



ADVISORY NO. PC - 4

[Please file in your ACO Practitioner Manual in the “Advisories” Section. Please note this Advisory replaces Advisory No. PC – 3]

DATE: March 01, 2010

SUBJECT: PROFESSIONAL CORPORATIONS

Section 103 to 115 of the Health Professions Act allows optometrists to provide professional services on behalf of a Professional Corporation. As the Professional Corporation (PC) is considered a business entity, it is also governed by the Business Corporations Act of Alberta. As a business entity, a PC is allowed a multitude of options with regard to incorporation, amalgamation, amendment, dissolution, etc.

The following summarizes requirements for various transactions under the Business Corporations Act of Alberta, the Professional Corporations Statutes Amendment Act, the Health Professions Act, and the Alberta College of Optometrists (ACO) By-laws. You may access the ACO forms by either calling the ACO office at (780) 466-5999 or 1-800-668-2694 (outside Edmonton) or by downloading this material from the ACO website. The Government of Alberta forms may be downloaded from the Government of Alberta Website, then accessing the Business Corporations Act section.

A. Steps Required to Renew Your Previously Registered Professional Corporation

You must do two things every year in order to keep your Professional Corporation active:

1. A short time after your financial year end, the Alberta Government will mail you an Annual Return Notice. You must complete this form, sign it and bring it in to one of the authorized service providers (a public registry office of your choice) for processing.

2. In October or November of each calendar year the Alberta College of Optometrists will mail out a renewal notice to each regulated member holding a Professional Corporation. The member must complete the renewal form, sign it and mail it back to the ACO office along with a cheque made payable to the Alberta College of Optometrists for the posted annual renewal fee. The completed renewal form and cheque must arrive in the ACO office on or before December 1st each year.

A new Professional Corporation Permit will thereafter be mailed out to the member for display in your office. If you require more than one permit (each optometric office must display a permit), please indicate how many extra permits you require when you return your completed permit renewal form. No charge will be levied for extra permits mailed at the same time.

3. Should you wish to change the name of your Professional Corporation and include a descriptor, please refer to Section E of this Advisory.
4. As of March 01, 2010, family members of optometrists may own non-voting shares of the optometrists Professional Corporation. Should you wish to add family members to your Professional Corporation, please refer to Section N of this Advisory.

B. Steps Required When Registering a New Professional Corporation

New Professional Corporations may be applied for when an individual optometrist first sets up practice, decides to incorporate as a PC after being in practice for a while, or when a group of optometrists decide to join in a Professional Corporation group practice.

According to ACO Bylaw #9, the name of the Professional Corporation may only contain the given name(s), initial(s) and surname(s) of one or more Regulated Member(s) who are shareholders in the professional corporation. Refer to Section E of this Advisory regarding descriptors which may be included in the P.C. name. Refer to Section N of this Advisory regarding family members owning non-voting shares in the Professional Corporation.

The following requirements are itemized as a checklist to follow and will allow for easy and seamless registration of a new Professional Corporation:

1. After you decide on a name for your Professional Corporation, do a name search at Alberta Corporate Registry to determine if anyone else is using the exact same or very similar name.

2. Submit the Articles of Incorporation (which must contain the attached Articles of Incorporation or Continuance, Items 6 and 9) of your proposed professional corporation to the ACO Registrar for endorsement.
3. Submit the signed and approved Articles of Incorporation, Alberta Name Search Report (from the NUAN's database), and any other supporting documentation to Alberta Corporate Registry along with the appropriate fee. If all is in order you will receive a Certificate of Incorporation from Corporate Registry. Also obtain a Certificate of Status from Corporate Registry at this same time.
4. Submit the completed **ACO Application for an Initial PC Permit Form**, along with copies of the name approval search, Articles of Incorporation, Certificate of Incorporation and Certificate of Status to the ACO Registrar. Please enclose a cheque made payable to the Alberta College of Optometrists.
5. After all of the above requirements are met, an initial Annual Permit for a Professional Corporation will be issued to you by the Alberta College of Optometrists.

C. Change in Address, Directors, Address of Directors, Name of Attorney for Service or Address of Registered Attorney

According to Section 112 of the Health Professions Act, a Professional Corporation must inform the ACO Registrar within 15 days of any change in the ownership or directors of a Professional Corporation.

