

Chapter 11

Professional Corporation Act

16-11-1 Short title.

This act shall be known and may be cited as the "Professional Corporation Act."

Enacted by Chapter 20, 1963 General Session

16-11-2 Definitions.

As used in this chapter:

- (1) "Filed" means the division has received and approved, as to form, a document submitted under this chapter, and has marked on the face of the document a stamp or seal indicating the time of day and date of approval, the name of the division, the division director's signature and division seal, or facsimiles of the signature or seal.
- (2) "Professional corporation" means a corporation organized under this chapter.
- (3) "Professional service" means the personal service rendered by:
 - (a) a physician, surgeon, or doctor of medicine holding a license under Title 58, Chapter 67, Utah Medical Practice Act, and any subsequent laws regulating the practice of medicine;
 - (b) a doctor of dentistry holding a license under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act, and any subsequent laws regulating the practice of dentistry;
 - (c) an osteopathic physician or surgeon holding a license under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, and any subsequent laws regulating the practice of osteopathy;
 - (d) a physician assistant holding a license under Title 58, Chapter 70a, Utah Physician Assistant Act, and any subsequent laws regulating the practice as a physician assistant;
 - (e) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic Physician Practice Act, and any subsequent laws regulating the practice of chiropractics;
 - (f) a podiatric physician holding a license under Title 58, Chapter 5a, Podiatric Physician Licensing Act, and any subsequent laws regulating the practice of podiatry;
 - (g) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry Practice Act, and any subsequent laws regulating the practice of optometry;
 - (h) a veterinarian holding a license under Title 58, Chapter 28, Veterinary Practice Act, and any subsequent laws regulating the practice of veterinary medicine;
 - (i) an architect holding a license under Title 58, Chapter 3a, Architects Licensing Act, and any subsequent laws regulating the practice of architecture;
 - (j) a public accountant holding a license under Title 58, Chapter 26a, Certified Public Accountant Licensing Act, and any subsequent laws regulating the practice of public accounting;
 - (k) a naturopath holding a license under Title 58, Chapter 71, Naturopathic Physician Practice Act, and any subsequent laws regulating the practice of naturopathy;
 - (l) a pharmacist holding a license under Title 58, Chapter 17b, Pharmacy Practice Act, and any subsequent laws regulating the practice of pharmacy;
 - (m) an attorney granted the authority to practice law by:
 - (i) the Utah Supreme Court; or
 - (ii) the Supreme Court, other court, agency, instrumentality, or regulating board that licenses or regulates the authority to practice law in any state or territory of the United States other than Utah;

- (n) a professional engineer registered under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;
 - (o) a principal broker, associate broker, or sales agent holding a license under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, and any subsequent laws regulating the selling, exchanging, purchasing, renting, or leasing of real estate;
 - (p) a psychologist holding a license under Title 58, Chapter 61, Psychologist Licensing Act, and any subsequent laws regulating the practice of psychology;
 - (q) a clinical or certified social worker holding a license under Title 58, Chapter 60, Part 2, Social Worker Licensing Act, and any subsequent laws regulating the practice of social work;
 - (r) a physical therapist holding a license under Title 58, Chapter 24b, Physical Therapy Practice Act, and any subsequent laws regulating the practice of physical therapy;
 - (s) a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58, Chapter 44a, Nurse Midwife Practice Act;
 - (t) a landscape architect licensed under Title 58, Chapter 53, Landscape Architects Licensing Act, and any subsequent laws regulating landscape architects; or
 - (u) an individual licensed, certified, or registered under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, and any subsequent laws regulating the practice of appraising real estate.
- (4) "Regulating board" means the board that is charged with the licensing and regulation of the practice of the profession which the professional corporation is organized to render. The definitions of Title 16, Chapter 10a, Utah Revised Business Corporation Act, apply to this chapter unless the context clearly indicates that a different meaning is intended.

Amended by Chapter 349, 2019 General Session

16-11-3 Purpose of act.

This act shall be so construed as to effectuate its general purpose of making available to professional persons the benefits of the corporate form for the business aspects of their practices while preserving the established professional aspects of the personal relationship between the professional person and those he serves.

Enacted by Chapter 20, 1963 General Session

16-11-4 Incorporators -- Articles of incorporation.

- (1) One or more individuals, each of whom is licensed to render a professional service, may incorporate a professional corporation by filing articles of incorporation with the Division of Corporations and Commercial Code.
- (2) Articles of incorporation under Subsection (1) shall meet the requirements of Title 16, Chapter 10a, Utah Revised Business Corporation Act, and in addition thereto contain the following:
 - (a) the profession to be practiced through the professional corporation;
 - (b) the names and street or mailing addresses of all of the original shareholders, directors, and officers of the professional corporation; and
 - (c) the number of shareholder members of the board of directors may be less than the number of shareholders, except if a corporation has only one shareholder, the board may consist of that shareholder.

Amended by Chapter 242, 2006 General Session

16-11-5 Application of Utah Revised Business Corporation Act -- Conflicts.

