

COLLEGE OF
KINESIOLOGISTS
OF ONTARIO



Certificate of Authorization for a Professional Corporation Guide

INTRODUCTION

The *Regulated Health Professions Act, 1991* (RHPA) and the *Business Corporations Act, 1990* (BCA) permit regulated health professionals to incorporate for the purpose of professional practice, provided they obtain certificates of authorization from their respective health profession colleges. The provisions outline the conditions and requirements that must be met in order to obtain a certificate of authorization, and include:

- All of the issued and outstanding shares of the corporation shall be legally and beneficially owned, directly or indirectly, by one or more members of the same profession, who hold a certificate of registration issued by the College;
- all officers and directors of the corporation must be shareholders of the corporation;
- the articles of the professional corporation must provide that the corporation cannot carry on a business other than the practice of the profession governed by the College and activities related to or ancillary to the practice of the profession¹; and
- the name of the corporation must comply with the rules respecting the names of professional corporations set out in the RHPA and the BCA and with any rules respecting names set in the *Kinesiology Act, 2007* or College By-Laws.

Should I set up my practice as a professional corporation?

This decision depends on a number of factors, including the nature of your practice, with whom you practise, and the financial circumstances of both you and your practice. The business formation of your practice is an important decision to make and the College recommends that you seek legal and/or business advice. The College **cannot** provide advice on this question. There are advantages and disadvantages to a professional corporation that should be taken into account. Generally speaking, there are certain tax advantages for a professional corporation; however, professional corporations are more restricted in their activities than other business set-ups. Your own business or legal counsel is in the best position to provide advice.

Please fill out the Professional Corporation Application form and submit all required documentation described in the checklist.

You may wish to refer to section 3.2 of the BCA and Ontario Regulation 39/02 under the RHPA, “Certificates of Authorization” (the regulation), which are appended to this guide.

¹ This means only kinesiology services may be offered by the corporation. All shareholders must be kinesiologists practising kinesiology. Ancillary activities may include investing surplus funds earned by the corporation.

NAME AND ADDRESS OF THE CORPORATION

The name of the corporation must meet the requirements set out in section 3.2 of the *Business Corporations Act, 1990* and the regulation as follows:

- The corporation cannot have a number name;
- The corporate name must include the words “Professional Corporation” or “Société Professionnelle”;
- The corporate name must include the surname of one or more shareholders of the corporation as set out on the Public Register of Kinesiologists;
- The corporate name may also include the shareholder’s given name, one or more of the shareholder’s initials or a combination of his or her given name and initials;
- The corporate name must indicate the health profession practised by the shareholders (i.e. kinesiology);
- The corporate name must not include any information other than that permitted or required under the BCA;
- Professional corporations are not required to use the corporate name as the name of the practice. However, any material (letterhead, invoices, etc.) that includes the practice name should also have the corporation name on it if the two are different. This means that you can keep the name of your practice as it is, particularly if changing the name may confuse existing patients/clients; and
- Owners of professional corporations must inform the College of every practice name under which the professional corporation practises.

BUSINESS ADDRESS OF THE CORPORATION

- This must be the address of the corporation and not the address of the corporation’s legal counsel.

DECLARATION

Complete each statement in this section as directed on the form, noting the following:

- The individual applying for a certificate of authorization on behalf of the corporation must hold a current certificate of registration with the College and be a director of the corporation.
- Each shareholder of the corporation must hold a current certificate of registration issued by the College.
- Each director and officer must be a shareholder of the corporation.

- The director applying on behalf of the corporation must sign and date the application.
- The declaration must be completed by a director of the corporation. The declaration cannot be signed more than 15 days before the application is submitted to the College.

UNDERTAKING

- Each shareholder of the corporation must sign and date the undertaking section of the application form.
- Note that each shareholder must be listed in the application and must hold a current certificate of registration issued by the College. Photocopies may be made of the Undertaking so that one is supplied to each shareholder.

REQUIRED DOCUMENTS

- The completed application form;
- An Undertaking dated and signed by each shareholder of the corporation;
- The declaration of a director of the corporation signed not more than 15 days before the application is submitted;
- A copy of a corporation profile report issued by the Ministry of Government and Consumer Services not more than 30 days before the application is submitted to the College, which indicates that the corporation is active;
- A copy of the certificate of incorporation of the corporation (including the Articles of Incorporation);
- A copy of every other Certificate of Incorporation the corporation has, that has been endorsed under the BCA as of the day the application is submitted (if applicable).

