WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION

Form #2

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Board of Osteopathy TITLE NUMBER: 24

RULE TYPE: Legislative CITE AUTHORITY: W. Va. Code §§30-1-4, 31B-13-1304

AMENDMENT TO AN EXISTING RULE: YES X NO ___

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 4

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

IF NO, SERIES NUMBER OF 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 July 1, 2009 AT 12:00 Noon ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

West Virginia Board of Osteopathy
334 Penco Road
Weirton , WV 26062

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

Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

WEST VIRGINIA BOARD OF OSTEOPATHY

FORMATION AND APPROVAL OF PROFESSIONAL LIMITED LIABILITY COMPANIES

Title 24, Series 4

SUMMARY OF PROPOSED RULE

This rule is an existing rule governing the formation and registration of professional limited liability companies for osteopathic physicians and surgeons. The Board of Osteopathy seeks to amend this rule by removing a specified fee for the registration of a PLLC and moving that to a schedule of fees in a separate rule of the Board of Osteopathy, 24 CSR 5.

WEST VIRGINIA BOARD OF OSTEOPATHY

FEES FOR SERVICES RENDERED BY THE WEST VIRGINIA BOARD OF OSTEOPATHY

Title 24, Series 4

STATEMENT OF CIRCUMSTANCES FOR PROPOSED RULE

The West Virginia Board of Osteopathy has established a Schedule of Fees for services rendered by it. This Schedule of Fees is set out in a separate rule of the Board, 24 CSR 5. In order to provide a unified source of information for ALL fees charged by the Board, the Board seeks to move the specification of a fee from this current rule and place that in the schedule promulgated as Fees for Services Rendered by the Board of Osteopathy, 24 CSR 5. This particular fee is an annual charge for registering an osteopathic physician's Professional Limited Liability Company.

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 Osteopathy

Address: 334 Penco Road

Weirton, WV 26062

Phone Number: 304-723-4638 Email: bdosteo@mail.wvnet.edu

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues			

Rule Title:

Rule Title: Formation and Approval of Professional Limited Liability Companies

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

If the rule is amended as proposed, fees will be specified in a separate rule. When fees are modified in the other rule providing a schedule of fees, a complete Fiscal Note will be provided.

Amendment of this rule will not have any independent effect on total revenues for the Board of Osteopathy.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

The purpose of the proposed amendment to the rule is to remove specification of registration fees in this rule in order to consolidate all fees into one, other rule as part of a schedule of ALL fees that may be charged by the Board of Osteopathy. Since the change simply means moving the reference to registration fees from one rule to another, amendment of this rule would not have any fiscal impact for the agency or the State.

Date: June 1, 2009

Signature of Agency Head or Authorized Representative

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TITLE 24
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF OSTEOPATHY

SERIES 4
FORMATION AND APPROVAL OF PROFESSIONAL LIMITED LIABILITY COMPANIES

§24-4-1. General.

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

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

1.3. Filing Date. --

1.4. Effective Date. --

§24-4-2. Definitions.

2.1. Board. - The West Virginia Board of Osteopathy, established in W. Va. Code §30-14-3.

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 §30-14-1 et seq., by osteopathic physicians.

§24-4-3. Procedures for Formation and Approval of Professional Limited Liability Companies for Osteopathic Physicians; Fees.

3.1. Osteopathic 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 W. Va. 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. 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."

3.3. 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 annual renewal fee of $100~~ along with the fee specified in the schedule of fees established in the Board's legislative rule, Fees For Services Rendered By The Board of Osteopathy, 24 CSR 5.

3.3.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 services to patients or clients of the company, by:

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

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

3.4. Every limited liability company formed prior to the effective date of this rule whose members are osteopathic physicians licensed under the provisions of W. Va. Code §30-14-1 et seq. shall re-form and re-file pursuant to the provisions of W. Va. Code §31B-13-1 et seq. and of this rule.

3.5. 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 W. Va. 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.

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

3.7. 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.

§24-4-4. Notification of Non-compliance, Cessation of Rendering Professional Services.

4.1. 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.

§24-4-5. Physician-Patient Relationship.

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