

06-17-2003



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**Submission Type**

- ☒ New  
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Document ID#: ☐ Correction of PTO ErrorReel #:  Frame #: ☐ Corrective DocumentReel #:  Frame #: **Conveyance Type**

- ☐ Assignment ☐ Security Agreement  
☐ License ☐ Change of Name  
☒ Merger ☐ Other

U.S. Government

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☐ Departmental File ☐ Secret File**Conveying Party(ies)**☐ Mark if additional names of conveying parties attachedName  Nephros Therapeutics, Inc. (Michigan Corporation)Execution Date  
Month Day Year

11/08/00

Name Name Name Name **Receiving Party**☐ Mark if additional names of receiving parties attachedName (line 1)  Nephros Therapeutics, Inc. (Delaware Corporation)Name (line 2) Address (line 1)  6 Court DriveAddress (line 2) Address (line 3)  Lincoln

City

 RI

State/Country

 02865

Zip Code

☐ If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative is attached. (Designation must be a separate document from Assignment)

**Domestic Representative Name and Address**

Enter for the first Receiving Party only.

Name  Testa, Hurwitz & Thibault, LLPAddress (line 1)  125 High StreetAddress (line 2)  Boston, MA 02110Address (line 3) Address (line 4) 

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PATENT  
 REEL: 014162 FRAME: 0305

## Correspondent Name and Address

Area Code and Telephone Number (617) 248-7000

Name Patent Administrator

Address (line 1) Testa, Hurwitz &amp; Thibault, LLP

Address (line 2) 125 High Street

Address (line 3) Boston, MA 02110

Address (line 4)

Pages Enter the total number of pages of the attached conveyance document including any attachments.

7

## Application Number(s) or Patent Number(s)

☐ Mark if additional numbers attached

Enter either the Patent Application Number or the Patent Number (DO NOT ENTER BOTH numbers for the same property).

## Patent Application Number(s)


## Patent Number(s)

6,572,605		

## Patent Cooperation Treaty (PCT)

Enter PCT application number  
only if a U.S. Application Number  
has not been assigned.

PCT		PCT		PCT	
PCT		PCT		PCT	

## Number of Properties

Enter the total number of properties involved.

# 1

## Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$ 40.00

Method of Payment: Enclosed ☒Deposit Account ☐

## Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account)

Deposit Account Number # 20-0531

Authorization to charge additional fees: Yes ☒ No ☐

## Statement and Signature

*To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Charges to deposit account are authorized, as indicated herein.*

Duncan A. Greenhalgh

Reg. No. 38,678

Name of Person Signing

Signature

June 11, 2003

Date

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# CERTIFICATE OF OWNERSHIP AND MERGER

Pursuant to Section 253 of the General Corporation Law of the State of Delaware, Nephros Therapeutics, Inc., a Michigan corporation (the "Parent Corporation"), for the purpose of effecting the merger (the "Merger") of the Parent Corporation with and into Nephros Therapeutics, Inc., a Delaware corporation and wholly owned subsidiary of the Parent Corporation (the "Surviving Corporation"), does hereby certify:

**FIRST:** That the Surviving Corporation is incorporated and duly organized under the laws of the State of Delaware.

**SECOND:** That the Parent Corporation owns all of the outstanding shares of the capital stock of the Surviving Corporation.

**THIRD:** That attached as Exhibit A hereto are resolutions (the "Resolutions") of the Board of Directors of the Parent Corporation, duly adopted by the members thereof and dated as of November 8, 2000, approving the Merger and this Certificate of Ownership.

**FOURTH:** That the holders of a majority of the outstanding stock of the Parent Corporation entitled to vote have approved the Merger by written consent under the provisions of the Michigan Business Corporation Act, as amended.

STATE OF DELAWARE  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
FILED 12:05 PM 11/08/2000  
001561545 - 3287294

SDSVF&HW28194v1

IN WITNESS WHEREOF, Parent Corporation has caused this certificate to be signed by Richard Andrews, its President, this 8<sup>th</sup> day of November, 2000.