Should any of the aforementioned changes occur, you are required to fax or mail a copy of the appropriate Business Corporations Act Form to the ACO office for inclusion in your individual PC file (an administration fee is payable for this transaction). It is imperative that the ACO office receive any and all updated information, especially for future notification purposes. No fee is charged by the ACO for this service.

D. Change in Name of Professional Corporation

Since Professional Optometric Corporations can only have given names, initials and surnames of one or more regulated members, you must make a name change should one of the members in the Professional Corporation retire, leave the practice, leave the province, or pass away. Again, according to Section 112 of the Health Professions Act, a Professional Corporation must inform the ACO Registrar of any name change within 15 days of the change. Should you also wish to include a descriptor in your P.C. name please refer to Section E of this Advisory.

In order for a professional corporation name change to occur, you must:

1. Compete and sign the ACO Professional Corporation Name Change Form and submit same to the ACO office along with a cheque made payable to the ACO). A new professional corporation permit will then be sent to you. Once again, please indicate how many permits are required bearing in mind that one copy should be displayed in each of your office locations.
2. Complete and sign the appropriate Alberta Business Corporations Act Form and submit to an authorized service provider (registry office) along with the corresponding fee.

A fee of \$50 is charged by the ACO to cover the administration costs of documenting the name change and mailing out new PC Annual Permits.

E. Descriptors

As of January 01, 2006, Professional Corporations may include descriptors. The Alberta College of Optometrists has decided that the terms “optometric” or “optometry” may be inserted between the words “professional” and “corporation”. For example, “Tony Smith Professional Optometric Corporation” or “Tony Smith Professional Optometry Corporation”.

As noted in Section D, a fee of \$50 is charged by the ACO to cover the administration costs of documenting the name change and mailing out new PC Annual Permits.

F. Change in Articles, Amended Articles or Restated Articles of Incorporation

All Professional Corporations incorporated under the old Optometry Profession Act have different Articles of Incorporation than those incorporated under the Health Professions Act. Therefore, if you purchase an older version of an optometric professional corporation you must:

1. Submit new Articles of Incorporation to the ACO Registrar for endorsement, enclosed with a cheque for \$50.00 made payable to the Alberta College of Optometrists.
2. Submit an Alberta Government Amended Articles of Incorporation Form to an authorized service provider (registry office) along with the corresponding fee.

Since professional corporations initially registered under the old Optometry Profession Act may be a “hybrid” or “grandfathered” professional corporation, please read Section M regarding grandfathered Professional Corporations and Section N on the purchase of shares by family members.

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G. Articles of Revival or Amalgamation

Should you allow your Professional Corporation to dissolve, you may revive it by filling out the Alberta Government Business Corporations Act Articles of Revival Form and then follow the same format as for a new Professional Corporation.

Since the revived or amalgamated PC is treated as a new PC according to the Business Corporations Act and issued a new corporate access number, you must follow the checklist for newly formed PCs (refer Section B, page 2 of this advisory). This is true even if the name of the amalgamated company is the same as one of the two prior companies. A new Professional Corporation application form must accompany your request. [Please issue cheque payable to the Alberta College of Optometrists.]

H. Articles of Arrangement, Continuance, Notice of Assumed Name, Notice of English/French Name Equivalency or Cancellation of Assumed Name

Notices of Assumed Name and English/French Name Equivalency are not contemplated to be used by optometric PCs. Articles of Arrangement may be used in extremely rare circumstances where you have to petition the Court to fix a problem regarding your corporate entity.

Should your Professional Corporation perform any of these rare business transactions, you must fill out the appropriate Alberta Government Business Corporations Act Form(s) and

FAX or mail a copy of such form to the ACO office along with a cheque for \$50.00 [made payable to the ACO].

I. Articles of Reorganization

This business transaction is used when reorganization or shuffling of shares is utilized for purposes of tax planning. Notice of such reorganization is required in advance and the regulated member must sign a form verifying that no optometric services will be provided during the short period of time required to reorganize. A fee of \$50.00 (cheque payable to the Alberta College of Optometrists) is required along with a copy of the Articles of Reorganization and ACO Form as noted above.

J. Articles of Continuance

Articles of Continuance are used when a company from outside Alberta wishes to continue in Alberta. Since the requirements for a Professional Corporation are different in each province, this business transaction will probably never be used. If it is, you must follow the checklist as detailed in Section B, page 2 of this Advisory as your PC is deemed to be a new Professional Corporation. The fee to continue is the same as the fee to register a new Professional Corporation.