FEES AND RENEWAL

- The application fee for registration of a professional corporation is \$200.
- The fee for a Certificate of Authorization Fee is pro-rated as follows:
 - September 1 – November \$400
 - December 1 – February 28 \$300
 - March 1 – May 31 \$200
 - June 1 – August 31 \$100
- The certificate of authorization must be renewed every year between July 1 and August 31. The renewal fee is \$400.

Why do I have to pay a separate fee for a certificate of authorization and for a certificate of registration?

A corporation is considered a person under the law. The professional corporation can be considered an individual member of the College and is distinct from the member shareholders. Therefore, the College requires an additional process for the review of applications for certificates of authorization. The College is required to record and monitor substantial amounts of information on professional corporations that differs from the information recorded and monitored for individual members. Separate processes are also required for record keeping and addressing any complaints about the professional corporation.

SUBMISSION OF THE APPLICATION

The application for a certificate of authorization or renewal application, and a cheque, must be mailed to:

College of Kinesiologists of Ontario
Attn: Registration Department
160 Bloor Street East, Suite 1402
Toronto, ON M4W 1B9

Once you have submitted all of the necessary documentation to the College and paid the application fee, the College will process the application and issue a registration number.

CHANGE OF INFORMATION

Within 30 days, you must notify the College of any changes to the following information:

- the name of the professional corporation as registered with the Ministry of Government and Consumer Services;
- any business names used by the professional corporation;
- the name, as set out in the Public Register, and registration number of each shareholder of the professional corporation;
- the name, as set out in the Public Register, of each officer and director of the professional corporation, and the title or office held by each officer and director;
- the principal practice address, telephone number, fax number and email address of the professional corporation;
- the address and telephone number of all other locations, other than the addresses of patients/clients, at which the professional services offered by the professional corporation are provided; and
- a brief description of the professional activities carried out by the professional corporation.

REVOCATION AND REINSTATEMENT

A certificate of authorization can be revoked by the College for the following reasons:

- The corporation ceases to be eligible to hold a Certificate of Authorization.
- The corporation ceases to practise the profession for which the Certificate of Authorization was issued.
- The corporation fails to comply with one or more of the requirements for a renewal.
- The corporation carries out any business that is not the practice of the profession governed by the College or activities related to or ancillary to the practice of that profession.
- The corporation fails to notify the College of a change in shareholders.

In order for the corporation to receive a new certificate of authorization, the corporation must make a new application and meet all the eligibility requirements.

APPENDIX I

Section 3.2 of the Business Corporations Act Application of Act

APPLICATION OF ACT TO PROFESSIONAL CORPORATIONS

3.2 (1) This Act and the regulations apply with respect to a professional corporation except as otherwise set out in this section and sections 3.1, 3.3 and 3.4 and the regulations. 2000, c. 42, Sched., s. 2.

CONDITIONS FOR PROFESSIONAL CORPORATIONS

- (2) Despite any other provision of this Act, but subject to subsection (6) a professional corporation shall satisfy all of the following conditions:
1. All of the issued and outstanding shares of the corporation shall be legally and beneficially owned, directly or indirectly, by one or more members of the same profession.
 2. All officers and directors of the corporation shall be shareholders of the corporation.
 3. The name of the corporation shall include the words “Professional Corporation” or “société professionnelle” and shall comply with the rules respecting the names of professional corporations set out in the regulations and with the rules respecting names set out in the regulations or by-laws made under the Act governing the profession.
 4. The corporation shall not have a number name.
 5. The articles of incorporation of a professional corporation shall provide that the Corporation may not carry on a business other than the practice of the profession but this paragraph shall not be construed to prevent the corporation from carrying on activities related to or ancillary to the practice of the profession, including the investment of surplus funds earned by the corporation. 2000, c. 42, Sched., s. 2.; 2002, c. 22, s. 8; 2005, c. 28, Sched. B, s. 1 (1).

