

PROFESSIONAL CORPORATIONS IN IOWA—1970-1972

Edward R. Hayes†

Iowa was one of the last states to permit professionals to incorporate.¹ On the day its Professional Corporation Act became effective, July 1, 1970, six lawyers filed articles for seven professionals—two of them filing for themselves. Each of the five largest cities of the state was represented, except Des Moines. One other corporation filed through an incorporation company. By October 1, 1972, 232 had filed, all through lawyers except that one. This article is part of a study of these first Iowa professional corporations; the balance of the study will be incorporated in articles projected to complete a study of Iowa business corporations organized in the first half of 1969.²

The research for the study included reading all of the articles of incorporation of the 232 corporations, plus all of the statutorily required annual reports filed for these corporations in 1971 and 1972.³ Aspects of their practice were discussed with several attorneys who filed a number of these articles. The buildings where each professional corporation in Polk County was located were checked to see whether and how the fact that the professional had incorporated was indicated to the public. The information thus obtained provides some picture of the use of professional corporations in Iowa, but, like many pictures, it is not full-dimensional. There has been no inquiry into by-laws, shareholder contracts, or fringe benefit programs being used, for example, as this would entail extensive personal questioning.⁴

Paralleling the format of the first part of the 1969 study, this article will discuss the pattern of incorporating (what professionals, where, and by whom),

† Associate Dean and Professor of Law, Drake University Law School.—Ed.

1. See 6 E. HAYES, *IOWA PRACTICE, CORPORATION LAW AND PRACTICE* § 1121 (Supp. 1974). The Act is *Iowa Code* ch. 496C (1975).

2. The first article on the study of the 1969 business corporations was Hayes, *Iowa Incorporation Practices Re-Examined—Part I*, 22 *DRAKE L. REV.* 1 (1972).

As the Business Corporation Act, *Iowa Code* ch. 496A, applies to professional corporations except as otherwise determined in the Professional Corporation Act, and the Business Corporation Act was not changed between 1969 and 1972 in most respects significant to the two studies, there seems to be considerable relationship between the materials obtained in each despite the slight differences in time.

3. *Iowa Code* section 496C.21 requires corporations to file annual reports containing a limited amount of information about the corporation, but not financial statements. See 6 E. HAYES, *IOWA PRACTICE, CORPORATION LAW AND PRACTICE* § 1135 (Supp. 1974). As only those corporations organized before December must file a report, only a small number of the professional corporations had to file in both 1971 and 1972, and a number did not have to file in either year.

4. A limited follow-up checking in mid-March, 1973, indicated that by that date nearly 310 had filed; lawyers filed all the additional sets of articles except for one filed by an accountant. In a lecture on professional corporations at the Iowa State Bar Association Tax School, December, 1973, Leo Baker reported that there were then 414. At a meeting of the Association's Tax Committee, in July, 1974, Mr. Baker indicated that a number more had incorporated since the time of his lecture.

the use of foreign professional corporations, use of forms of articles, the corporate name, who act as incorporators, article statements as to nature of business and corporate powers, and provisions for corporate duration, renewal and modification. Most other aspects of the articles will be covered in subsequent portions of the study. This part, in addition, will take note of some problems to be considered in incorporating and operating a professional corporation.

I. THE BUSINESS OF INCORPORATION

Only those in a specified group of professions are permitted to incorporate under the Iowa Professional Corporation Act.⁵ These are: certified public accountancy, architecture, chiropractic, dentistry, professional engineering, land surveying, law, medicine and surgery, podiatry, or veterinary medicine.⁶ A corporation may practice only one of these professions, or it may practice any combination of them that a licensed individual or partnership could practice in combination.⁷ It must have personnel authorized to practice in each of the separate professions in which it engages. Originally it was also required to have at least one incorporator authorized to practice in each of the professions it had authority to engage in, but this requirement is being considered for elimination.⁸ The Corporation Department has checked with the respective licensing bodies, or required proof of the nature of the individual's license, to assure that the licensing requirements were met. Excepting combinations of medical specialties, the only combinations found in articles filed included land surveyors, architects, engineers or groups of some of those professions. One draftsman did try to combine a husband-optometrist with a wife-nurse, but was not permitted to do this, and the articles of this corporation were filed with the provisions for the wife-director, officer and incorporator lined out, as well as the power to engage in nursing and her signature as incorporator; the number of directors was changed from two to one.

Chart I shows that nearly 90 percent of the first 232 Iowa professional corporations were for health professionals, with seven lawyers, six accountants, and ten in the surveying, engineering and architecture areas. The 75 added between October, 1972, and March, 1973, followed a similar pattern, including two law firms, one accounting and one engineering.

5. IOWA CODE §§ 496C.2(1), 496C.4 (1975).

6. Some engineers and land surveyors had been able to incorporate under the Business Corporation Act, but other professionals could not. 6 E. HAYES, IOWA PRACTICE, CORPORATION LAW AND PRACTICE § 744 (Supp. 1974). There have been discussions of enlarging the list of professions under the Professional Corporation Act, to include nurses and some other health professionals. The Corporation Department has assumed that optometry is included within the enumerated categories but that nursing is not.

7. IOWA CODE § 496C.4 (1975).

8. IOWA CODE § 496C.7 (1975). A proposal to recommend deletion of the requirement is currently on the agenda of the Special Committee on Corporation Law of the Iowa State Bar Association.

One of the lawyers whose firm was included in this second group told me, in March, 1973, that although the incorporation had occurred, his firm was still operating in its unincorporated form, and would not shift to a corporate operation until all were satisfied of the desirability to do so. Lists of counsel in several recent reports of Iowa supreme court decisions, bar association bulletins, and other material suggest that a number of other firms in the state since have shifted to corporate status. The principal reasons for the limited use of professional corporations by lawyers appear to be economic plus concern over legality of practicing law in corporate form.

In law firms, younger members are not as likely as are younger members of medical firms to have incomes substantial in comparison to those of senior members. A principal purpose of the use of professional corporations is to provide fringe benefits for the professional, with tax savings; this often leads to a considerable reduction in take-home pay, which is less easily accepted by the younger lawyer. The sole practitioner lawyer frequently may be earning less than a sole practitioner in the medical field, and also be less able to stand the reduced cash income.

Although the Act specifically permits lawyers to incorporate,⁹ there is some uncertainty of the power of the legislature to thus affect the practice of law. Both Ohio and Florida courts have ruled that they, rather than their legislatures, control this aspect of the practice of law, and held their statutes could not authorize corporate practice of law. When Illinois adopted its professional corporation act, the legislature limited the effect of it on lawyers to that which the state's supreme court would authorize.¹⁰ The *Iowa Code* provides that the power to admit persons to practice as attorneys is vested exclusively in the supreme court.¹¹ However, as the court recently called attention to its powers when the legislature proposed to establish a board for licensing lawyers which would include laymen and has taken no formal action to oppose law practice through incorporated law firms,¹² this may indicate the court's acceptance of incorporated lawyers.

When were the articles filed? Chart II shows the filing pattern by month, with 40 in each of the first two six-month periods and 74 in the third. Peak months for filing were July and December, 1970, and January, June, July and December, 1971. This suggests some relationship with calendar or fiscal years and tax planning. Ordinarily, a corporation comes into existence on the day its articles are accepted for filing by the Secretary of State, but it is possible to provide that corporate existence becomes effective on a day specified in the

9. IOWA CODE §§ 496C.2(1), 496C.4 (1975).

10. 6 E. HAYES, IOWA PRACTICE, CORPORATION LAW AND PRACTICE § 1136 (Supp. 1974).

11. IOWA CODE § 610.1 (1975).

12. *Iowa Code* section 610.1 was amended by S.F. 277, section 155 (1974) as part of a comprehensive revision of the laws pertaining to all professional licensing bodies to add that the court should adopt rules and regulations to carry out the intent and purpose of the Act. This recognizes and restates the court's power in this area.

articles (which cannot be more than 90 days after acceptance for filing).¹³ Chart III indicates that July, 1971, was the month in the surveyed period in which the most articles became effective.

