

COLLEGE OF RESPIRATORY THERAPISTS OF ONTARIO

Guide to an Application for a Certificate of Authorization for Health Profession Corporations

As a result of amendments to the *Regulated Health Professions Act* (RHPA) (including regulations), the *Health Professions Procedural Code* and the *Business Corporations Act* (BCA), and the CRTO By-law, regulated health professionals are now permitted to incorporate for the purpose of practising a health profession, providing they obtain Certificates of Authorization from their respective health profession Colleges. The new provisions outline the conditions and requirements that must be met in order to obtain a Certificate of Authorization from a College, 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 profession;
- the name of the corporation must include the words "Professional Corporation" or "Société professionnelle" and comply with the rules respecting the names of professional corporations set out in the regulations and with the rules respecting names set in the regulations or by-laws under the Act governing the profession.

In order to obtain an initial Certificate of Authorization from the College, a corporation must complete and submit to the College an application, in a form approved by the College, along with certain information and documents as required by regulation. There are 4 sections which must be completed. You may wish to refer to section 3.2 of the *BCA* and Ontario Regulation 39/02 under the *Regulated Health Professions Act*, "Certificates of Authorization" (the regulation) which are appended to this Guide.

SECTION A - NAME AND ADDRESS OF CORPORATION

Corporate Name

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

- the corporation shall not have a number name;
- the corporate name must include the words "Professional Corporation" or "Société professionnelle" (note that the term "Professional Corporation" must be one continuous phrase with no words in between, i.e., "Profession Respiratory Corporation" would not be acceptable);
- the corporate name must include the surname of one or more shareholders of the corporation as the surname is set out in the College register;
- 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;
- the corporate name must not include any information other than that permitted or required under the *Business Corporations Act* or the regulation as outlined above;
- the corporate name must not violate the provisions of any other Act.

Practice Name

If the practice name is different from the **corporate** name, provide the name under which the corporation practices.

Business Address of the Corporation

This must be the actual **corporate** address of the corporation and not the address of the corporation's legal counsel.

SECTION B - COMPLETION OF APPLICATION

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

1. 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.
2. Each shareholder of the corporation must hold a current certificate of registration issued by the College.
3. Each director and officer must be a shareholder of the corporation.
4. The director applying on behalf of the corporation must sign and date the application.
5. The following documentation must accompany the application for a Certificate of Authorization:
 - The fee for the Certificate of authorization of \$500.00;
 - An Undertaking dated and signed by each shareholder of the corporation;
 - The statutory declaration of a director of the corporation executed not more than 15 days before the application is submitted;
 - A Certificate of Status of the corporation issued by the Ministry of Consumer and Business Services not more than 30 days before the application is submitted to the Registrar, which indicates that the corporation is active;
 - A certified copy of the Certificate of Incorporation of the corporation (including the Articles of Incorporation);
 - A certified copy of every Certificate of Incorporation the corporation that has been endorsed under the *Business Corporations Act* as of the day the application is submitted (if applicable);

SECTION C - UNDERTAKING

Each shareholder of the corporation must sign and date the Undertaking which is to be submitted with the application for a Certificate of Authorization. Note that each shareholder must be listed in the application and must hold a current certificate of registration issued by the College.

SECTION D - STATUTORY DECLARATION

The statutory declaration must be completed by a director of the corporation and sworn before a commissioner for taking affidavits in Ontario. The statutory declaration cannot be executed more than 15 days before the application is submitted to the Registrar.

RENEWAL

The Certificate of Authorization must be renewed annually on the anniversary date. If you are renewing a Certificate of Authorization, please contact the College for an application for renewal of a Certificate of Authorization.

SUBMISSION OF THE APPLICATION

The application for a Certificate of Authorization must be submitted to the Registrar of the College, along with the required supporting documentation and fee to the following address:

College of Respiratory Therapists of Ontario

APPENDIX 1

Section 3.2 of the *Business Corporations Act*

Application of Act

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, 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.

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) 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.

APPENDIX II

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

CERTIFICATES OF AUTHORIZATION

Eligibility

1. (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. Each shareholder of the corporation holds a certificate of registration issued by the Registrar of the College.
3. The name of the corporation meets the standards described in subsections (2) to (5). O. Reg. 39/02, s. 1 (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, 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. 39/02, s. 1 (3).
- (4) The name of the corporation must indicate the health profession practised by the shareholders. O. Reg. 39/02, s. 1 (4).
- (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).

Issuance of certificate

2. (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 certificate of status of the corporation issued by the Ministry of Consumer and Business Services not more than 30 days before the application is submitted to the Registrar, which indicates that the corporation is active.
4. A certified copy of the certificate of incorporation of the corporation.
5. A certified 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 statutory declaration of a director of the corporation, executed not more than 15 days before the application is submitted to the Registrar, certifying,
 - i. that the corporation is in compliance with section 3.2 of the *Business Corporations Act* as of the date the statutory declaration is executed,
 - 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 certificate of status referred to in paragraph 3, and

- iv. that the information contained in the application is complete and accurate as of the day the statutory declaration is executed.
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.
8. The names of the directors and the officers of the corporation as of the day the application is submitted.
9. The address of the premises at which the corporation carries on activities as of the day the application is submitted. O. Reg. 39/02, s. 2 (1).

(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).

Refusal to issue

3. 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.

Duty to notify College

4. (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).

Annual renewal of certificate

5. 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 certificate of status of the corporation issued by the Ministry of Consumer and Business Services not more than 30 days before the day it is submitted to the Registrar, which indicates that the corporation is active.
4. A certified 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 statutory declaration of a director of the corporation, executed not more than 15 days before the application for renewal is submitted to the Registrar, certifying,
 - i. that the corporation is in compliance with section 3.2 of the *Business Corporations Act* as of the date the statutory declaration is executed,
 - 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 certificate of status 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 statutory declaration is executed.

6. The name of each person who is a shareholder of the corporation as of the day the application for renewal is submitted and his or her business address, business telephone number and registration number with the College as of that day.
7. The names of the directors and the officers of the corporation as of the day the application for renewal is submitted.
8. The address of the premises at which the corporation carries on activities as of the day the application for renewal is submitted. O. Reg. 39/02, s. 5.

Revocation of certificate

6. (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 practise 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. O. Reg. 39/02, s. 6 (1).
- (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).

Reinstatement after revocation

7. 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