DEEMED COMPLIANCE

(2.1) A professional corporation that has a name that includes the words “société professionnelle” shall be deemed to have complied with the requirements of subsection 10 (1). 2004, c. 19, s. 3 (1).

CORPORATE ACTS NOT INVALID

(3) No act done by or on behalf of a professional corporation is invalid merely because it contravenes this Act. 2000, c. 42, Sched., s. 2.

VOTING AGREEMENTS VOID

(4) An agreement or proxy that vests in a person other than a shareholder of a professional corporation the right to vote the rights attached to a share of the corporation is void. 2000, c. 42, Sched., s. 2.

UNANIMOUS SHAREHOLDER AGREEMENTS VOID

- (5) Subject to subsection (6), a unanimous shareholder agreement in respect of a professional corporation is void unless each shareholder of the corporation is a member of the professional corporation. 2000, c. 42, Sched., s. 2; 2005, c. 28, Sched. B, s. 1 (2).

Appendix II

ONTARIO REGULATION 39/02 made under the *Regulated Health Professions Act, 1991*

CERTIFICATES OF AUTHORIZATION

A. ELIGIBILITY

(1) A corporation is eligible to hold a certificate of authorization issued by a College if all the following conditions are met:

1. The articles of the corporation provide that the corporation cannot carry on a business other than the practice of the profession governed by the College and activities related to or ancillary to the practice of that profession.
2. In the case of a certificate of authorization issued by a College other than the College of Physicians and Surgeons of Ontario or the Royal College of Dental Surgeons of Ontario, all of the issued and outstanding shares of the corporation are legally and beneficially owned, directly or indirectly, by one or more members of the issuing College.

2.1. In the case of a certificate of authorization issued by the College of Physicians and Surgeons of Ontario, each issued and outstanding voting share of the corporation is legally and beneficially owned, directly or indirectly, by a member of the

College and each issued and outstanding non-voting share of the corporation is owned in one of the following ways:

- i. It is legally and beneficially owned, directly or indirectly, by a member of the College.
- ii. It is legally and beneficially owned, directly or indirectly, by a family member of a voting physician shareholder.
- iii. It is owned legally by one or more individuals, as trustees, in trust for one or more children of a voting physician shareholder who are minors, as beneficiaries.

2.2. In the case of a certificate of authorization issued by the Royal College of Dental Surgeons of Ontario, each issued and outstanding voting share of the corporation is legally and beneficially owned, directly or indirectly, by a member of the College and each issued and outstanding non-voting share of the corporation is owned in one of the following ways:

- i. It is legally and beneficially owned, directly or indirectly, by a member of the College.
- ii. It is legally and beneficially owned, directly or indirectly, by a family member of a voting dentist shareholder.
- iii. It is owned legally by one or more individuals, as

trustees, in trust for one or more children of a voting dentist shareholder who are minors, as beneficiaries.

3. The name of the corporation meets the standards described in subsections (2) to (5). O.Reg. 39/02, s. 1 (1); O. Reg. 666/05, s. 2 (1).
- (2) The name of the corporation must meet the requirements in section 3.2 of the Business Corporations Act and must not violate the provisions of any other Act. O. Reg. 39/02, s. 1(2).
- (3) The name of the corporation must include the surname of one or more shareholders of the corporation, who are members of the College, as the surname is set out in the College Register, and may also include the shareholder's given name, one or more of the shareholder's initials or a combination of his or her given name and initials. O. Reg. 666/05, s. 2 (2).
- (4) The name of the corporation must indicate the health profession to be practiced by members of the College through the corporation O. Reg. 666/05, s. 2 (2).
- (5) The name of the corporation must not include any information other than the information permitted or required by subsections (2), (3) and (4). O. Reg. 39/02, s. 1(5).

