

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

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FILED

MAR 5 10 27 AM '97

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

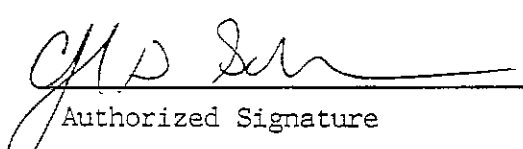
AGENCY: West Virginia Board of Osteopathy TITLE NUMBER: 24
RULE TYPE: Legislative; CITE AUTHORITY West Virginia Code §31B-13-1304
AMENDMENT TO AN EXISTING RULE: YES ☐ NO ☒
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____
TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 4
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 April 7, 1997 AT 4:30 p.m. EST. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Joseph E. Schreiber, D.O.
Secretary
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



STATE OF WEST VIRGINIA
BOARD OF OSTEOPATHY

JOSEPH E. SCHREIBER, D.O.
SECRETARY

334 PENCO ROAD
WEIRTON, WV 26062

TELEPHONE
304-723-4638

The facts and circumstances constituting the emergency are as follows. The filing of the rules on an emergency basis is necessitated by several factors:

1. The West Virginia Board of Osteopathy has unanimously determined at its regular meeting on December 5, 1996, that the rule should be filed on an emergency basis.
2. The benefits of professional limited liability companies for professionals whose formation is now authorized by SB 338 are seen by some of those under the Board's jurisdiction to be so substantial that some physician groups have requested that the Board act expeditiously with respect to this matter so that professional limited liability companies made up of physicians may be formed immediately to take advantage of the benefits, rather than wait an additional six months for the rules to be effective.
3. There may be groups of physicians who have formed limited liability companies in the past who must be required to reform and refile now in accordance with the requirements of West Virginia Code §31B-13-1304 et seq. and the Board's rules, and such companies are not currently in compliance with those requirements and the public will not be protected in the absence of approval of the proposed rule on an emergency basis.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Formation and approval of Professional Limited Liability Co

Type of Rule: X Legislative Interpretive Procedural

Agency West Virginia Board of Osteopathy

Address 334 Penco Road

Weirton WV 26062

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, in order that professional limited liability companies consisting of osteopathic physicians licensed under West Virginia Code §30-14-1, et-seq may be formed in a manner consistent with the requirements of Senate Bill 338 and with public interest & safety, and to recoup the costs to the Board 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.

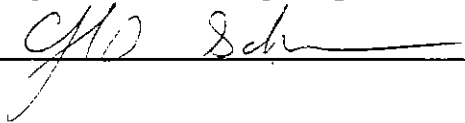
Professional limited liability companies apparently have financial advantages for professionals.

C. Economic Impact on Citizens/Public at Large.

Not aware that there will be any.

Date: Febrary 28, 1997

Signature of Agency Head or Authorized Representative



TITLE 24
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF OSTEOPATHY

SERIES 4
FORMATION AND APPROVAL OF PROFESSIONAL
LIMITED LIABILITY COMPANIES

FILED
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OFFICE OF THE
SECRETARY

§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 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. 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.

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 judgments 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 West Virginia Code §30-14-1 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.

3.5. 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 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.

3.6. 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.