Where are the professional corporations located? Chart I also indicates the county designated as the place of registered office, by county group (each group containing counties of comparable population).¹⁴ In Polk County, which has the largest population in the state, the use of professional corporations began slowly. By September, 1970, only one accountant and one osteopath had incorporated there; the first dentist did so in October, and the first M.D. at the end of the next April. Despite this slow start, more than 20 percent of the first 232 are from Polk County, nearly all of them being from Des Moines.¹⁵ There are 92 from the other four large population centers, and only 27 were in the 60 counties with less than 20,000 population. A large proportion of those filed between October, 1972, and March, 1973, seemed to be from smaller population counties.

Who filed articles? As stated earlier, with but one exception the articles were filed by lawyers. While it is possible that the impetus for incorporating may have come from accountant, insurance agent, mutual fund salesman, professional literature, or fellow-practitioner, a lawyer was consulted in all cases. Chart IV indicates the location of the law firms filing articles and the number filed by various firms. Although one Des Moines law firm filed a set of articles in the first month of the Act's existence (for a veterinarian from northern Iowa), initially most filings were by firms in other locations. As the chart indicates, only four Iowa law firms filed more than ten sets of articles during the period, while many filed only one or two. Several of the more active firms filed for corporations in a number of different counties. One Chicago law firm filed ten, and seven other out-of-state firms were responsible for fifteen. In one major city in the state, Council Bluffs, none of its law firms filed articles—the several professional corporations located there were filed by either Des Moines or Omaha law firms.

A. Incorporating Iowa Professional Corporations Outside Iowa; and Foreign Corporations in Iowa

The Iowa Professional Corporation Act is unusual among such acts in permitting a foreign professional corporation to qualify to do business under it. To qualify, the corporation must comply with all requirements of the Business Corporation Act for qualification of foreign corporations, and, in addition, it may practice a profession in Iowa only through shareholders, officers or employees

13. IOWA CODE § 496A.49(12) (1975).

14. See Chart No. 1 describing the seven county groups which were used.

15. One physician whose registered office was at his home in West Des Moines has his professional office in Des Moines.

licensed to practice that profession in Iowa. An individual who is a shareholder, director, officer or agent of a foreign professional corporation may practice a profession in Iowa as an individual, without qualifying his corporation, if he could do so lawfully absent any relationship with his corporation.¹⁶

As the shareholders of an Iowa professional corporation, except in certain limited and temporary instances, must be individuals licensed to practice in Iowa one of the corporation's authorized professions,¹⁷ if there was someone who would not qualify to be a shareholder under the Iowa Act but who could be a shareholder under the laws of another state, this could encourage incorporation in that state. There appears to be little reason, apart from this, to regard professional corporations acts of other states as so advantageous that the Iowa professional should use one of them for incorporation. The qualification pattern of foreign professional corporations suggests that they are not used to cover Iowa-based operations.

During the 27-month period, thirteen foreign professional corporations were qualified, including one Nebraska certified public accountant, one Nebraska group of oral surgeons, one whose activities were not clearly defined (and which had filed no annual report), and ten in phases of medicine and surgery (primarily radiology, pathology and anesthesiology). Most of these incorporate in an adjacent state and appear to involve a professional whose practice crosses state lines. In one instance, a radiologist who may be serving hospitals in both Council Bluffs and Omaha, the secretary of the corporation is an Iowa resident who may not be licensed to practice a profession in Iowa, and who therefore could not be an officer if this were an Iowa professional corporation.¹⁷ The only Iowa resident professional appears to have his main practice (radiology) in a nearby Minnesota hospital, and his corporation is organized under Minnesota law.

Nothing was seen in articles or annual reports of any of the Iowa professional corporations to suggest that the corporation was organized under Iowa law but operated primarily outside the state, except possibly one corporation located in a central Iowa Group I county whose director and incorporator was an anesthetist with an address in a Chicago suburb.

B. *Corporate Inactivity or Discontinuance of Business*

The 1969 study of business corporations included an examination of annual reports for those surveyed that were filed in 1971, and indicated that about one-fourth of the corporations involved either had gone out of existence or were not actively engaged in business. The only annual reports of the surveyed professional corporations which were examined were those filed in 1971 and 1972, and covering only the corporations organized before December, 1971. Only two professional corporations that should have filed a 1972 annual report had

16. IOWA CODE § 496C.20 (1975).

17. See IOWA CODE § 496C.16 (1975).

failed to do so by October, 1972; three others (including one law firm) had paid the penalty for late filing.¹⁸ No mergers, dissolutions or notices of cancellation were noted. Several instances appeared where there were changes in membership of the firm, as shown by changes in officers, registered agents, and, occasionally, corporate name.

C. *Use of Forms in Drafting Articles of Incorporation*

Iowa does not provide recommended or sample forms for use under chapter 496C. The forms for use in corporate practice approved by the Iowa Bar Association and prepared by its Special Committee on Corporation Laws include articles of incorporation for business corporations but none for professional corporations. That Committee on several occasions discussed preparing recommended articles for professional corporations, but concluded that the forms for business corporations can be readily adapted to the professional corporation's use.¹⁹ Many articles follow this form, with minor variations. Each of the firms responsible for a substantial number of articles in this study has its own variation. One regularly adds only a provision permitting proposed amendments to be amended at the annual meeting and then voted on as amended—which could not be done legally absent such a provision.²⁰ Another usually includes a provision permitting a minority shareholder to ask for repurchase of his shares or dissolution, at any time, and for a majority shareholder to require redemption of the interest of a minority. Several drafters of one or two articles had picked up one or the other of these provisions.

While most of the specific provisions in the articles are to be considered in later sections of this or other parts of the study, as in Part I of the 1969 study, the balance of this section considers corporate names, registered office and agent, and publication of notice of incorporation.

D. *Selection of the Corporate Name*

The name of the Iowa professional corporation must contain either the words "professional corporation" or the abbreviation "P.C.". The balance of the name must be one which a licensed individual, or a partnership of licensed individuals, could lawfully use in the practice in Iowa of the profession the corporation has authority to practice. A foreign corporation qualifying to do business in Iowa should meet this requirement, or adopt a modification of its name

18. Both non-filers had filed before cancellation occurred, but at the time I checked on them in March, 1973, the Reports were at the bindery.

19. The author is a member of that Committee. The last article in the recommended form is "Additional provisions, if any:". Eleven of the articles filed included this provision, either by saying "[T]here are no added provisions" or by saying "[A]dditional provisions, if any: None". One using the latter form then added five subparagraphs containing additional provisions, each unrelated to the other.

20. See IOWA CODE § 496A.56 (1975).

for use in Iowa that will meet the requirement.²¹ The regulatory board which has jurisdiction over the area which the corporation is authorized to practice may impose additional requirements as to the corporate name, or assumed name, being used.²²

Chart V describes the types of names used by the studied corporations. Nearly two-thirds used the name of one or more of the individual practitioners involved. Because of this, there is less need to reserve the name before filing, and only one corporation (which used its specialty as its name) did reserve the name before filing its articles.²³ Only one use of an assumed name was noted.²⁴ The only corporation with a name not related to individual, location, or nature of its professional activity was one of two professional corporations filed at the same time for the same individual. One firm changed its name three times during the period, as associates were added and replaced. Another had one change.

In most sets of corporate articles, and in the Bar Association's approved form, the first article's exclusive subject is the corporate name. Twenty-one of the surveyed corporations combined in this article matter that often is in another of the standard articles, or added other material not related to the name.²⁵

E. Proof of Publication

The requirement of chapter 496A for newspaper publication of a notice of incorporation once "within three months" after incorporation²⁶ applies also to professional corporations. The failure to publish on time may easily be cured without penalty, however, and it was noted that less than 20 percent of 1969's surveyed business corporations had filed proof of publication within two years after incorporation. In contrast, only 20 percent of the professional corporations had failed to file by October, 1972 (at least twelve of these had been organized within the preceding five months and may have filed). Is this difference the result of the relative affluence of professionals incorporating when compared with those organizing a business, the greater certainty of corporate activity for the professional corporation, or some other factor?

II. INCORPORATORS

Following the pattern of Iowa's Business Corporation Act, chapter 496C

21. IOWA CODE § 496C.5 (1975). This section also requires the name except for the specified words or abbreviations, to be one which licensed individuals could use to practice under, in Iowa, either alone or in partnership.