B. ISSUANCE OF CERTIFICATE

- (1) A College shall issue a certificate of authorization to a corporation in respect of a particular profession if the corporation is eligible to hold one and applies for the certificate by giving the following information and documents to the Registrar:
 1. A completed application in a form approved by the College.
 2. The application fee required by the by-laws of the College.
 3. A copy of a corporation profile report issued by the Ministry of Government and Consumer Services or by a service provider which is under contract with the Ministry of Government and Consumer Services that is dated not more than 30 days before the application is submitted to the Registrar, and that indicates that the corporation is active.
 4. A copy of the certificate of incorporation of the corporation.
 5. A copy of every certificate of the corporation that has been endorsed under the Business Corporations Act as of the day the application is submitted.
 6. The declaration of a director of the corporation, signed not more than 15 days before the application is submitted to the Registrar, stating,
 - i. that the corporation is in compliance with section 3.2 of the Business Corporations Act including the regulations made under that section, as of the date the declaration is signed,
 - ii. that the corporation does not carry on, and does not plan to carry on, any business that is not the practice of the profession governed by the College or activities related to or ancillary to the practice of that profession,
 - iii. that there has been no change in the status of the corporation since the date of the corporation profile report referred to in paragraph 3, and
 - iv. that the information contained in the application is complete and accurate as of the day the declaration is signed.
 7. In the case of an application submitted to the Registrar of either the College of Physicians and Surgeons of Ontario or the Royal College of Dental Surgeons of Ontario, the name of each person who is both a voting shareholder and a member of the College of Physicians and Surgeons of Ontario or the Royal College of Dental

Surgeons of Ontario, as the case may be, as of the day the application is submitted and his or her business address, business telephone number and registration number with the College as of that day.

8. In the case of an application submitted to any College other than the Colleges referred to in paragraph 7, the name of each person who is a shareholder of the corporation as of the day the application is submitted and his or her business address, business telephone number and registration number with the College as of that day.
 9. The names of the directors and the officers of the corporation as of the day the application is submitted.
 10. The address of the premises at which the corporation carries on activities as of the day the application is submitted. O. Reg. 264/14, s. 2.
- (2) A College may issue a revised certificate of authorization to a corporation if the corporation changes its name after the certificate of authorization has been issued to it. O. Reg. 39/02, s. 2(2).

C. REFUSAL TO ISSUE

The College shall refuse to issue a certificate of authorization if the corporation is not eligible to hold one or if the corporation does not comply with section 2. O. Reg. 39/02, s. 3.

D. DUTY TO NOTIFY COLLEGE OF CHANGE OF NAME OR ARTICLES

- (1) If a corporation that holds a certificate of authorization changes its name or its articles of incorporation, the corporation shall promptly notify the College and give the College a copy of a certificate of the corporation that has been endorsed under the Business Corporations Act indicating the change. O. Reg. 39/02, s. 4(1).
- (2) A corporation ceases to be eligible to hold a certificate of authorization if the corporation fails to notify the College when the corporation changes its name or its articles of incorporation or fails to give the College the certificate described in subsection (1). O. Reg. 39/02, s. 4(2).

E. DECLARATION UPON SHAREHOLDER CHANGES

- 4.1. At the time that a corporation holding a certificate of authorization issued by the College of Physicians and Surgeons of Ontario or the Royal College of Dental Surgeons of Ontario notifies the Registrar under section 85.9 of the Code of a change in the shareholders of the corporation, the corporation shall also give the Registrar the declaration of a director of the corporation, signed after the change of shareholders, stating that the corporation is in compliance with section 3.2 of the Business Corporations Act, including the regulations made under that section, as of the date the declaration is signed. O. Reg. 264/14, s. 3.

F. ANNUAL RENEWAL

The College shall renew a certificate of authorization for a corporation in respect of a particular profession on an annual basis if the corporation applies for the renewal by giving the following information and documents to the Registrar:

1. A completed application for renewal in a form approved by the College.
2. The annual renewal fee required by the by-laws of the College.
3. A copy of a corporation profile report issued by the Ministry of Government and Consumer Services or by a service provider which is under contract with the Ministry of Government and Consumer Services that is dated not more than 30 days before the application for renewal is submitted to the Registrar, and that indicates that the corporation is active.

