

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 NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 7

TITLE OF RULE BEING PROPOSED: Formation and approval of Professional Limited Liability Companies

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 August 23, 1996 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

3.40

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Formation and approval of Professional Limited Liability Companies

Type of Rule: 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
<u>ESTIMATED TOTAL COST</u>	\$	\$	\$	\$	\$
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 Senate Bill 338, signed by the Governor on March 25, 1996, West Virginia Code §31B-13-1301 et seq., in order that professional limited liability companies consisting of physicians or podiatrists licensed under West Virginia Code §30-3-1 et seq. may be formed in a manner consistent with the requirements of Senate Bill 338 and with the public interest and safety, and to recoup the costs to the Board of processing filings by the professional limited liability companies.

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.

Professional limited liability companies apparently have financial advantages for professionals

C. Economic Impact on Citizens/Public at Large.

Not aware that there will be any

Date: July 18, 1996

Signature of Agency Head or Authorized Representative

Ronald A. Walt



R. Curtis Arnold, D.P.M.
South Charleston

Bruce L. Berry, M.D.
Charleston

H. Darrel Darby, D.P.M.
Huntington

Ahmed D. Faheem, M.D.
Beckley

Mr. Stephen P. Goodwin
Charleston

Michael Grome, P.A.-C.
Hamlin

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Charleston

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Joseph Smith, M.D.
Dunbar

Lee Elliott Smith, M.D.
Princeton

State of West Virginia

WEST VIRGINIA BOARD OF MEDICINE

101 Dee Drive

Charleston, West Virginia 25311

Telephone (304) 558-2921

Fax (304) 558-2084

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE SUMMARY OF CONTENT OF RULE

This rule is promulgated pursuant to provisions in S.B. 338, pertaining to limited liability companies, enacted during the 1996 Legislative Session and signed by the Governor on March 25, 1996.

A portion of S.B. 338 addresses professional limited liability companies (PLLC's), authorizing their formation and requiring each licensing board for each of the professions authorized to form such companies to propose legislative rules providing for the implementation of Article 13 of Chapter 31B and for the formation and approval of professional limited liability companies for the particular profession under the jurisdiction of each licensing board.

This rule specifies the simple procedures for the formation and approval of such companies for physicians and podiatrists who are under the jurisdiction of the West Virginia Board of Medicine, requiring the filing of certain information with the Board at the time of formation and on an annual basis thereafter, and the payment of an initial filing fee and an annual renewal fee.

The rule provides for notification from the Board to the PLLC to cease rendering professional services in the State in the event of non-compliance with the rule.

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Parkersburg

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Charleston

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TITLE II
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF MEDICINE

JUL 19 9 24 AM '96

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. Definitions.

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

2.2. Professional limited liability company. - a limited liability company organized under Chapter 31B of the W. Va. Code for the purpose of rendering a professional service.

2.3. Professional services. - The services rendered under W. Va. Code §30-3-1 et seq., by physicians and podiatrists.

§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 "P.L.L.C." or "Professional L.L.C."

3.4. Every professional limited liability company shall file with the Board at the time of formation, and on an annual basis on or before the first day of July, the names of its two 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 an annual renewal fee of \$100.

3.4.a. The requirement of carrying 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. 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 and re-file pursuant to the provisions of West Virginia Code §31B-13-1 et seq. and of this rule.

3.6. 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. Every professional limited liability company in compliance with all the provisions of this rule shall be approved by and remain approved by the Board.

3.8. If any person ceases to be a member of any professional limited liability company, the Board shall be so notified in writing within twenty days therefrom that such person has ceased to be a member of such 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 such 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. Should the Board determine 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 so notify the professional limited liability company in writing, and upon receipt of such written notice, said professional limited liability company shall cease rendering professional services in the State.

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

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