22. *Id.*

23. IOWA CODE § 496A.8 (1975).

24. See 5 E. HAYES, IOWA PRACTICE, CORPORATION LAW AND PRACTICE § 117 (1969).

25. Five included the principal place of business and the county, while having a separate article for registered office and agent; one added the principal place of business; four stated where the Iowa officers were; three added the duration provision; two added duration and registered office and agent; three added a statement that incorporation was under chapter 496C; one, which had formerly been organized under Iowa Code chapter 496A added a statement that effective on the date of change it was electing to come under chapter 496C.

26. IOWA CODE § 496A.52 (1975).

permits incorporation by any number of persons, including one. Through the period studied, an incorporator had to be an individual having capacity to contract and who had a license to practice in Iowa one of the professions the corporation was authorized to practice.²⁷ This practically eliminated the possibility of dummy incorporators.²⁸

Articles of incorporation are to set forth "the name and address of each incorporator."²⁹ Most do so, following the Bar Association's approved form pattern of a separate article for this purpose, plus the incorporator's signature at the end. Four of the articles had no "incorporator" article, but included the incorporator's address with his signature or elsewhere in the document.

Chart VI indicates the number of incorporators, by profession, and whether other professionals than the incorporators seemed to be involved in the corporation. By far most of the corporations appear to be "one-man" in nature. There were 140 which have only one person as incorporator, director, shareholder, and officer (except for an occasional one with a spouse or an attorney as assistant officer or registered agent). In only one instance does the incorporator not appear as director, officer or shareholder. Two which began with two professionals, according to their annual reports had one leave the firm. Only one with two incorporators did not have both as officer-director and shareholder—this may reflect an employee professional who was to receive ownership status later. Other apparently one-man firms may also have professionals employed who will move into another status with the firm at a later date.

A. *Use of Registered Office and Registered Agent*

The articles of incorporation should set forth the address of the initial registered office, including street and number, if any, the county in which it is located, and the name of its initial registered agent or agents at that address.³⁰ Over half of the articles omit the name of the county, however. Seven sets of articles include other material in the article on registered office and registered agent.³¹ Two others recited that the agent was duly licensed to practice the au-

27. IOWA CODE § 496C.6 (1975). Eight articles contained a statement that the incorporator was so qualified.

28. One set of articles initially had listed the attorney as the incorporator in the incorporators clause; his name was lined out in ink and the professional's name was written in; the professional signed. In only two other sets of articles did the incorporator (or one of them) not appear as officer or director and was not shown as a shareholder in the annual report.

The incorporator in one of the earliest sets of articles filed may have been an employee of the filing attorney rather than someone having the appropriate professional qualifications. Her address is in the same county as the attorney's office rather than in the adjacent county where the corporation is located.

29. IOWA CODE § 496A.49(11) (1975).

30. IOWA CODE § 496A.49(9) (1975).

31. Four included the county of the "principal" place of business, registered office and registered agent in the name provision and added a separate article as to "agent of record"; one each added provisions regarding duration, management by board of directors, and that written consent of shareholders to transfer of shares was not required.

thorized profession, although he need not be so authorized. Chart VII indicates that most registered agents are one or more of the professionals in the firm.

To have the professional as registered agent may be unwise. He often is a busy man and hard to locate by process servers when he is calling on patients. He may overlook the importance of some documents served on or sent to him in his registered agent capacity. A responsible employee who can receive the deputy sheriff and accept process, or can see to it that the annual report is filed, may be a better choice as agent. Some attorneys encourage use of their own services as registered agent—in the belief that they are less likely to overlook the importance of legal documents served on the agent.³²

Several of the corporations had their registered office at the professional's home address, even though his professional office was elsewhere and he would not be at the registered office during normal business hours. This too seems undesirable.

III. NATURE OF BUSINESS AND CORPORATE POWERS

The Iowa business corporation may be authorized to conduct specific businesses, or any or all business lawful under chapter 496A.³³ By contrast, the professional corporation should be organized only to engage in one specific profession, or several that can be practiced in combination by duly licensed individuals, and in addition to do all lawful things incidental to the profession or necessary or convenient in connection therewith.³⁴ Many articles follow the pattern of the statutory language, as shown by Chart VIII. Some are quite general, even though the professional may be a specialist. Several permit engaging in any acts lawful under the Business Corporation Act and the Professional Corporation Act, but not all of these recite that the limitations of the Professional Corporation Act control.

One Chicago law firm uses an elaborate purposes clause providing that the medical corporation is to engage in study and diagnosis, research and improvement of knowledge, and to practice medicine. Some clauses specify that the practice can only be through officers, agents or employees licensed to practice the profession. While this might raise questions about the use of nurses and technicians, it is a repetition of statutory language.³⁵ It would seem unnecessary to include this in articles.

Only one law firm (from Nebraska) included lengthy purposes and powers clauses describing corporate powers in detail. Several others expanded in minor respects on the basic simple power-purpose article. An elaborate article is not needed because the statute has a wide enumeration of powers available unless

32. But one of the late filers of an annual report was an attorney's professional corporation.

33. IOWA CODE § 496A.49(3) (1975).

34. IOWA CODE § 496C.4 (1975).

35. IOWA CODE § 496C.7 (1975).

limited by the articles.³⁶ Some of the articles, peculiarly, permitted unlimited ownership of any realty, but only of personalty needed in practice.

The most optimistic drafter said that the corporation's purpose was "to carry on successfully the practice of dentistry." A pessimistic contrast was the two articles (by non-Iowa lawyers) providing that issuance of corporate shares should as far as possible be in compliance with section 1244 of the Internal Revenue Code (which is of significance only for investments in an unsuccessful business).

A. Powers Specifically Provided in Articles

Part I of the 1969 study discussed under this heading eight types of powers that might be enumerated in articles, and indicated that other types would be considered in a later section or in a later article. This article follows the same format.

1. Power to Sell Substantially All Assets

The statutory authorization for sale of substantially all assets of a corporation permits it to be done by the board of directors with approval of holders of a majority of the shares entitled to vote.³⁷ There is no need for an article covering this subject unless a different percentage for approval is to be required. Two articles provided for approval by holders of two-thirds of the shares and one for 51 percent approval. The first two also provided that the corporation could merge with another Iowa professional corporation—the Professional Corporation Act permits merger only with corporations subject to that Act.³⁸

2. Power to Purchase Its Own Shares

Uncertainty as to the power of a business corporation to purchase its own shares was resolved initially by court decisions, and later by express legislation.³⁹ A unique feature of the Professional Corporation Act is its mandate that, when shares are to be transferred, the corporation has a duty to purchase them except for limited instances in which voluntary transfer (to another professional, usually) is permitted. Corporate purchase is valid even though the result is impairment of capital.⁴⁰ This apparently is the result of a concern that a non-professional could become a shareholder and have improper control over professional practice. Although no article is needed to implement the mandate, forty-

36. IOWA CODE § 496A.4 (1975).

37. IOWA CODE § 496A.76, 496A.78 (1975). See discussion in Hayes, *Iowa Incorporation Practices Re-Examined—Part I*, 22 DRAKE L. REV. 1, 13 (1972).

38. IOWA CODE § 496C.18 (1975).

39. See discussion in Hayes, *Iowa Incorporation Practices Re-Examined—Part I*, 22 DRAKE L. REV. 1, 14 (1972).

40. IOWA CODE § 496C.14 (1975). See 6 E. HAYES, IOWA PRACTICE, CORPORATION LAW AND PRACTICE § 1128 (Supp. 1974).

five sets of articles had a provision on the subject. Eight in effect echo the statute. Two, which forbid purchases that impair capital, may be impermissible deviations. Several provide for by-law provisions on purchase and price terms, and two suggest that the by-laws or a shareholders' agreement may deviate from the statutory price and payment terms. Twelve permit the corporation to avoid its duty to repurchase if it dissolves within sixty days after the triggering event; this is permitted under the statute. Eight do not vary the statutory pattern but add means by which either minority or majority shareholders can bring about redemption of a minority interest or dissolution.

