

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Board of Medicine TITLE NUMBER: 11

RULE TYPE: Legislative; CITE AUTHORITY West Virginia Code §31B-13-1304

AMENDMENT TO AN EXISTING RULE: YES X NO: _____

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 7

TITLE OF RULE BEING AMENDED: Formation and Approval of Professional
Limited Liability Companies

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON September 2, 1997 AT 4:30 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Ronald D. Walton

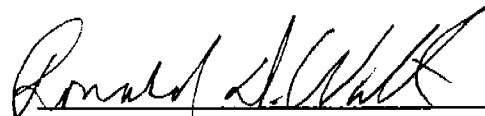
Executive Director

West Virginia Board of Medicine

101 Dee Drive

Charleston, WV 25311

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.



ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

\$3.60

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Formation and Approval of Professional Limited Liability Companies

Type of Rule: X **Legislative** **Interpretive** **Procedural**

Agency West Virginia Board of Medicine

Address 101 Dee Drive

Charleston, WV 25311

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$	\$	\$	\$	\$
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

No increase in state funding will be needed.

3. Objectives of these rules:

To carry out the requirements imposed by S.B. 555, passed April 2, 1997, West Virginia Code §31B-13-1301 et seq. in order that professional limited liability companies may be formed consistent with the requirements of S.B. 555 and with the public interest, safety and welfare.

Rule Title: Formation and Approval of Professional Limited Liability Companies

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

Not aware that there will be any.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

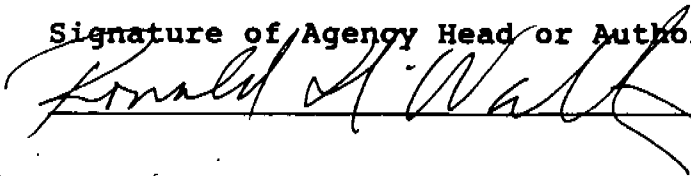
Not aware that there will be any.

C. Economic Impact on Citizens/Public at Large.

Not aware that there will be any.

Date: July 31, 1997

Signature of Agency Head or Authorized Representative





R. Curtis Arnold, D.P.M.
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Bruce L. Berry, M.D.
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Ahmed D. Faheem, M.D.
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Fairmont

Lee Elliott Smith, M.D.
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State of West Virginia

WEST VIRGINIA BOARD OF MEDICINE

101 Dee Drive

Charleston, West Virginia 25311

Telephone (304) 558-2921

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Statement of Circumstances Which Require the Rule Summary of Content of Rule

This rule is promulgated pursuant to provisions in S.B. 555, pertaining to professional limited liability companies, enacted during the 1997 Legislative Session.

Under the provisions of S.B. 555 and this rule, one or more persons are now permitted to form a professional limited liability company, rather than two or more, as at present. Further, members of professional limited liability companies may be natural persons, professional corporations, other professional limited liability companies, and professional partnerships.

S.B. 555 and this rule permit the formation and approval of professional limited liability companies with members from different professions.

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Parkersburg

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Charleston

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Charleston

EXECUTIVE DIRECTOR

Ronald D. Walton
Charleston

TITLE II
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF MEDICINE

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SERIES 7
FORMATION AND APPROVAL OF PROFESSIONAL
LIMITED LIABILITY COMPANIES

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§11-7-1. General.

1.1. Scope. - This legislative rule addresses procedures for the formation and approval of professional limited liability companies for physicians and podiatrists.

1.2. Authority. - W. Va. Code §31B-13-1304.

1.3. Filing Date. -

1.4. Effective Date. -

§11-7-2. Definition.

2.1. Board. - The West Virginia Board of Medicine, established in W. Va. Code §30-3-5.

§11-7-3. Procedures for Formation and Approval of Professional Limited Liability Companies for Physicians and Podiatrists; Fees.

3.1. Physicians licensed to practice medicine and surgery in an active status in this State who desire to render medical professional services as a limited liability company shall comply with the provisions of West Virginia Code §31B-13-1 et seq. No professional limited liability company shall have as a member anyone other than a person who is duly licensed or otherwise legally authorized to render the professional services for which the professional limited liability company was organized.

3.2. Podiatrists licensed to practice podiatry in an active status in this State who desire to render podiatric professional services as a limited liability company shall comply with the provisions of West Virginia Code §31B-13-1 et seq. No professional limited liability company shall have as a member anyone other than a person who is duly licensed or otherwise legally authorized to render the professional services for which the professional limited liability company was organized.

3.3. The name of a professional limited liability company shall contain the words "professional limited liability company" or the abbreviation "PLLC", "P.L.L.C.", "Professional LLC", or "Professional L.L.C."

