliation Agreement between UA and Capstone Health Services Foundation, P.C.

Attachment
RESOLUTION

WHEREAS, The University of Alabama and Capstone Health Services Foundation, P.C. ("Capstone") currently have in effect an affiliation agreement; and

WHEREAS, extensive discussions have been held between Capstone and personnel of the University to revise that agreement and issue a restated agreement;

NOW, THEREFORE, BE IT RESOLVED by The Board of Trustees of The University of Alabama that Chancellor Thomas Meredith be, and hereby is, specifically authorized to execute the Restated Affiliation Agreement attached hereto as Exhibit C on behalf of The Board of Trustees of The University of Alabama.

CERTIFICATE

STATE OF ALABAMA

COUNTY OF TUSCALOOSA

I, John Bradford Hicks, hereby certify that I am Secretary of The Board of Trustees of The University of Alabama; that I have custody of the minutes of said Board of Trustees, that the foregoing is a true and correct copy of a resolution adopted by The Board of Trustees of The University of Alabama in a meeting held on June 27, 1997, as the same appears of record in my office, and that said resolution is in full force and effect as of the date set forth below.

WITNESS my hand and the seal of The Board of Trustees of The University of Alabama on this 2nd day of July, 1997.

Secretary, The Board of Trustees of The University of Alabama
THIS RESTATED AFFILIATION AGREEMENT between THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ALABAMA, a public corporation and instrumentality of the State of Alabama, on behalf of The University of Alabama (herein called the "University"), and CAPSTONE HEALTH SERVICES FOUNDATION, P.C., a professional nonprofit corporation (herein called the "Foundation") made this _____ day of ____________, 1997.

RECITALS:

1. The Foundation is a nonprofit educational, research and charitable organization organized for the purpose of supporting the College of Community Health Sciences, The University of Alabama, Tuscaloosa, with regard to its activities in the field of health services, research, and education, and operating the Capstone Medical Center as a clinical education facility.

2. The University encouraged and supported the formation of the Foundation as a means to coordinate and develop among the faculty of The University of Alabama School of Medicine Program at Tuscaloosa, within the academic environs of the College of Community Health Sciences, a group medical practice to provide
3. The mission of the Foundation is:

(a) to conduct, execute and perform a public trust in supporting, aiding and advancing the study and investigation of human illnesses and injuries and the causes, prevention, relief, and cure thereof;

(b) to study and investigate problems of hygiene and health;

(c) to encourage, promote, and perform (through properly licensed physicians where required under state and/or federal law) medical, surgical, and scientific learning, skill, education, and investigation;

(d) to conduct, through properly licensed physicians, the practice of medicine and surgery and allied services;

(e) to promote medical, surgical, and scientific services;

(f) to assist and conduct programs of medical, surgical, and scientific education and research;

(g) to carry on such programs of public charity as may be related to the carrying out of the other stated purposes of the Foundation, including, without limitation, to utilize the knowledge and skills of the Foundation’s employees for the benefit of all persons who may be in need of medical care and treatment, regardless of the ability of such persons to pay for such medical care and treatment.

4. The University and the Foundation have a public responsibility to provide high quality patient care at a reasonable cost. The University has the public responsibility to use public facilities and funds in a responsible and effective manner. The Foundation has the public responsibility, as a nonprofit corporation, to provide and improve patient care in an academic setting.

5. The University and the Foundation anticipate that the
University will provide certain specified services and facilities to the Foundation and that the Foundation will carry on certain specified activities for the benefit of the University, and the University and the Foundation desire to enter into this agreement with respect to said services, facilities and activities.

NOW, THEREFORE, in consideration of the mutual agreements hereinafter set forth, the University and the Foundation do hereby agree as follows:

ARTICLE ONE

Section 1. Duties and Obligations of the Foundation. The Foundation shall serve as a health care provider organization in a group practice setting. The Foundation shall provide primary and consulting patient care services to patients referred to the Capstone Medical Center and such hospitals and clinics as hereinafter provided.

ARTICLE TWO

Section 2. Employees. The Foundation may employ persons who will also be University employees, categorized as professional employees and administrative/support employees. The Foundation may, at its option, employ persons who are not University employees.

Section 2.1. Professional Employees. "Professional Employees" shall, for purposes of this Agreement, be defined as
physicians and other individuals holding professional degrees who are geographic full-time members of the faculty of The University of Alabama School of Medicine, Tuscaloosa program, and who receive a portion of their compensation from the University.