One of the events that can trigger repurchase is the loss of professional license by a shareholder.⁴¹ Five of the articles refer to this situation and then expand it to include the election to public employment or the obtaining of employment which restricts the shareholder's service to the corporation. Two of the latter then denied to the shareholders or disqualified the power to vote on possible sale of his shares to a purchaser with adequate professional qualifications in lieu of purchase.

3. *Power to Adopt a Corporate Seal*

The corporation may adopt a corporate seal, but it is not required to do so. If there is to be no seal, this should be stated in either the articles or the by-laws.⁴² In 192 of the articles no reference was made to a seal. Thirty-four specified there would be none. One said no seal was needed on corporate conveyances, and also that there should be no seal. Only four required a seal; one of these described in detail the language to be used on the seal.

4. *Power to Limit Shareholder Liability for Corporate Debts*

In order not to modify the relationship between professional and client, the Professional Corporation Act provides that an individual acting in a professional capacity retains the same personal liability for his conduct that would apply if he were practicing as an individual rather than through a professional corporation. However, he does have limited liability where the corporation's contractual responsibilities are involved or where malpractice or negligence is charged to other representatives of the corporation.⁴³

Twenty-five articles contain some provision concerning shareholder liability. Eight are of the type formerly common to business corporation articles in Iowa, that the private property of shareholders is exempt from liability for corporate debts; and one says that shareholders and directors are not personally liable for those debts. Four deny liability to the shareholder as shareholder. The rest provide for no shareholder liability except as provided in the Business

41. IOWA CODE § 496C.14(4) (1975).

42. See 5 E. HAYES, IOWA PRACTICE, CORPORATION LAW AND PRACTICE § 202 (1969).

43. IOWA CODE § 496C.9 (1975); 6 E. HAYES, IOWA PRACTICE, CORPORATION LAW AND PRACTICE § 1125 (Supp. 1974).

Corporation Act (four instances) or the Professional Corporation Act. Some require unanimous consent for amendment of these provisions. To the extent this type of provision conflicts with the Act's requirement of individual liability for one's own conduct, it is invalid; in all other respects it is unnecessary, although it may make the clients feel more comfortable.

5. *Power to Make Charitable Contributions*

No article provision for this purpose is needed, in view of the statutory permission to make charitable gifts.⁴⁴ No articles contained such a provision.

6. *Power to Do Business in Other States*

7. *Power to Incur Debts*

8. *Power to Compromise Claims Against the Corporation*

No provisions were noted which relate to any of these three headings, except for four articles filed by the same non-Iowa attorney which included a power to incur debts.

9. *Power to Provide for Fringe Benefit Programs*

A frequent motivation for incorporating a professional's practice is to enable him to qualify for fringe benefit arrangements with greater tax savings than he could while his practice is not incorporated. Iowa corporations clearly have power to establish such benefit programs, and no provision in the articles for them is needed.⁴⁵ Six of the articles, however, did include such a provision (one of the drafters did not include this in the articles for several other corporations he filed).

IV. DURATION AND RENEWAL

Ordinarily, corporate existence begins on the date the articles of incorporation are accepted by the Secretary of State's office for filing, and continues "perpetually"—which means until dissolved by action by the owners of the corporation, a court, or appropriate state officials. It is possible to postpone the beginning of corporate existence to a date "not more than ninety days in the future" and no statement of the corporation's duration is required unless it is to have only a limited period of duration.⁴⁶ However, the recommended form of articles does include a provision for duration.

Seventy-four of the articles had neither a provision for duration nor one regarding commencement of existence. There were 112 which provided for a

44. IOWA CODE § 496A.4(13) (1975).

45. IOWA CODE § 496A.4(15) (1975).

46. IOWA CODE §§ 496A.49(2), (12) (1975).

postponed starting date; one inserted a starting date which was the same as the date of its filing (January 4, 1971), and one, which provided it would commence on November 1, 1971, or as soon thereafter as the articles were approved for filing, was filed on November 5, 1971.

None of the duration articles provided for a duration limited to a term of years. Five provided for perpetual duration unless dissolved by vote of holders of a specified percentage of shares, eight combined the duration provision with the name article, twenty-five included separate articles on duration and on commencement of existence, and 120 had a perpetual duration article similar to the statutory form, which in many instances included the starting date.

V. ALTERATION OF THE CORPORATE STRUCTURE

A corporation's articles may be amended at any time, after proper notice, by the holders of a majority of the shares entitled to vote, whether the power to amend has been formally reserved or not. Amendments may include provisions that could lawfully be in original articles at the time the amendment is adopted, even though the provision might have been improper if included when the articles were first adopted.⁴⁷ Of the forty-three amendment articles, ten were unnecessary as they only reserved the power to amend or stated that changes could include matter later authorized by statute, or called for approval by the same percentage as the statute requires. Sixteen (of which fifteen were from one firm) did permit modification of amendments at the shareholders' meeting and allow vote thereon at the same meeting—without this provision no modification could be voted upon until further notice to the shareholders or unless all were present and consented or those not present waived objections. Three provided for more than majority vote to approve (51 percent, 60 percent and two-thirds, respectively), and one left the number to the by-laws. Two of the three just noted were among the ten that required unanimous approval to change the provision making private property of shareholders exempt from liability for corporate debts.

Two corporations had begun as business corporations and adopted restated articles as professional corporations. Each include the appropriate statement that these are restated articles correctly setting forth the articles as originally adopted or amended, and have been adopted by the appropriate shareholder vote. One of the two was in the engineering, land-surveying, architecture field. The other was a "Clinic Corporation" of an osteopath, which may originally have functioned to own his property rather than to practice a profession. The Corporation Department now takes the position that there is no statutory authority for a business corporation to elect to change to professional corporation status, and will not permit other corporations to make such a shift.

Unless the articles provide otherwise, dissolution of a corporation can be ordered by vote of holders of a majority of the shares entitled to vote. Ten

47. IOWA CODE §§ 496A.55, 496A.56 (1975).

articles (nine filed by one firm) enabled minority shareholders to compel redemption of their shares or dissolution. Twelve permitted the corporation to avoid its duty of repurchasing shares of deceased stockholders, if it dissolved within sixty days. One article included dissolution among the shareholder actions that could be taken by vote of a majority of the outstanding shares "notwithstanding any statutory provision to the contrary", which may hark back to the time when certain fundamental changes required approval of two-thirds or more of the voting shares unless the articles provided otherwise.⁴⁸

VI. SELECTED PROBLEMS OF PROFESSIONAL CORPORATIONS

A. *Personnel Problems*

A professional corporation may not be the right form of organization for some professionals' practice for economic or psychological reasons. Some of the data presented in this article suggests that most of the corporations which were organized involved a practice of one, less frequently two, and rarely more, professionals. The differences in economic and family position of the members of larger firms, and the psychological adjustments required by incorporation may indicate that another form of business organization should be used. Each member of the firm needs to have a clear understanding of what incorporation (and fringe benefits programs) will do both for the future and to the amount currently available for personal spending. A difference in age and status may make incorporation advantageous for one of the firm but not for another. The 50-year-old professional may find incorporation helps him to prepare for retirement. His younger associate, 30 years from retirement and just beginning to accumulate an estate, may need funds for other investments or current family needs far more than the benefits he would get from incorporation.

One solution to the problems of the divided interests in larger firms is to have part of the members form a professional corporation, and have it become a partner with the others. Two of eight members of one law firm did this—the two were law school classmates and are about the same age. The firm's letterhead lists the individual partners and the professional corporation. Several doctors in Des Moines appear to have a similar arrangement. In another state, I am told, there is a professional group in which each professional has his own corporation and each corporation is part of a larger one covering the entire practice of the group. This could not happen in Iowa, where only individuals can be shareholders.⁴⁹

Including each professional among the incorporators and the registered

48. The Iowa Business Corporation Act requires approval by holders of at least two-thirds of the outstanding voting-shares for merger or consolidation, but only "at least a majority" for approval of sale of substantially all assets, and only "a majority" for dissolution. IOWA CODE §§ 496A.70, 496A.76, 496A.81 (1975). But the articles may vary the percentage requirement either up or down. IOWA CODE § 496A.138 (1975).