K. Cancellation or Dissolution of a Professional Corporation

Should your Professional Corporation be cancelled or dissolved, either through retirement, death or cancellation of the registration or practice permit of a regulated member, you must complete the appropriate Alberta Government Business Corporations Act Form and fax or mail a copy of said form to the ACO office. No fee is levied by the ACO for this transaction. The Professional Corporation has 90 days in which to inform the Registrar of the need to cancel or dissolve (unless council rules otherwise).

According to Section 115 of the Health Professions Act, the ACO Registrar must notify the Registrar of Corporations and the shareholders of the Professional Corporation that the annual permit is cancelled.

L. Shareholders in a Professional Corporation

According to the Health Professions Act and the Professional Corporations Statutes Amendment Act, only regulated members may be either voting or non-voting shareholders and family members may be only non-voting shareholders in a Professional Corporation.

In addition, one Professional Corporation cannot be a shareholder in another Professional Corporation. However, a Professional Optometric Corporation may be a shareholder in other non-PC companies.

M. Grandfathered Professional Corporations

When the previous Optometry Profession Act was proclaimed in 1985, many optometrists were forced to change from their previous business structure (holding companies) to Professional Corporations. So as not to invoke a possible major tax liability to these individuals, the Alberta Government allowed these individuals to continue their existing share structure into a Professional Corporation. As a result, a few “hybrid” Professional Corporations with non-optometrist shareholders have been in existence in the province since 1985.

The ACO and the Government of Alberta agreed to allow these hybrid entities to exist with the knowledge that when these Professional Corporations were sold, transferred, amalgamated, etc., that the shares could only be owned by regulated members. It was assumed that with attrition, all Professional Optometric Corporations will eventually only include regulated members as shareholders.

If you have a “grandfathered” Professional Corporation and are selling the voting shares to another regulated member or members, the voting shares that were previously owned by a non-optometrist can now only be owned by a regulated member or members. This business structure may be different than the newly announced non-voting shareholders Professional Corporation.

N. Family Members owning Non-voting Shares in a PC

On March 01, 2010, the Professional Corporations Statutes Amendment Act was enacted. It allows family members of optometrists to own non-voting shares in an Professional Optometric Corporation. Although, voting shares will remain exclusively for regulated members (optometrists), non-voting shares may now be held by the:

- a) Regulated member (optometrist),
- b) Spouse of the regulated member,
- c) Common-law partner of the regulated member,
- d) Child of the regulated member, and/or,
- e) Trust - of which all beneficiaries are children under the age of 18 of the regulated member.

The Alberta College of Optometrists strongly recommends that you consult with your legal and accounting advisors before proceeding with any reorganization of your current Professional Corporation, amendment of Articles or application for a new Professional Corporation.

Should you wish to issue non-voting shares to family members, please follow the following checklist:

- a) Submit revised Articles for the existing professional corporation to the ACO for approval. These revisions would change the Articles to allow for non-voting shareholders.
- b) Submit a signed declaration must be signed testifying that the person being issued non-voting shares is a family member as defined above.

Professional Corporation Fees

1. Registration of a new Professional Corporation	\$ 400
2. Yearly Renewal of a Professional Corporation	\$ 50
3. Addition of Voting Shareholders	\$ 50
4. Addition of Non-voting Shareholders	\$ 50
5. Change in Address, Directors, Address of Directors, Name of Attorney for Service or Address of Registered Attorney	\$ 0
6. Change in Name of Professional Corporation	\$ 50
7. Change in Articles, Amended Articles or Related Articles of Incorporation	\$ 50
8. Articles of Revival	\$ 400
9. Articles of Amalgamation	\$ 400
10. Articles of Arrangement, Continuance, Notice of Assumed Name, Notice of English/French Equivalency or Cancellation of Assumed Name	\$ 50
11. Articles of Reorganization	\$ 50
12. Articles of Continuance	\$ 400
13. Dissolution of Professional Corporation	\$ 0

Statutory Declaration

For Non-Voting Shares

Name of Professional Corporation: _____

I, _____ certify and confirm that:

- a) The information contained in this declaration is accurate, true and complete,
- b) The person(s) listed are related to me, and,
- c) The Articles of the Professional Corporation allow for the issuance of non-voting shares to family members.

Number of Shares and Name of Person that Non-Voting Shares were issued to:

_____ Relationship: _____

_____ Relationship: _____

_____ Relationship: _____

_____ Relationship: _____

(Signed name)

(Position in Professional Corp.)

(Printed name)

(Date)