The provisions of Title 16, Chapter 10a, Utah Revised Business Corporation Act, shall be applicable to professional corporations, and they shall enjoy the powers and privileges and be subject to the duties, restrictions and liabilities of other corporations, except where inconsistent with this act. This act shall take precedence in the event of any conflict with provisions of Title 16, Chapter 10a, Utah Revised Business Corporation Act or other laws.

Amended by Chapter 6, 1992 Special Session 3

Amended by Chapter 6, 1992 Special Session 3

16-11-6 Purpose of professional corporation -- Power to own property and invest funds.

- (1) A professional corporation may be organized pursuant to the provisions of this chapter only for the purpose of rendering one specific type of professional service and services ancillary to the specific type of professional service and may not engage in any business other than rendering the professional service that it was organized to render and services ancillary to the specific type of professional service.
- (2) Notwithstanding Subsection (1), a professional corporation may:
 - (a) own real and personal property necessary or appropriate for rendering the type of professional service it was organized to render;
 - (b) invest its funds in real estate, mortgages, stocks, bonds, and any other type of investments; and
 - (c) if a benefit corporation, have as a purpose creating a general public benefit and a specific public benefit as provided in Chapter 10b, Benefit Corporation Act.

Amended by Chapter 394, 2014 General Session

16-11-7 Issuance of shares of capital stock -- Restrictions.

- (1) A professional corporation may issue the shares of its capital stock and a shareholder may voluntarily transfer shares of capital stock in a professional corporation only to:
 - (a) persons who are duly licensed to render the same specific professional services as those for which the corporation was organized; or
 - (b) persons other than those meeting the requirements of Subsection (1)(a) to the extent and in the proportions allowed by the applicable licensing act for the profession for which the corporation is organized.
- (2) Any shares issued in violation of this section are void.

Amended by Chapter 261, 2000 General Session

16-11-8 Officer, director, or shareholder shall be licensed professional -- Nonlicensed person as secretary or treasurer.

- (1)
 - (a) Except as provided in Subsection (1)(b), a person may not be an officer, director, or shareholder of a professional corporation unless that person is:
 - (i) an individual licensed to render the same specific professional services as those for which the corporation is organized; or
 - (ii) qualified to be an officer, director, or shareholder under the applicable licensing act for the profession for which the corporation is organized.

- (b) Notwithstanding Subsection (1)(a), a nonlicensed person may serve as secretary or treasurer of the professional corporation.
- (2) For purposes of Subsection (1), professional services are considered the same specific professional services as those for which the corporation is organized if:
 - (a) the corporation is organized to provide services described in:
 - (i) Title 58, Chapter 67, Utah Medical Practice Act; or
 - (ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and
 - (b) the officer, director, or shareholder is licensed under either of the chapters listed in Subsection (2)(a).

Amended by Chapter 378, 2010 General Session

16-11-9 Licensed persons to render professional services.

A professional corporation may render professional services only through its officers, employees and agents who are duly licensed to render such professional services.

Enacted by Chapter 20, 1963 General Session

16-11-10 Laws as to professional relationships not altered.

This act does not alter any law applicable to the relationship between a person rendering professional services and a person receiving such services, including liability arising out of such professional services.

Enacted by Chapter 20, 1963 General Session

16-11-11 Authority of regulating boards not restricted or limited.

Nothing in this act shall restrict or limit in any manner the authority and duty of the regulating board for the licensing of individual persons rendering professional services or the practice of the profession which is within the jurisdiction of such regulating board, notwithstanding that such person is an officer, director, shareholder or employee of a professional corporation and rendering such professional services or engaging in the practice of such profession through such professional corporation.

Enacted by Chapter 20, 1963 General Session

16-11-12 Prohibited acts of professional corporations.

No professional corporation may do any act which is prohibited to be done by individual persons licensed to practice the profession which the professional corporation is organized to render.

Enacted by Chapter 20, 1963 General Session

16-11-13 Purchase or redemption of shares of disqualified shareholder.

- (1)
 - (a) The articles of incorporation may provide for the purchase or redemption of the shares of any shareholder upon the failure to qualify or disqualification of that shareholder, or the same may be provided in the bylaws or by private agreement.
 - (b) In the absence of such a provision in the articles of incorporation, the bylaws, or by private agreement, the professional corporation shall purchase the shares of a shareholder who

is not qualified to own shares in the corporation within 90 days after the failure to qualify or disqualification of the shareholder.

(2) The price for shares purchased under this section shall be their reasonable fair value as of the date of failure to qualify or disqualification of the shareholder.

- (3)
- (a) If the professional corporation fails to purchase shares as required by Subsection (1), any disqualified shareholder or personal representative of a disqualified shareholder may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for the enforcement of this section.
 - (b) In an action under Subsection (3)(a), the court may:
 - (i) award the plaintiff the reasonable fair value of the plaintiff's shares; or
 - (ii) within the court's jurisdiction, order the liquidation of the professional corporation.
 - (c) If the plaintiff is successful in the action, the plaintiff is entitled to recover a reasonable attorney's fee and costs.
- (4) The professional corporation shall repurchase shares as required by this section without regard to restrictions upon the repurchase of shares provided by Title 16, Chapter 10a, Utah Revised Business Corporation Act.

