



ADVISORY NO. PC - 7

Please note this Advisory replaces Advisory No. PC – 6

DATE: April 12, 2016

SUBJECT: PROFESSIONAL CORPORATIONS

Sections 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, shareholders, amendment, dissolution, etc.

The following ACO Advisory 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. How 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 send 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 send out a renewal notice to Regulated Members who are identified as the contact person for their Professional Corporation. This member must complete the on-line renewal form and pay the associated fees. Members have the choice of paying with a credit card or mailing a cheque to the ACO office. The completed renewal form and cheque for \$50.00 must arrive in the ACO office on or before December 1st each year to avoid additional administrative fees.

A new Professional Corporation Permit will then 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 renewal form. No additional 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, the Alberta Government decreed that 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. How to Create and Register a New Professional Corporation

A new Professional Corporation 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 Section 1, Article 3 of the ACO Bylaws, the name of the Professional Corporation may only contain the given name(s), initial(s) and/or 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 creation and 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.

Item 6 – Restrictions, if any, on business that the corporation may carry on:

None, but for greater certainty and without restricting the business which the corporation may carry on, the corporation shall have the following objects:

- a) ***To engage in every phase and aspect of rendering the same optometric services to the public that a regulated optometrist of the Alberta College of Optometrists is authorized to render;***
- b) ***To purchase or otherwise acquire and to own a mortgage, pledge, sell, assign, transfer, or otherwise dispose of, or to invest in, deal in or with, real or personal property necessary for the rendering of optometric services;***
- c) ***To contact debts and borrow money, issue and sell or pledge bonds, debentures, notes or other evidences of indebtedness and execute such mortgages, transfers of corporate property or other instruments to secure the payment of corporate indebtedness as required;***
- d) ***To enter into partnership, consolidate or merge with or purchase the assets of another corporation or individual rendering the same professional services.***

Item 9 – Other provision, if any

The liability of the shareholders is limited as provided in the Business Corporations Act except in circumstances described in Section 107 of the Health Professions Act which reads as follows:

Despite anything to the contrary in the Business Corporations Act and despite the providing of the professional services of a regulated member:

- a) ***of the College of Physicians and Surgeons of the Province of Alberta who is a physician, surgeon or osteopath,***
- b) ***of the Alberta Dental Association and College,***
- c) ***of the College of Chiropractors of Alberta, or,***
- d) ***of the Alberta College of Optometrists,***

on behalf of a professional corporation, every voting shareholder of a professional corporation is liable to the same extent and in the same way as if the shareholder were, during that time, carrying on the business of the professional corporation as a partnership or, if there is only one voting shareholder, as an individual providing professional services.

[< Download New Professional Corporation Application Form >](#)

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 documentation is in order you will receive a Certificate of Incorporation and a Certificate of Status from Corporate Registry.
4. Submit the completed **ACO Application for an Initial PC Permit Form**, along with copies of the name search, Articles of Incorporation, Certificate of Incorporation and Certificate of Status to the ACO Registrar. Please enclose a cheque for \$400.00 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.

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

1. Complete and sign the appropriate Alberta Business Corporations Act Form and submit to an authorized service provider (registry office) along with the corresponding fee.
2. Submit a copy of the completed *Alberta Business Corporations Act* name change form to the ACO office along with a cheque for \$50.00 made payable to the Alberta College of Optometrists. A new Professional Corporation Practice Permit will be mailed to you. Please indicate how many permits are required.

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 review Section M regarding grandfathered Professional Corporations and Section N on the purchase of shares by family members.

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 for \$400.00 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 (\$400.00) 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 voting or non-voting shareholders and family members may only be non-voting shareholders in a Professional Corporation.

In addition, one Professional Corporation cannot be a shareholder in another Professional Corporation. However, a Professional 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. This previous business structure is different than the recently announced non-voting shares for family members.

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 a Professional 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 to the ACO office, a signed Statutory Declaration 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 (as per Section N of this Advisory), 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)