NEPHROS THERAPEUTICS, INC.  
a Michigan corporation



Richard Andrews, President

**EXHIBIT A**

**RESOLUTIONS APPROVED BY THE  
BOARD OF DIRECTORS OF NEPHROS THERAPEUTICS, INC.,  
A MICHIGAN CORPORATION, ON NOVEMBER 8, 2000.**

**2. Reorganization.**

WHEREAS, the Board of Directors believes that it is in the best interests of the Company to reincorporate as a Delaware corporation; and

WHEREAS, the Board of Directors believes that it is in the best interests of the Company to effect such reincorporation by means of a reorganization (within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended) (the "Reorganization") effected by merging the Company with and into Nephros Therapeutics, Inc., a Delaware corporation and a wholly owned subsidiary of the Company ("Nephros-Delaware"), pursuant to which:

- (i) the separate corporate existence of the Company shall cease and Nephros-Delaware shall continue as the surviving corporation;
- (ii) each share of Common Stock of the Company currently outstanding will be exchanged for one (1) share of Common Stock of Nephros-Delaware;
- (iii) each share of Class A Common Stock of the Company currently outstanding will be exchanged for one (1) share of Series A Preferred Stock of Nephros-Delaware; and
- (iv) each option currently outstanding to purchase one (1) share of Common Stock of the Company will be converted into an option to purchase one (1) share of Common Stock of Nephros-Delaware, with the exercise price adjusted accordingly.

NOW, THEREFORE, BE IT RESOLVED, that the officers of the Company be, and they hereby are, authorized and directed, in the name and on behalf of the Company, to create a wholly owned subsidiary of the Company under the laws of the State of Delaware; and

RESOLVED FURTHER, that the Board of Directors does hereby approve the Reorganization.

**3. Merger of Nephros Therapeutics, Inc., a Michigan corporation, with and into Nephros Therapeutics, Inc., a Delaware corporation.**

RESOLVED, that the Restated Certificate of Incorporation of Nephros-Delaware, in substantially the form attached hereto as Exhibit A (the "Restated Certificate"), be, and it hereby is, adopted and approved, with such changes as may be approved by the President of the Company and Nephros-Delaware in his sole discretion, his signature on such document to constitute conclusive evidence of such approval;

**RESOLVED FURTHER**, that the Agreement and Plan of Merger, in substantially the form attached hereto as Exhibit B (the "Merger Agreement"), and all transactions described therein, be, and they hereby are, adopted and approved, with such changes as may be approved by the President of the Company in his sole discretion, his signature on such document to constitute conclusive evidence of such approval;

**RESOLVED FURTHER**, that the effective date of the Reorganization (the "Effective Date") shall be the date of filing of the Certificate of Ownership and Merger, in substantially the form attached hereto as Exhibit C, with the Office of the Secretary of State of the State of Delaware;

**RESOLVED FURTHER**, that the officers of the Company be, and each of them hereby is, authorized and directed, in the name and on behalf of the Company, to take such further actions, including, but not limited to, providing notification of the Reorganization to any appropriate governmental or regulatory agencies and filing any forms and documents with such agencies as may be required or advisable by them or by law, and to obtain such consents from any third parties or governmental or regulatory agencies as may be necessary or advisable to carry out the Reorganization;

**RESOLVED FURTHER**, that the Merger Agreement, the Restated Certificate, the Certificate of Ownership and Merger, the Bylaws of Nephros-Delaware, in substantially the form attached hereto as Exhibit D, and the form of Nephros-Delaware Indemnification Agreement, in substantially the form attached hereto as Exhibit E, and such other documents and proposals, including, without limitation, any related certificates necessary to effect the Reorganization, be submitted to the shareholders of the Company for approval, and that the officers of the Company be, and each of them hereby is, authorized and directed to prepare and submit said documentation to the shareholders of the Company for their approval;

**RESOLVED FURTHER**, that, subject to obtaining the requisite approval of the Merger Agreement by the Company's shareholders, the President or Chief Executive Officer and Secretary of the Company be, and each of them acting singly hereby is, authorized and directed, in the name and on behalf of the Company, to (i) execute and deliver the Merger Agreement in substantially the form approved herein by the Board or such other form as the Board and shareholders shall hereafter approve, under which the Company would effect the Reorganization, (ii) consummate all the transactions contemplated by the Merger Agreement, on the terms set forth in the Merger Agreement and pursuant to such other agreements, and any amendments thereto, as the officers executing the same may in their discretion deem reasonable and appropriate, and (iii) prepare and cause to be filed the Certificate of Ownership and Merger and any related officers' certificates or other documents required to be filed with the appropriate governmental offices in the State of Delaware and the State of Michigan in accordance with the laws applicable to consummate the Reorganization;