4. A copy of every certificate of the corporation that has been endorsed under the Business Corporations Act since the corporation's most recent application for a certificate of authorization or for renewal of its certificate of authorization.
5. The declaration of a director of the corporation, signed not more than 15 days before the application for renewal is submitted to the Registrar, stating,
 - i. that the corporation is in compliance with section 3.2 of the Business Corporations Act including the regulations made under that section, as of the date the declaration is signed,
 - ii. that the corporation does not carry on, and does not plan to carry on, any business that is not the practice of the profession governed by the College or activities related to or ancillary to the practice of that profession,
 - iii. that there has been no change in the status of the corporation since the date of the corporation profile report referred to in paragraph 3, and
 - iv. that the information contained in the application for renewal is complete and accurate as of the date the declaration is signed.
6. In the case of an application for renewal submitted to the Registrar of either the College of Physicians and Surgeons of Ontario or the Royal College of Dental Surgeons of Ontario, the name of each person who is both a voting shareholder and a member of the College of Physicians and Surgeons of Ontario or the Royal College of Dental Surgeons of Ontario, as the case may be, as of the day the application is submitted and his or her business address, business telephone number and registration number with the College as of that day.
7. In the case of an application for renewal submitted to any College other than the Colleges referred to in paragraph 6, the name of each person who is a shareholder of the corporation as of the day the application is submitted and his or her business address, business telephone number and registration number with the College as of that day.
8. The names of the directors and officers of the corporation as of the day the application for renewal is submitted.
9. The address of the premises at which the corporation carries on activities as of the day the application for renewal is submitted. O. Reg. 264/14. s. 4.

G. REVOCATION OF CERTIFICATE

- (1) The following are the grounds upon which a corporation's certificate of authorization may be revoked:
 1. The corporation ceases to be eligible to hold a certificate of authorization.
 2. The corporation ceases to practice the profession in respect of which the certificate of Authorization was issued.
 3. The corporation fails to comply with one or more of the requirements for a renewal of the Certificate.
 4. The corporation carries on any business that is not the practice of the profession governed by the College or activities related to or ancillary to the practice of that profession.
 5. The corporation fails to notify the Registrar of a change in shareholders in accordance with section 85.9 of the Code.
 6. In the case of a corporation that holds a certificate of authorization issued by the College of Physicians and Surgeons of Ontario or the Royal College of Dental Surgeons of Ontario, the corporation fails to give the Registrar a

declaration in accordance with section 4.1. O. Reg. 39/02, s. 6 (1); O. Reg. 666/05, s. 6; O. Reg. 264/14, s. 5.

- (2) If the College proposes to revoke a corporation's certificate of authorization, the College shall give notice of the proposed revocation, setting out the date the revocation will take effect and the grounds for the proposed revocation. O. Reg. 39/02, s. 6(2).
- (3) The College shall revoke the corporation's certificate of authorization 60 days after the date on which the notice is given if any of the grounds for revocation exist on the revocation date specified in the notice. O. Reg. 39/02, s. 6(3).
- (4) The College shall notify the corporation if a corporation's certificate of authorization is revoked. O. Reg. 39/02, s. 6(4).

H. REINSTATEMENT AFTER REVOCATION

If a corporation's certificate of authorization is revoked, a new certificate of authorization may be issued to the corporation only if the corporation is eligible to hold one and applies for a new certificate in accordance with section 2. O. Reg. 39/02, s. 7.

APPENDIX III

BY-LAWS RELATED TO INCORPORATION

22.07. Duty to Provide Information

Every member of the College shall, for every professional corporation of which the member is a shareholder, provide in writing the following information on the application and annual renewal forms for a certificate of authorization, or upon the written request of the Registrar within 30 days and upon any change in the information within 30 days of the change:

- the name of the professional corporation as registered with the Ministry of Government Services;
- any business names used by the professional corporation;
- the name, as set out in the register, and registration number of each shareholder of the professional corporation;
- the name, as set out in the register, of each officer and director of the professional corporation, and the title or office held by each officer and director;
- the principal practice address, telephone number, facsimile number and email address of the professional corporation;
- the address and telephone number of all other locations, other than residences of clients, at which the professional services offered by the professional corporation are provided; and
- a brief description of the professional activities carried out by the professional corporation.

22. FEES

- The fee for application for a Certificate of Authorization for Professional Corporation is \$200.
- Certification of Authorization for Professional Corporation is prorated
- The fee for reinstatement of Certificate of Authorization for Professional Corporation is \$300
- The fee for the annual renewal of a Certificate of Authorization is \$400.
- The fee for the revised certificate respecting a professional corporation, other than the first certificate of authorization is \$50.