49. IOWA CODE § 496C.10 (1975).

agents of the firm, as sometimes is the case, suggests recognition of some of the psychological factors involved, in the concern for status. A major problem may arise in determining who should have what office. Indeed, the formal corporate hierarchy may prove to be more difficult to live with than the less structured partnership or association. A lecturer at one Practising Law Institute program on professional corporations said he attempted to cope with this problem by persuading the firm members that the important body was the board of directors—the policy determiners—and that officers were basically administrators or pencil pushers. He urged that the presidency go to one of the more junior members.

President, vice president, secretary and treasurer must be professionals qualified to practice a profession of the type which is within the corporation's authority.⁵⁰ The assistant secretary or assistant treasurer does not have to be so qualified. One lawyer told me he makes one member of his firm an assistant officer in each of the professional corporations they serve, so that if something happens to the professionals in the firm there is an officer who can step in to wind up the firm; he defines this as the assistant officer's duties in the by-laws.

In many close corporations other than a professional corporation it is common to find husband and wife as shareholders, directors and officers. Sex has almost been removed from the professional corporation, as the spouse who is not professionally qualified can serve only as assistant officer or registered agent. Only a half a dozen of the corporations included spouses in one of those capacities.

B. Operations Problems (Especially Tax)

The Internal Revenue Service has at times seemed greatly exercised over the tax-savings potentialities of the professional corporation. Service attacks on the concept were unsuccessful, but it may be able to challenge certain practices in payout of revenues, and corporate existence itself where the professionals fail to maintain adequate recognition of their corporate status.

One argument which has met with some success is that the practice of paying all earnings either to the professional as salary or into a fringe benefit program principally for his benefit, does in fact involve a distribution of a dividend to the shareholder, and earned income for the corporation. This assumes that the reasonable investor expects some return on his investment, and that what he is receiving contains the return in disguised form. The Service has succeeded in this approach even though the amount paid would otherwise have been considered reasonable as a salary.⁵¹

One of the classic cases in which a professional corporation was ignored, for tax purposes, was one in which the shareholders themselves ignored the reali-

50. IOWA CODE § 496C.16 (1975).

51. *Charles McCandless Tile Service v. United States*, 422 F.2d 1336 (1970); see 6 E. HAYES, IOWA PRACTICE, CORPORATION LAW AND PRACTICE § 974 (1969).

ties of corporate existence.⁵² Any tendency to deviate from the formalities required by corporate life creates risks that the life will be deemed not to exist—and professionals may find it hard to think of themselves as corporate employees and to act accordingly.

Part of the "field research" of this study was an attempt to see whether, when a patient or client goes to the professional's office, he is led to think he is dealing with a professional corporation or solely with an individual practitioner.

Approximately two-thirds of the Polk County professional corporations were listed as such, in the telephone directory published in December, 1972. Three used individual listings in the yellow pages of the directory but their professional corporation in the white section; one was the reverse. Five did not list the corporate name accurately. Most of the other third had the professional's name as part of the corporate name (e.g., Dr. Jones, M.D., P.C.), but in the directory listed only the individual name. Of those not listed in the phone book as professional corporations, in February, 1973, eight had no indication on their office door or on the directory of their building that they were operating as professional corporations. Seven who were listed as professional corporations in the phone book also had no sign or directory indication at their office. The balance have a professional corporation label on the office door, or in the building directory, or both. One (not listed as a professional corporation in the phone book) has the corporation shown on the office door and on the main floor directory, but not in the directory on his own floor. I did not attempt to check how these firms answered the phone, or what their bills and letterheads indicated, except for several firms of which I have been a client. One office with two doctors had become two separate professional corporations. Their phone listing shows this. In November, 1972, their office and building did not indicate the professional corporation status. By mid-February, at least the plates on the outside door of their offices had changed. At that time one of the doctors had revised his bills and letterheads; the other had not because he had not received his new printing, but his staff was noting the change by rubber stamp on the old forms. Comments from other attorneys since indicate they have some concern with these aspects of the appearance of the professional's practice. It is important, for the more that corporate existence is recognized and respected by the professionals, the less there is the risk of a *Roubik* result.

52. *Roubik*, 53 T.C. 365 (1969) (no agreement by corporation to furnish service to any patient; each doctor continued on his own, as before; corporation had no "right" to direct doctor in professional activities; it owned no equipment or supplies and incurred no debts; each member had his own office).

CHART NO. 1

County Group Data and Iowa Professional Corporations
by Profession and Location in County Groups
July 1970-September 1972

Legend	County Groups													
	I	II	III	IV	V	VI	VII							
Number of Counties in Group	63	18	3	8	2	4	1							
Population Size (1970 Census)														
Least Populous County in Group	6,373	18,537	35,425	42,149	86,991	103,052	286,101							
Most Populous County in Group	27,432†	27,996††	41,076	72,127	90,609	163,213								
Population Size (1950 Census)														
Least Populous County in Group	8,500	21,100	32,100	42,000	69,660	100,000	226,010							
Most Populous County in Group	19,750	28,300	35,700	49,700	71,400	104,300								
% of Population of State (1970)	30.79	14.68	4.02	14.92	6.28	19.18	10.13							
% of Population of State (1952)	36.36	16.36	3.82	13.83	5.38	15.63	8.62							

Iowa Professional Corporations (Profession and Location)														
Profession	Total	cs*	1st*	0***	cs	1	0	cs	1	0	cs	1	0	cs
Law	7	1									5	1		
Accounting	6							1			1	1		2
Land Surveying	1													1
Land Surv. & Prof. Engrg.	4	1			1						1			
Architecture	2										1			1
Architecture & Prof. Engrg.	2										1			1
Prof. Engrg.	1													
Non-Health Total	(23)	(2)			(1)	(1)	(1)	(1)	(3)		(8)	(2)	(4)	(1)
Optometry	7				3						2	1		
Chiropractic	3				2									
Veterinary Medicine	13	5		1	3					1	2		1	
Dentistry	23	3				1		4	1	1	10	1	2	
Dentistry & Orthod.	3										1	1		1
Osteopathy	4	1									2			1

Profession	Total	cs*	†**	o***	cs	1	0	cs	1	0	cs	1	0	cs	1	0
Osteopathic Med. & Surg.	7	2			1									1		0
Osteopathic Med. & Surg., Internal Med.	1													1		0
Medicine	39	5	1		4	1	1							1		0
Medicine & Surgery	55	3	1	1	2			3	1	1	1	19	1	20	2	2
Medical Specialties																
Anesthesiology	6	1						1	1					3		0
Radiology	4							1						1		0
Pathology	3							1						1		0
Obstetrics & Gynecology	5													2		0
Pediatrics & Child Disease	2													1		0
Allergy	1													1		0
Dermatology	2													1		0
Psychiatry	4													2		0
Ophthalmology	5							1	1					3		0
Otolaryngology	3							1						2		0
Ophthalmology & Otorhinal	1							1						1		0
Otology	1													1		0
Surgery (of General Surg.)	4	1												1		0
Surgery & Internal Med.	1							1						2		0
Otorhinal	1													1		0
Neurosurgery	4													1		0
Orthopedics	3													3		0
Urology	2													1		0
Thoracic	1													1		0
Thoracic & Cardiovascular	1													1		0
Health Total	(209)	(20)	(3)	(2)	(15)	(0)	(2)	(3)	(0)	(0)	(19)	(1)	(1)	(13)	(0)	(2)
Total Corporations	232	22	3	2	16	0	2	4	0	0	20	1	1	16	0	2

† Three counties in Group 1, Bremer, Jackson and Warren, had increased to over 20,000 population by 1970.