(a) Upon mutual written agreement of the Foundation and a designated representative for The University of Alabama School of Medicine in Birmingham, the requirement that a portion of compensation for these employees must be received from the University may be waived.

(b) Professional Employees shall pursue their patient care activities at the Capstone Medical Center, DCH Regional Medical Center, Veterans Administration Medical Center (Tuscaloosa) and other hospitals and clinics which may become affiliated with the Foundation.

(c) Professional Employees of the Foundation shall also be responsible to the University for performing teaching, research, and other academic activities. The Foundation shall formulate policies which shall allow Professional Employees of the Foundation to fulfill their responsibilities to the University with regard to teaching, research, and related academic areas.

Section 2.2. Administrative/Support Employees.

"Administrative/Support Employees" shall, for purposes of this Agreement, be defined as individuals who do not meet the definition of a Professional Employee described in Section 1.2(a) above.
Administrative/Support Employees may be employees of the University and may receive a portion of their compensation from the University. However, nothing shall prohibit the Foundation from directly and solely employing Administrative/Support Employees. Furthermore, nothing shall prohibit the Foundation from contracting with third parties to provide staffing needs in the category of Administrative/Support Employees.

Section 2.3. Salaries. To the extent that the Foundation does not pay salaries and fringe benefits directly to a University employee performing services at Capstone Medical Center, the Foundation shall reimburse the University, on a monthly basis, for such salaries, fringe benefits and employer taxes attributable to the activities of such University employees, provided that such activities are directly related to patient care at Capstone Medical Center. Whether such activities of University employees are directly related to patient care shall be determined on a consistent basis acceptable to both the University and the Foundation.

Section 2.4. Employment Practices. The Foundation shall comply with all federal and state employment and discrimination laws, including but not limited to wage and hour laws, Americans with Disabilities Act, Age Discrimination in Employment Act, and Title VII of the Civil Rights Act of 1964. The University acknowledges and understands that, in order to operate in a
fiscally sound manner and in competition with private, for profit health care providers, the Foundation must be permitted to establish productivity and performance guidelines. Accordingly, the Foundation shall not be prohibited from maintaining incentive or productivity programs for its employees, including those employees who may have dual employment, and the Foundation shall be permitted to terminate the employment of any employee, including employees with dual employment either as Professional Employees or Administrative/Support Employees, provided that the termination does not violate any federal or state employment laws. Salary, wage schedules, fringe benefits and other compensations will be established by the Foundation based on marketplace data.

ARTICLE THREE
PROPERTY

Section 3.1. Offices and Clinical Facilities and Equipment.

(a) The University agrees to make available to the Foundation, for such rent and upon such other terms and conditions as may be agreed, office space and facilities necessary for and appropriate to conducting patient care activities. The Foundation agrees to use office space and facilities provided by the University in conducting its patient care activities to the extent that reasonably well-suited office space and facilities are available from the University.

(b) The Foundation agrees to notify the University not
later than April 1 of each year as to the amount and type of physical space required by the Foundation for its patient care activities for the next twelve month period beginning October 1.

The purpose for this notice is to allow the University to efficiently plan for the use of its office space and facilities and so that the Foundation can use its resources in a responsible and effective manner.

(c) The amount of rent to be charged for such office space and facilities shall be mutually agreed upon by the University and the Foundation on or before October 1 of each year. The amount agreed upon from time to time shall be set forth on Schedule 1 to this Agreement. The rent shall be based on the number of square feet of physical space used by the Foundation in patient care activities and shall be adjusted monthly for increases or decreases in the space utilized by the Foundation in its patient care activities. The University shall invoice the Foundation monthly, in advance, and the Foundation shall pay the University monthly, in advance, at the agreed upon rental rate as the same may be adjusted as provided herein.

(d) The amount of physical space used by the Foundation in its patient care activities shall be determined by the Foundation but is subject to audit verification by the University.

(e) In addition to the office space and facilities to be leased by the Foundation from the University, the rent to be paid
shall also include, without additional charge, equipment and fixtures located in the leased premises which are intended for use in patient care activities. Nothing herein shall be construed, however, as requiring the University to repair, replace or maintain said equipment and fixtures.

(f) The University shall maintain the leased premises in reasonable and operable condition including, but not limited to, the roof, heating and cooling systems, and plumbing fixtures (but specifically excluding equipment and fixtures located in the lease premises which are used directly in patient care activities). The University agrees to provide appropriate painting of the leased premises on a periodic basis.