Amended by Chapter 401, 2023 General Session

16-11-14 Annual certificate -- Filing -- Contents -- Filing fee.

During the month of the anniversary date of incorporation, each professional corporation shall file with the division an annual report as specified by Section 16-10a-1607, giving the names and residence addresses of all shareholders of the professional corporation as of its anniversary date of incorporation next preceding, and certifying that all of the shareholders are duly licensed to render the same specific professional services as those for which the corporation was organized or otherwise qualify to be shareholders pursuant to the applicable licensing act for the profession for which the corporation was organized.

Amended by Chapter 261, 2000 General Session

16-11-15 Incorporation under Utah Revised Business Corporation Act permitted -- Existing corporations may come under Professional Corporation Act.

This act does not preclude incorporation by professional persons under Title 16, Chapter 10a, Utah Revised Business Corporation Act, where such persons would be permitted to organize a corporation and perform professional services by means of such corporation in the absence of this act. This act does not apply to any corporation organized by such persons prior to the passage of this act, but any such persons or any such corporation may bring themselves and such corporation within the provisions of this act by amending the articles of incorporation in such a manner as to be consistent with all of the provisions of this act and by affirmatively stating in the amended articles of incorporation that the shareholders have elected to bring the corporation within the provisions of this act.

Amended by Chapter 378, 2010 General Session

16-11-16 Corporate name.

- (1) The name of each professional corporation as set forth in the professional corporation's articles of incorporation:

- (a) shall contain the terms:
 - (i) "professional corporation"; or
 - (ii) "P.C.";
- (b) may not contain the words:
 - (i) "incorporated"; or
 - (ii) "inc.";
- (c) may not contain:
 - (i) language stating or implying that the professional corporation is organized for a purpose other than that permitted by:
 - (A) Section 16-11-6; and
 - (B) the professional corporation's articles of incorporation; or
 - (ii) for a professional corporation that changes the professional corporation's name or is incorporated in or authorized to do business in the state on or after May 4, 2022, the number sequence "911"; and
- (d) without the written consent of the United States Olympic Committee, may not contain the words:
 - (i) "Olympic";
 - (ii) "Olympiad"; or
 - (iii) "Citius Altius Fortius".
- (2) The professional corporation may not imply by any word in the name that the professional corporation is an agency of the state or of any of the state's political subdivisions.
- (3) A person, other than a professional corporation formed or registered under this chapter, may not use in the person's name in this state any of the terms:
 - (a) "professional corporation"; or
 - (b) "P.C."
- (4) Except as authorized by Subsection (5), the name of the professional corporation shall be distinguishable, as defined in Subsection (6), upon the records of the division from:
 - (a) the name of any domestic corporation incorporated in or foreign corporation authorized to transact business in this state;
 - (b) the name of any domestic or foreign nonprofit corporation incorporated or authorized to transact business in this state;
 - (c) the name of any domestic or foreign limited liability company formed or authorized to transact business in this state;
 - (d) the name of any limited partnership formed or authorized to transact business in this state;
 - (e) any name reserved or registered with the division for a corporation, limited liability company, or general or limited partnership, under the laws of this state; and
 - (f) any business name, fictitious name, assumed name, trademark, or service mark registered by the division.
- (5)
 - (a) A professional corporation may apply to the division for authorization to file the professional corporation's articles of incorporation under, or to register or reserve, a name that is not distinguishable upon the division's records from one or more of the names described in Subsection (4).
 - (b) The division shall approve the application filed under Subsection (5)(a) if:
 - (i) the other person whose name is not distinguishable from the name under which the applicant desires to file, or which the applicant desires to register or reserve:
 - (A) consents to the filing, registration, or reservation in writing; and

- (B) submits an undertaking in a form satisfactory to the division to change the person's name to a name that is distinguishable from the name of the applicant; or
 - (ii) the applicant delivers to the division a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to make the requested filing in this state under the name applied for.
- (6)
- (a) A name is distinguishable from other names, trademarks, and service marks registered with the division if the name:
 - (i) contains one or more different letters or numerals from other names upon the division's records; or
 - (ii) has a different sequence of letter or numerals from the other names on the division's records.
 - (b) The following differences are not distinguishable:
 - (i) the words or abbreviations of the words:
 - (A) "corporation";
 - (B) "incorporated";
 - (C) "company";
 - (D) "limited partnership";
 - (E) "limited";
 - (F) "L.P.";
 - (G) "limited liability company";
 - (H) "limited company";
 - (I) "L.C."; or
 - (J) "L.L.C.";
 - (ii) the presence or absence of the words or symbols of the words "the," "and," "a," or "plus";
 - (iii) differences in punctuation and special characters;
 - (iv) differences in capitalization; or
 - (v) differences in abbreviations.
- (7) The director of the division shall have the power and authority reasonably necessary to interpret and efficiently administer this section and to perform the duties imposed upon the division by this section.

Amended by Chapter 458, 2023 General Session