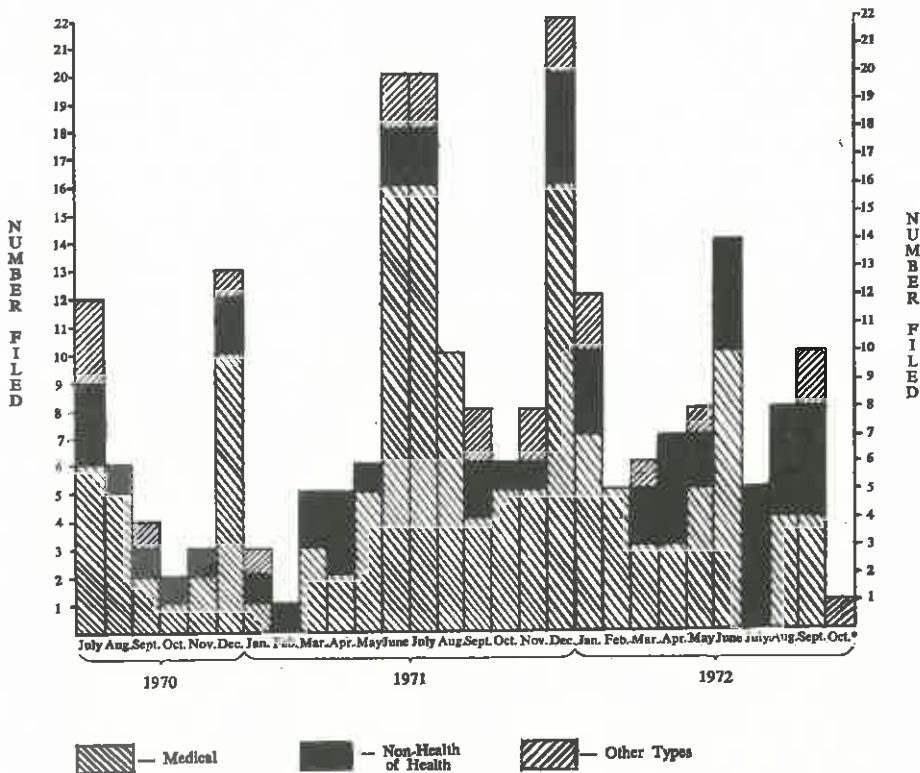
†† Two counties, Page and Floyd, had decreased below 20,000 population by 1970.

** "cs" means "county seat".

*** "1" means "other city over 5,000".

*** "0" means "other city under 5,000".

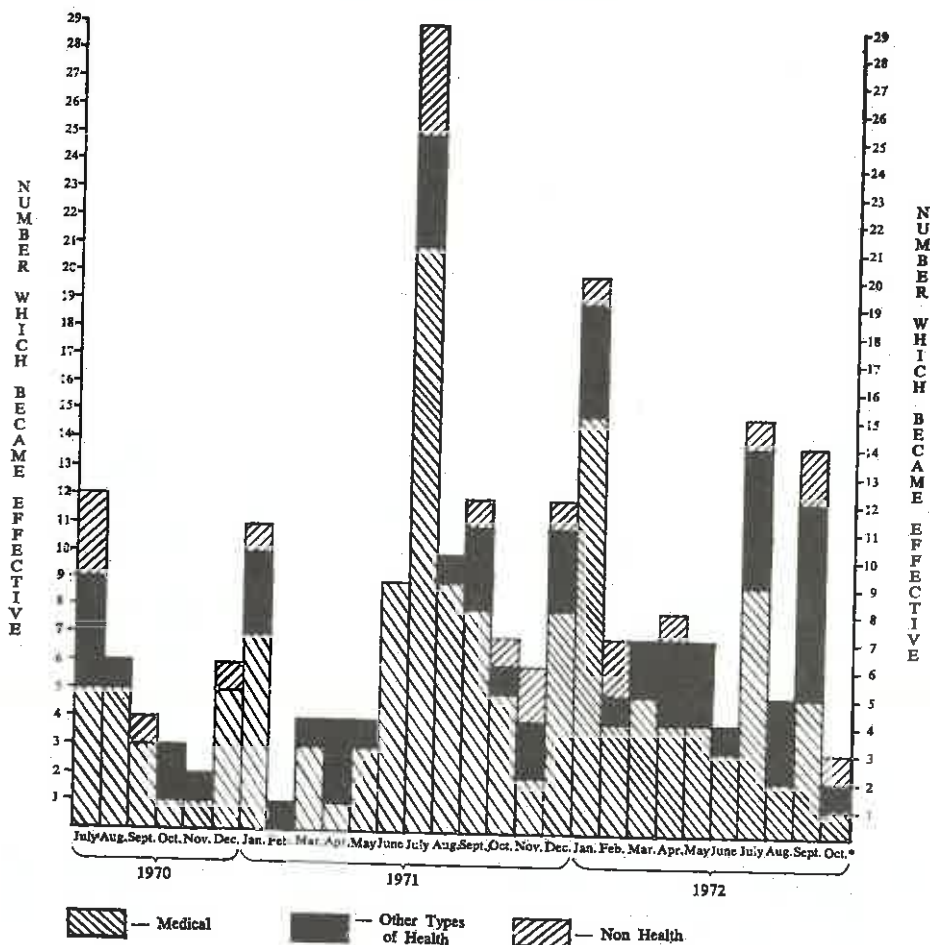
CHART II

Months in Which Iowa Professional Corporations Had Articles Filed
July, 1970—October, 1972

1. Eight articles were filed on July 1. Two Sioux City firms filed three; one firm filed its own and one for a dentist while the other firm (which later filed its own) filed for a doctor in an adjacent county. Two Waterloo firms filed one each with one filing its own. A Davenport and a Cedar Rapids firm each filed one. The eighth filing was the only one filed by an incorporating company; the corporation later changed from its Des Moines registered agent to one in Marshalltown, using a Marshalltown law firm.
2. A Des Moines firm filed for a northwestern Iowa veterinarian in July, 1970.
3. A second Des Moines firm filed for a Des Moines accountant in September, 1970.
4. A third Des Moines firm filed for a Des Moines osteopath in September, 1970.
5. A fourth Des Moines firm filed for a Des Moines dentist in October, 1970.
6. The first Des Moines medical professional corporation filed its articles on April 30, 1971.

* Only one October corporation (a law firm) is included; others filed later in the month.

CHART III
Months in Which Incorporation of Iowa Professional Corporations Became Effective July, 1970 — October, 1972



1. A chapter 496A corporation in professional engineering and land surveying filed restated articles in December, 1970, under chapter 496C.
 2. A chapter 496A corporation with unlimited powers elected in April, 1972, to adopt chapter 496C as an osteopathic medical and surgical corporation.
- * Other professional corporations filed in October after the three included here (two of the three were September filings effective October 1).

CHART NO. IV
Law Firms' Incorporation of Professional Corporations
July 1970—September 1972
By location of law firm

Group I, county seat
 1 per firm

9(9) #—Engr./land surv.-1; vet.-3; dent.-2; med.-3.

2 per firm
1 for Group VII
corp.

2(1)—law-1, med.-1.
1(1)—dent.-1.
12(11)#

Group I, other than county seat or large city

1 per firm
1 in adjacent county

2(2)—vet.-1; med.-1.
1(1)—vet.-1.
3(3)

Group II, county seat

1 per firm
4 per firm
1 (adjacent Group IV)

4(4)—optom.-1; osteop.-1; med.-2.
4(1)—law-1, vet.-1, chiroprac.-2.
1(1)—med.-1.
9(6)

Group II, other

1, adjac. co.

1(1)—med.-1.

Group III, county seat

1 per firm
1, originally thru
Corp. Co.

1(1)—land survey.-1.
1(1)—med.-1.
2(2)

Group IV, county seat

1 per firm
2 per firm
4 per firm
1 in large group
VI city

7(7)—chiro.-1; optom.-1; dent.-1; med.-4.
2(1)—cpa.-1; med.-1.
4(1)—dent.-1; med.-3.
1(1)—med.-1.
14(10)

Group V, county seat

1 per firm
8 per firm

2(2)—enr./land surv.-1; med.-1.
8(1)—arch./enr.-1; enr.-1; dent.-1; med.-5.
10(3)

Group VI, other

1 per firm

2(2)—vet.-1; med.-1.