(g) Any and all additions and improvements made by the Foundation to the said leased premises which are not firmly affixed to a structure shall remain the property of the Foundation and may be removed by the Foundation at any time. Additions and improvements that are firmly affixed to a structure, such that the same shall become a fixture, shall become the property of the University.

(h) The parties agree that the University may, from time to time, request that the Foundation vacate certain premises and occupy other premises. In such event, all reasonable costs in connection with such vacation and/or relocation, including but not limited to moving and renovation costs, shall be borne by the
University.

(i) The Foundation may, from time to time, lease or purchase premises required for the conduct of its patient care activities and other business affairs from persons, firms or corporations other than the University, provided that no University space is available which is reasonably suitable for the purposes of the Foundation. Determination of the suitability of such University space shall be mutually agreed upon in writing by the Foundation and the designated representative of the School of Medicine for The University of Alabama in Birmingham.

Section 3.2. Equipment Purchases. It is anticipated that the Foundation will, from time to time, purchase durable equipment for use in carrying out the patient care activities of the Foundation to be used in University facilities in the City of Tuscaloosa, Alabama. The Foundation and the University agree that equipment purchased by the Foundation will be the sole property of the Foundation unless donated to the University, as evidenced by a writing. The Foundation agrees to maintain an inventory list of all durable equipment.

ARTICLE FOUR
INSURANCE

Section 4.1. Hazard Insurance.

(a) The University shall insure the premises used by the Foundation for patient care activities against loss or damage by
fire and other hazards for which insurance is customarily obtained by the University.

(b) The University agrees to waive any and all rights of recovery against the Foundation, its agents, and employees for damage to the premises used by the Foundation for patient care activities resulting from the perils generally insured under fire and extended coverage policies issued by the State of Alabama Insurance Fund to the University, provided such waiver is approved by the State Insurance Fund or the Insurance Underwriters. The University shall diligently seek such approval and when such approval is received, a certificate of waiver shall be furnished to the Foundation. Notwithstanding the foregoing, however, the University does not waive any right of recovery against the Foundation, its agents, and employees for damages resulting from its or their intentional misconduct or wanton acts.

(c) In the event that the University insures this risk with private insurance carriers the Foundation shall be an additional insured under such policy or policies.

Section 4.2. Professional Liability. The Foundation shall insure against liability for professional malpractice by its Professional Employees.

Section 4.3. Premises Liability. The Foundation shall obtain and continuously maintain in effect insurance against liability for bodily injury to or death of persons, and for damage to or loss of
property, occurring on or about the premises leased to the Foundation by the University, in the minimum amounts of $1 million for total death and bodily injury claims resulting from any one occurrence, and $1 million for property damage. The insurance required to be maintained by the Foundation under this Section 4.3 shall specifically include the liabilities assumed by the Foundation under Section 4.4 hereof. If the University elects to obtain directly the insurance required under this Section, the Foundation agrees to reimburse the University for the cost of such insurance and the University agrees to have the Foundation named as an additional insured on such policy or policies.

Section 4.4. Release of Liability.

(a) The Foundation hereby releases the University, its officers, and members of its Board of Trustees acting in their official capacities, from, and hereby covenants and agrees that the University shall not be liable for, and hereby holds the University harmless against, any loss or damage to property, any injury to, or death of, any person that may be caused by any defect in the leased premises, which defect was caused by the Foundation or caused by the University and of which the Foundation had knowledge but failed to take reasonable action to call to the attention of the University. This release and hold harmless provision shall also include any expenses incurred by the University in connection with the defense of any claim against it or arising out of any such
loss, damage, injury or death. Notwithstanding, the foregoing, however, nothing herein shall be construed as requiring the Foundation to indemnify the University against any loss or damage that may result from wanton conduct on the part of the University or from its own intentional wrongful acts, or the wanton conduct or intentional wrongful acts of its officers, trustees, agents or employees.

(b) The University shall not, without the prior written consent of the Foundation, settle or consent to the settlement of any prospective or pending litigation for which the Foundation is obligated to indemnify the University.

ARTICLE FIVE
SUPPORT SERVICES

Section 5.1. Telephones. The University shall provide, and the Foundation agrees to use, the University telephone system. The cost of this service shall be as set forth on Schedule 1 hereto, as the same may be agreed upon from time to time.