**RESOLVED FURTHER**, that the Reorganization is intended to qualify as a tax-free reorganization under Section 368(a) of the Internal Revenue Code of 1986, as amended (or any corresponding provisions of any successor law);

**RESOLVED FURTHER**, that the officers of the Company be, and they hereby are, authorized and directed to cause the transfer to or assumption by Nephros-Delaware at the effective time of the Reincorporation, insofar as possible without any material change in the rights and obligations attendant thereto of any person or entity, of all agreements, contracts, rights, entitlements or other arrangements (including any novation required) to which the Company (or any subsidiary thereof, if necessary) is a party, including the giving of any and all notices of, and the obtaining of any and all consents to, such assignment to, and from, any person or entity, where such notice or consent is required for any such assignment;

**RESOLVED FURTHER**, that the officers of the Company be, and they hereby are, authorized and directed to cause the transfer to or assumption by Nephros Delaware of all property of any kind and all types of the Company, whether tangible or intangible, or personal or real, in the Reorganization;

**RESOLVED FURTHER**, that there is hereby adopted and incorporated by reference the full text of any resolution that may be required by any person or entity in connection with the Reorganization, and that the Secretary of the Company be, and hereby is, authorized and empowered to certify to such person or entity that any such form of resolution so required has been adopted at this meeting; and

**RESOLVED FURTHER**, that the officers of the Company be, and each of them hereby is, authorized and directed, in the name and on behalf of the Company, and under its corporate seal if appropriate, to (i) prepare and cause to be filed any related certificates or other documents required to be filed with the appropriate governmental offices in the State of Delaware and the State of Michigan in accordance with applicable laws in order to consummate the Reorganization and (ii) make all such arrangements, to do and perform all such acts and things, to execute and deliver all such officers' certificates and such other instruments and documents, to effect all filings and qualifications, and to take all further action as they may deem necessary or appropriate in order to effectuate fully the purpose of each and all of the foregoing resolutions (hereby ratifying and confirming any and all actions taken heretofore and hereafter to accomplish such purposes, all or singular).

**CERTIFICATE OF THE PRESIDENT  
OF  
NEPHROS THERAPEUTICS, INC.**

COPY

The undersigned, Richard Andrews, does hereby certify that he has been duly elected and qualified as, and at this date is, the President of Nephros Therapeutics, Inc. (the "Company") and that:

1. The Company was incorporated in the State of Michigan on April 8, 1994, and was located at 2644 Pin Oak Drive in Ann Arbor, Michigan, 48103.
2. In May of 1994, the Company relocated to 1756 Plymouth Road in Ann Arbor, Michigan, 48105.
3. The Company reincorporated in the State of Delaware on November 8, 2000.
4. In January of 2001, the Company relocated to 1995 Highland Drive, Suite F, in Ann Arbor, Michigan, 48108.
5. In January of 2002, the Company relocated its corporate headquarters to 6 Court Drive in Lincoln, Rhode Island, 02865.

IN WITNESS WHEREOF, the undersigned has executed this certificate this 3 day of June, 2003.



Richard A. Andrews, President



# Delaware

PAGE 1

*The First State*

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF OWNERSHIP, WHICH MERGES:

"NEPHROS THERAPEUTICS, INC.", A MICHIGAN CORPORATION,  
WITH AND INTO "NEPHROS THERAPEUTICS, INC." UNDER THE NAME OF  
"NEPHROS THERAPEUTICS, INC.", A CORPORATION ORGANIZED AND  
EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED  
AND FILED IN THIS OFFICE THE EIGHTH DAY OF NOVEMBER, A.D. 2000,  
AT 12:05 O'CLOCK P.M.



*Harriet Smith Windsor*  
Harriet Smith Windsor, Secretary of State

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AUTHENTICATION: 2411112

DATE: 05-12-03

RECORDED: 06/13/2003

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REEL: 014162 FRAME: 0313