3.4. A physician or physicians licensed to practice medicine and surgery in an active status in this state who desires or desire to render medical professional services as a limited liability

company may form a professional limited liability company with a podiatrist or podiatrists licensed to practice podiatry in an active status in this state who desires or desire to render podiatric professional services as a limited liability company, and a physician or physicians and/or a podiatrist or podiatrists may form a professional limited liability company with duly licensed persons from other professions.

3.4. 3.5. Every professional limited liability company shall file with the Board at the time of formation, the name or names of its ~~two~~ one or more members, and written documentation that the professional limited liability company carries at least one million dollars of professional liability insurance, together with an initial filing fee of \$100, and the names of members of the professional limited liability company who have signature authority. In the case of a professional limited liability company with members from professions not under the jurisdiction of the Board, the professional limited liability company shall file with the Board at the time of formation written documentation of current, active licensure of each and every member from any and all licensing boards with jurisdiction over any and all such members. In the case of professional corporation members, other professional limited liability company members or professional partnership members, each and every natural person who is an officer, director, member, shareholder, or partner in such professional corporation or professional limited liability company or professional partnership shall file with the Board at the time of formation written documentation of current, active licensure from any and all licensing boards with jurisdiction over any and all such persons.

Thereafter, every professional limited liability company on an annual basis on or before the first day of July, shall file with the Board the name or names of its ~~two~~ one or more members, and written documentation that the professional limited liability company carries at least one million dollars of professional limited liability insurance, together with an annual renewal fee of \$100, and any change in the persons who have signature authority for the professional limited liability company. In the case of a professional limited liability company with members from professions not under the jurisdiction of the Board, the professional limited liability company shall file with the Board on an annual basis on or before the first day of July, written documentation of current, active licensure of each and every member from any and all licensing boards with jurisdiction over any and all such members. In the case of professional corporation members, other professional limited liability company members or professional partnership members, each and every natural person who is an officer, director, member, shareholder, or partner in such professional corporation or professional limited liability company or professional partnership shall file with the Board on an annual basis on or before the first day of July, written documentation of current, active licensure from any and all licensing boards with jurisdiction over any and all such persons.

~~3.4.a.~~ 3.5.a. The requirement under West Virginia Code §31B 13-1305 that a professional limited liability company carry one million dollars of professional liability insurance is satisfied if the professional limited liability company provides one million dollars of funds specifically designated and segregated for the satisfaction of judgements against the company members or any of its professional or nonprofessional managers or employees arising out of the performance of professional services to patients or clients of the company, by:

(1) Deposit in trust or in bank escrow of cash, bank certificates of deposit or United States treasury obligation; or

(2) A bank letter of credit or insurance company bond.

~~3.5.~~ 3.6. Every limited liability company formed prior to the effective date of this rule whose members are physicians or podiatrists licensed under the provisions of West Virginia Code §30-3-1 et seq. shall re-form the company and re-file articles of organization pursuant to the provisions of West Virginia Code §31B-13-1 et seq. and provisions of this rule.

~~3.6.~~ 3.7. Every professional limited liability company shall file with the Board a copy of the annual report required to be filed with the secretary of state under West Virginia Code §31B-2-211. The copy of the annual report, and a copy of any corrected annual report filed with the secretary of state, shall be filed with the Board on or before the first day of July on an annual basis.

~~3.7.~~ 3.8. The Board shall approve every professional limited liability company in compliance with all the provisions of this rule, and every professional limited liability company remaining in compliance with this rule shall remain approved by the Board.

~~3.8.~~ 3.9. If any person ceases to be a member of any professional limited liability company, that person shall so notify the Board in writing within twenty days from the day that the person ceases to be a member of the professional limited liability company. The fact that a person ceases to be a member of a professional limited liability company shall not affect the approval of the professional limited liability company by the Board, provided that the Board determines that the professional limited liability company remains in compliance with all the provisions of this rule.

§11-7-4. Notification of Non-compliance, Cessation of Rendering Professional Services.

~~3.9.~~ 3.10. If the Board determines that a professional limited liability company is not in compliance with all the provisions of this rule and should cease rendering professional services in the State, the Board shall notify the professional limited liability company in writing of its noncompliance and shall order the

professional limited liability company to stop rendering professional services. Upon receipt of the written notice, the professional limited liability company shall cease rendering professional services in this State.

§11-7-5. Physician-Patient and Podiatrist-Patient Relationship.

~~3.10.~~ 3.11. The provisions of this rule shall not be construed to alter or affect the physician-patient or podiatrist-patient relationship.