Section 5.2. Security. The University shall provide, and the Foundation agrees to use, the University security services. The costs associated with providing such security services shall be as described on Schedule 1 hereto, as the same may be agreed upon from time to time.

Section 5.3. Personnel and Human Resource Management. The University shall provide, and the Foundation agrees to use, the
University personnel office and human resource management services for those personnel and human resource activities relating to employees with dual employment by the University and the Foundation. The Foundation shall not be required to use University personnel and human resource management services with regard to persons employed solely by the Foundation or with regard to staff provided by independent third party contractors. The costs associated with providing personnel and human resource management services for dual employees shall be as described on Schedule 1 hereto, as the same may be agreed upon from time to time.

Section 5.4. Other. The Foundation may request, and the University may agree to provide, such other support services (e.g. purchasing) at an appropriate charge as may be agreed upon from time to time and set forth on Schedule 1 hereto.

Section 5.5. Invoicing and Payment. The University shall invoice the Foundation monthly, in advance, for the services provided under this Article 5 and the Foundation shall pay the University monthly, in advance, at the rate set forth in Schedule 1 hereto, as the same may be agreed upon from time to time.

ARTICLE SIX
SUPPORT

Section 6.1. Academic Support. The Foundation acknowledges that the University has entered into this Restated Affiliation Agreement to promote, improve and expand teaching, research, and
patient care activities in The University of Alabama School of Medicine Program at Tuscaloosa, within the academic environs of the College of Community Health Sciences and the Capstone Medical Center and affiliated hospitals and clinics. Accordingly, although the Foundation is not specifically required by the terms of this Agreement to make payments to the University, other than those specifically required by the terms hereof, or to carry on any activities other than to provide patient care services on a consulting basis to patients of the Capstone Medical Center and affiliated clinics and hospitals, the Foundation does agree that it will endeavor to use its financial resources for and otherwise support University research in the causes and cures of human sickness and disease and in methods of health care delivery; to provide health services where needed to citizens of the State of Alabama, the United States and other nations; and to provide, in cooperation with the University, clinical educational opportunities to students at the College of Community Health Sciences of The University of Alabama, Tuscaloosa, and at other locations.

ARTICLE SEVEN
MISCELLANEOUS

Section 7.1. Term. This Restated Affiliation Agreement shall be effective upon execution of this instrument by the University and shall continue in effect until terminated by either the Foundation or the University upon six months prior written notice.
Section 7.2. **Renewal.** The parties hereto agree to bargain in good faith towards the annual revision of the charges for rented office space, facilities and support services, as set forth on Article 1. Such revisions to charges set forth on Article 1 shall provide for a fair rental for University space used by the Foundation and the reimbursement to the University for costs incurred in providing services to the Foundation as determined pursuant to the University's cost finding system applied on a consistent basis. The parties shall endeavor to reach agreement respecting these amounts prior to August 1 of each year so as to permit the parties adequate time to prepare budgets for their next succeeding fiscal year.

Section 7.3. **Amendments.** The parties may amend this Agreement by mutual consent, which shall be evidenced by a writing signed by both parties.

Section 7.4. **Notice.**

(a) **Notice to the University.** Except as otherwise specifically provided in this Agreement, all notices required to be given to the University and all consents required to be given by the University pursuant to the provisions hereof shall be sufficient if given in writing to or by the Dean of the College of Community Health Sciences or, if no person is then performing such duties, then the President of The University of Alabama, Tuscaloosa, Alabama 35487.
(b) **Notice to the Foundation.** All notices required to be given to the Foundation pursuant to the provisions hereof shall be sufficient if given in writing to the President of the Foundation (or, if no one is performing such duties, then to any other officer of the Foundation), 700 University Blvd. East, Tuscaloosa, Alabama 35401.

**IN WITNESS WHEREOF,** the Foundation and the University have caused this Affiliation Agreement to be executed in their respective corporate names, and caused their respective corporate seals to be hereunto affixed, and caused this Restated Affiliation Agreement to be attested, all by their duly authorized officers, in two counterparts, each of which shall be deemed an original and have caused this Restated Affiliation Agreement to be dated as of the date first above written.

THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ALABAMA, A CORPORATION, FOR THE UNIVERSITY OF ALABAMA

By: [Signature]

ATTEST:

Its Secretary
CAPSTONE HEALTH SERVICES FOUNDATION, P.C.

By: 
Its President

ATTEST:

Its Secretary