Group VI, county seat

1 per firm
1, other city
2 per firm

2, mixed locations
3 per firm
4 per firm
4, mixed locations

5 per firm
5, mixed locations

21 per firm, mixed

9(9)—osteop.-1; med.-4; law-1; cpa-1; dent.-1; vet.-1.
1(1)—med.-1.
12(6)—law-1; med.-1; dent.-1; med.-1; dent.-1; osteop.-1;
vet.-1; med.-1; optom.-1; med.-1; med.-2.
2(1)—dent.-1; vet. Group VII-1.
3(1)—med.-3.
4(1)—law-1; med.-3.
4(1)—law-1; vet. Group II-1; enr./land surv. Group II-1;
dent. Group II other-1.
5(1)—osteop.-1; med.-4.
10(2)—law-1; arch.-1; dent.-2; med. Group I-1; med.-4;
med. Group II adjacent-1.
21(1)—optom.-1; dent.-1; med.-16; optom. Group II large-
1; med. II other-1; med. I large-1.
71(24)

Group VI, large city

1 per firm
2 per firm
11 per firm

1(1)—med.-1.
2(1)—cpa-1; optom.-1.
11(1)—law-1; dent./orth.-1; dent./orth. Group VI county
seat-1; med. VI county seat -8.
14(3)

Group VII, county seat

- 1 per firm
- 1, mixed locations
- 2 per firm
- 2 per firm, mixed
- 3 per firm
- 3, mixed
- 4 per firm
- 4, mixed
- 5 per firm, mixed
- 6 per firm, mixed
- 13 per firm, mixed
- 15 per firm, mixed

- 7(7)—med.-7.
- 3(3)—optom. adjacent Group II-1; med. Group VI-1; med. Group VII large city-1.
- 2(1)—med.-2.
- 2(1)—cpa-1; med.-1; both large Group VII city.
- 3(1)—dent.-1; med.-2.
- 3(1)—med.-1; osteop. other Group VII-1; med. Group IV-1.
- 4(1)—cpa-1, osteop.-1, med.-2.
- 4(1)—dent.-1; med.-2; med. adjacent Group IV-1.
- 5(1)—arch.-1; osteop.-1; med.-1; med. Group II-1; osteop. large Group VII city-1.
- 6(1)—cpa-1; med.-3; vet.-1; med. Group VI-1.
- 13(1)—osteop.-1; med.-8; dent. Group IV-1; dent. Group VI-1; med. Group VI-2.
- 15(1)—arch.-1; med.-8; osteop. Group I-1; med. Group I-2; med. Group II-1; med. Group V-2.

67(20)

Minnesota lawyers

- 1 per firm
- 2 per firm

- 2(2)—vet. Group II-1; med. Group II-1.
- 2(1)—dent. Group I-1; dent.-large Group IV-1.

4(3)

Nebraska lawyers

- 1 per firm
- 3 per firm
- 4 per firm

- 1(1)—med. Group V-1.
- 3(1)—med. Group V-2; med. Group I-1.
- 4(1)—osteop. Group I-2; med. Group I-1; med. large Group I-1.

8(3)

Illinois lawyers

- 1 per firm
- 4 per firm
- 10 per firm

- 1(1)—prof. engr./land surv.—adjacent Group VI-1.
- 4(1)—med. Group VI-2; dent. Group VI-1; dent. large Group VI city-1.
- 10(1)—dent. Group IV-1; med. Group IV-3; med. Group V-1; med. Group VI-5.

15(3)

Total corporations: 232; total law firms filing: 94.

The first number of the two numbers in the set is the total number of corporations filed; the second number, in parentheses, is the number of law firms filing. The filed corporation is in the same location as the filing law firm (county group and city) unless otherwise indicated.

CHART NO. V
Naming the Professional Corporation

Type of Name Used	Total	Med.	Vet.	Osteop.	Dent.	Optom.	Chir.	Eng.	Law.	CPA
Some or all of name of one or more individual members	150	85a	5	8	23	6	1	9	7	6
Location and profession	20	8	8	2	2	0	0	0	0	0
Location and specialty	22	20b	0	1	1	0	0	0	0	0
Specialty only	37	34c	0	0	0	1	1	1	0	0
Doctors, or Physicians	2	1	0	1	0	0	0	0	0	0
Fictitious name	1	0	0	0	0	0	1	0	0	0
	232	148	13	12	26	7	3	10	7	6

- a. One corporation using the individual's name in its own name has also adopted an assumed name with a location orientation.
- b. One corporation reserved its name before incorporation.
- c. One corporation prefaced the specialty part of its name with the initial letters of the hospital where its services are performed; another prefaced the specialty with the initial letters of the last names of its individual members.

CHART VI

Number of Individuals Participating in Professional Corporation,
as indicated by public records.

- I. Corporations formed between July, 1970, and November, 1971, inclusive, which filed annual reports in 1971 and, to the extent required, in 1972.

Medical

One incorporator

He is sole shareholder and director, and	43a
All officers plus being registered agent	1
All officers but attorney is registered agent	
All officers and registered agent, except for attorney as assistant secretary	1
All officers, registered agent, with another person as assistant secretary	1
He is sole shareholder, officer, registered agent, but no director is listed	1
He is sole shareholder, officer, registered agent, and one of two directors, other director is assistant secretary	1
He is sole shareholder, in 1971 report was one of two officer-directors, in 1972 report sole officer, no director listed	1
He is one of two shareholders, each officer and director and other registered agent	1
No shareholder listed, he is registered agent and one of two officer-directors	1
No report filed by October, 1972	1 ^b

 52

Two incorporators

Both are shareholders and	11
officer-directors, one is registered agent	2
officer-directors, and registered agents	1
officers and registered agents, no director listed	1 ^c
officers, one is registered agent, no director listed	2
officer-directors, attorney is registered agent	
Both are shareholders, initial directors, and with third shareholder are now officer-directors, one is registered agent	1
Five shareholders, four are officer-directors, initial registered agent was incorporating company but present registered agent is relative of two of officers	1

 19

Three incorporators

Two are shareholders and one of them is registered agent, with third incorporator are officer-directors	1
Three shareholders and	5
Each is officer-director, one is registered agent	1
Each is officer-director, attorney is registered agent	1
Each is officer, one is registered agent, no director	1

 8

Four incorporators	
are four shareholders and officer-directors, one is registered agent	4
are four of six shareholder-directors, of whom four are officers, attorney is registered agent	1
	<hr/> 5
Five incorporators	
All shareholders, four officer-directors, one was initial registered agent but another took his place	1
Ten incorporators	
no shareholders reported, five are officer-directors and one is registered agent; an assistant secretary also named	1
Total Medical	<hr/> 87
<i>Veterinary Medicine</i>	
One incorporator	
is sole shareholder, director, officer, registered agent	1
is one of two shareholder-director-officers, attorney is registered agent	1
Two incorporators	
one is shareholder, director, agent (firm's name changed to eliminate name of other incorporator); annual report says attorney is registered agent, but no formal change filed	1
both shareholders-directors-officers; attorney registered agent	1
are two of three shareholder-officer-directors, one is registered agent	1
Three incorporators	
each is shareholder-director-officer, attorney registered agent	1
Four incorporators	
each shareholder-officer-director, one original reg. agent, another now is	1
Total Veterinary Medicine	<hr/> 7
<i>Osteopath</i>	
One incorporator and	
shareholder, director, officer, registered agent	4
no report filed, he was initial director, attorney registered agent, no officers listed	1b
Two incorporators, both are shareholders, officers, directors and attorney is registered agent	1
Total Osteopath	<hr/> 6
<i>Dentist</i>	
One incorporator and	
shareholder, director, officer, registered agent	6
shareholder, director, officer, but attorney is reg. agent	2
shareholder, registered agent, and one of two director-officers	1
Two incorporators and	
both are shareholder-director-officer, registered agents	1
both shareholder, director, officer, attorney is reg. agent	1
both are officer-directors, one is reg. agent, no shareholders	1
Three incorporators	
all incorporators and directors, one is registered agent, two were shareholders first year but all were second year	1
Total Dentist	<hr/> 13
<i>Chiropractic</i>	
One incorporator and	
shareholder, director, officer; attorney is registered agent	2d
Total Chiropractic	<hr/> 2

Optometry

Two incorporators and
both are shareholder-director-officers, one is reg. agent

1

Total Optometry

1

Professional Engineering, Architecture, Land surveying

One incorporator and

shareholder, director, officer, registered agent

1

shareholder, one of three officer-directors, registered agent is someone

1

other than attorney, or officer-director

he may be in attorney's office; another is shareholder, director, officer,

1

attorney is registered agent

1

Two incorporators, shareholders, directors, officers, one is registered agent

Three incorporators, shareholders, directors, officers, and attorney is registered agent

1

Four incorporators, shareholders, officers, and four of five directors, one is registered agent

1

Six incorporators, shareholders and initial directors, four are now director-officers, one is registered agent

1

Changed over from Chapter 496A, with four initial officer-directors; first annual report shows one director and no shareholder; second one shows four officers, shares outstanding but no shareholder or director named—one of four was original registered agent and replaced by another; two of four are different from initially named ones

1

Total Prof. Engr., Architecture, Land Surveying

8

Law

One incorporator and

shareholder, director, officers and registered agent

2

director, officer, registered agent, but no shareholder listed

1

registered agent, one of two shareholder-director-officers

1

Total Law

4

Accounting

One incorporator and

one of two shareholder-director-officers, he is registered agent and was sole shareholder, director officer once

1

one of two officer-shareholder-directors, registered agent, third person added to firm's name and replaced during yr.

