



## 2022 South Dakota Legislature

# House Bill 1229

HOUSE JUDICIARY ENGROSSED

Introduced by: **Representative Gosch**

1 **An Act to authorize the formation of corporations and limited liability companies**  
 2 **by physical therapists, occupational therapists, and speech-language**  
 3 **pathologists.**

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 **Section 1. That chapter 47-11G be amended with a NEW SECTION:**

6 As used in this chapter:

7 (1) "Articles of incorporation," includes the articles of organization of a limited liability  
 8 company;

9 (2) "Corporation," includes both corporations under the South Dakota Business  
 10 Corporations Act and limited liability companies under the South Dakota Limited  
 11 Liability Company Act;

12 (3) "Director" or "officer," includes any manager of a limited liability company or the  
 13 members of a limited liability company that does not have managers;

14 (4) "Incorporation," includes the organization of a limited liability company;

15 (5) "Shareholders," includes the members of a limited liability company; and

16 (6) "Shares," includes membership interests in a limited liability company.

17 **Section 2. That chapter 47-11G be amended with a NEW SECTION:**

18 One or more physical therapists licensed pursuant to chapter 36-10, occupational  
 19 therapists licensed pursuant to chapter 36-31, speech-language pathologists licensed  
 20 pursuant to chapter 36-37, or any combination of such licensees, may form a corporation  
 21 under the South Dakota Business Corporation Act. The articles of incorporation must  
 22 contain provisions complying with the requirements of this chapter.

23 **Section 3. That chapter 47-11G be amended with a NEW SECTION:**

24 A corporation formed pursuant to this chapter may:

1       (1) Be organized for the purpose of conducting the practice of physical therapy,  
2       occupational therapy, or speech-language pathology, or any combination of such  
3       practices; and

4       (2) Exercise the powers and privileges conferred upon corporations by the laws of this  
5       state.

6       **Section 4. That chapter 47-11G be amended with a NEW SECTION:**

7               The name of a corporation formed pursuant to this chapter must contain the words,  
8       professional company or professional corporation or abbreviations thereof, such as Prof.  
9       Co., Prof. Corp., P.C., or PC.

10              The name of a limited liability company formed under this chapter must contain  
11       the words, professional limited liability company, or the abbreviation, Prof. L.L.C., Prof.  
12       LLC, P.L.L.C., or PLLC.

13       **Section 5. That chapter 47-11G be amended with a NEW SECTION:**

14              All shareholders of a corporation formed pursuant to this chapter must be persons  
15       duly licensed by this state and actively engaged in the practice of physical therapy,  
16       occupational therapy, or speech-language pathology and must, at all times, own their  
17       shares in their own right.

18              A revocable trust may be a shareholder in a corporation organized under this  
19       chapter, for so long as the grantor of the revocable trust is living and is eligible to be a  
20       shareholder. After the death of the grantor, the shares owned by a revocable trust are  
21       subject to any divestiture and redemption provisions of this chapter, as if the shares were  
22       directly owned by the grantor of the trust.

23              Any shareholder who ceases to be an eligible shareholder must dispose of all shares  
24       either to the corporation or to a person who is qualified to be a shareholder.

25       **Section 6. That chapter 47-11G be amended with a NEW SECTION:**

26              The president of a corporation formed pursuant to this chapter must be a  
27       shareholder and director. To the extent possible, all other directors and officers must be  
28       persons having the qualifications set forth in section 2 of this Act. Lay directors and officers  
29       may not exercise any authority over professional matters.

30       **Section 7. That chapter 47-11G be amended with a NEW SECTION:**

1           An obligation of a corporation formed pursuant to this chapter, whether arising in  
2 contract, tort, or otherwise, is the obligation of the corporation and the individual whose  
3 act or omission gives rise to the obligation. No shareholder, director, officer, member, or  
4 manager is personally liable, directly or indirectly, by way of contribution or otherwise, for  
5 the obligation based solely on the person's capacity as a shareholder, director, officer,  
6 member, or manager.

7           The limitation of liability does not extend to amounts owed to this state or its  
8 political subdivisions for any taxes, or any penalty or interest on such taxes.

9       **Section 8. That chapter 47-11G be amended with a NEW SECTION:**

10           A copy of the articles of incorporation, certified by the secretary of state, must be  
11 filed with the licensing board of each shareholder, together with a certified copy of any  
12 amendments. The corporation shall also file the names and addresses of each shareholder  
13 and the names and addresses of all persons who are not shareholders but are employed  
14 by the corporation and licensed to practice physical therapy, occupational therapy, or  
15 speech-language pathology in this state.

16           The respective licensing board must be notified within ten days if any information  
17 required by this section changes.

18       **Section 9. That chapter 47-11G be amended with a NEW SECTION:**

19           A corporation formed pursuant to this chapter may adopt a pension profit-sharing,  
20 a health and accident, an insurance, or a welfare plan for all or some of its employees,  
21 including lay employees, if the plan does not require or result in the sharing of specific or  
22 identifiable fees with lay employees, and if any payments made to lay employees or into  
23 any such plan on behalf of lay employees are based on their compensation, their length  
24 of service, or both, rather than the amount of fees or income received.

25       **Section 10. That chapter 47-11G be amended with a NEW SECTION:**

26           The corporation may not do anything which, if done by a physical therapist,  
27 occupational therapist, or speech-language pathologist, would violate the standards of  
28 conduct established for those professions.

29           Nothing in this chapter diminishes or changes the obligation of each physical  
30 therapist, occupational therapist, or speech-language pathologist to conduct his or her

- 1 practice in accordance with the professional standards established by the respective
- 2 licensing boards.