1

Total Accounting

2

Total July 1970-November 1971 professional corporations

130

II. Corporations formed between December 1, 1971, and October 1, 1972

Medical

One incorporator and initial director, and registered agent

26

officers and registered agent

10

accountant is registered agent

1

attorney is registered agent

3

officers, attorney is registered agent

1

One incorporator, two initial directors including incorporator who is registered agent

1

42

Two incorporators and initial directors, and

one is registered agent

6

one is registered agent, both are officers

4

attorney is registered agent

1

11

Three incorporators, initial directors and officers, one is registered agent

3

Four incorporators and initial directors, and attorney is registered agent	1
one is registered agent, all officers, two assistant officers also named	1
Five incorporators, officers, initial directors, and one is registered agent	1
Six incorporators, initial directors, one is registered agent	1
Seven incorporators, initial directors and officers, one is registered agent	1
Total Medical	61
Veterinary Medicine	
One incorporator, initial director and registered agent	1
Two incorporators, initial directors, one is registered agent	4
Three incorporators, initial directors and registered agents	1
Total Veterinary Medicine	6
Dentistry	
One incorporator and initial director is registered agent	9
is registered agent and officer, wife assistant sec'y-treas.	1
Three incorporators and initial directors and one is registered agent	2
attorney is registered agent	1
Total Dentistry	13
Osteopath	
One incorporator and initial director is registered agent	3
is registered agent and officers	1
is officers, wife assistant secretary and registered agent; when under 496A wife had been director-officer	1
and attorney is registered agent	1
Total Osteopath	6
Optometry	
One incorporator, initial director, registered agent	4e
Two incorporators and initial directors, one is reg. agent	1
Three incorporators and initial directors, one is reg. agent	1
Total Optometry	6
Chiropractic	
One incorporator, registered agent, is one of two initial dirs.	1
Total Chiropractic	1
Professional Engineering, Architecture, Land Surveying	
One incorporator, initial director, registered agent	2
Total Prof. Engr., Architecture, Land Surveying	2
Law	
Two incorporators and initial directors, and one is registered agent	1
one is registered agent and both are officers	1
Four incorporators and initial directors, one is registered agent	1
Total Law	3
Accounting	
One incorporator, initial director, registered agent	3
Two incorporators and initial directors, one is registered agent	1
Total Accounting	4
Total December 1971-October 1, 1972 professional corporations	

- a. As drafted, the incorporator clause listed attorney as incorporator, but his name was lined out and the physician's name inserted in ink, before filing.
- b. Two corporations failed to file annual reports as of October 1, 1972; reports were filed later but were unavailable when file checked, because at bindery.
- c. Attorney listed as director on annual report, his name was subsequently lined out and no other person is listed as director.
- d. The same individual is involved in both corporations.
- e. This corporation's articles were drafted initially to permit it to engage both in optometry and nursing; wife, registered nurse, was listed as incorporator and initial director and signed; before articles were accepted for filing, all references to practice of nursing and to wife were lined through and initial director number was changed from two to one.

CHART NO. VII

Registered Offices and Agents of Professional Corporations

I. Article provisions

Name registered office and one or more agents	126
Name registered office, county, one or more agents	96
Name registered office, county, one or more agents, and state agent is duly licensed to practice profession	2
Corporate name clause includes statement of location, including county of "principal" place of business, and separate article on "agent of record"	1a
Corporate name clause includes statement of location, including county of "principal" place of business, registered office and agent, and separate article on "agent of record"	3a
Registered office and agent clause also covers duration	1
Registered office and agent clause includes county, and also that business of corp. managed by its board of directors	1
Registered office and agent clause also provides that written consent of shareholders to transfer of corporate shares is not required	1
	<hr/> 232

II. Who are named as registered agents?

<i>One Incorporator</i>		<i>Two incorporators</i>	
He is	132b	One is	35c
Attorney is	13	Both are	4
Accountant is	1	Attorney is	7
His wife is	1	Relative, who replaced	
Another party is	1	incorp. co., is now agent	1
	<hr/> 148		<hr/> 47
<i>Three incorporators</i>		<i>Four incorporators</i>	
One is	14	One is	8d
All are	1	Attorney is	2
Attorney is	4		<hr/> 10
	<hr/> 19		
<i>Five incorporators</i>		<i>Six incorporators</i>	
One is	2	One is	2
<i>Seven incorporators</i>		<i>Ten incorporators</i>	
One is	1	One is	1
<i>Twelve incorporators</i>		<i>Changed over from 496A</i>	
Another party is	1	One of initial officers is	1

- a. Same attorney filed all four articles.
- b. Four were law firms.
- c. Two were law firms.
- d. One is law firm.

CHART NO. VIII

Purposes and Powers Articles of Professional Corporations

"Simple" clause—practice profession specified, plus powers incident, necessary and convenient	157
Same, plus all powers under Business Corporations Act not expressly prohibited	11
Same, plus all powers under Professional and Business Corporations Act	13
Same, plus "per Iowa law as amended"	2
Unlimited power to perform any acts lawful for prof. corp.	5
Unlimited power to engage in particular profession, plus powers of professional corporation	1
Unlimited power to perform acts lawful under Business and Professional Corporations Act, plus separate clause that this is Prof. Corp. under Iowa law	1
Unlimited power to do anything not forbidden by Iowa law and articles	2
To practice successfully the practice of dentistry	1
Legal powers, plus veterinary service	1
To engage in research, diagnosis, treatment, practice of medicine, consultation, through employees	12
To engage in practice of specified profession in Iowa, Iowa licensed practitioner to be in charge	1
Every phase and aspect of rendering same professional service as individual in (specified) profession is licensed to perform but only through licensed officers, employees and agents	3
Same, plus references to property necessary to perform services, incurring debts, investment, merging	2
Same, plus powers under Iowa Business Corporations Act	2
Same, plus powers of prof. corp. under Iowa Prof. Corp. Act	1
Same, plus investment power	3
Same plus investment power and power to act alone or with other professionals	2
Garbled version of same, plus power to invest in real property, power to invest in personal property needed in profession, and power to comply with chapter "496"	1a
To practice medicine as a medical prof. corp., through duly licensed personnel or necessary ones, plus powers incident, necessary and convenient	2
"Simple" clause, plus powers re real and personal property, power to borrow, power to engage in any lawful business	2
All powers under Iowa Bus. and Prof. Corp. Act except those expressly prohibited by Prof. Corp. Act, plus lengthy list	3
Purpose to carry on specific profession, plus 3-page listing	4b

232

- a. Filed by non-Iowa law firm. Articles refer to chapter 496, which is incorrect in context—it has no bearing on either the Business Corporations or the Professional Corporations Acts.
- b. All filed by same non-Iowa law firm; most powers set out in detail are expressly provided for in *Iowa Code* and need not have been recited; among powers not specifically provided for were: power to employ people licensed to practice the profession and nurses, technicians and other personnel necessary to rendering of services; elaborate provisions concerning inventions, improvements, processes, copyrights, patents, trademarks, tradenames, designs and labels; and power to adopt fringe benefit plans.