

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #7

Do not mark in this box
Filing Date

FILED
MAR 5 10 27 AM '97

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Effective Date

April 17, 1997

NOTICE OF AN EMERGENCY RULE

AGENCY: WV Board of Osteopathy TITLE NUMBER: 24

CITE AUTHORITY: W. Va. Code §31B-13-1304

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES ☐ NO ☒

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

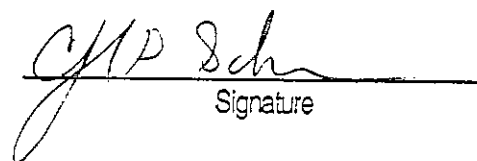
IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: 4

TITLE OF RULE BEING FILED AS AN EMERGENCY: FORMATION AND APPROVAL OF
PROFESSIONAL LIMITED LIABILITY COMPANIES

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

Use additional sheets if necessary


Signature

DATE: February 28, 1997

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: West Virginia Board of Osteopathy

EMERGENCY RULE TITLE: Formation and Approval of Professional Limited Liability Companies.

1. Date of Filing February 28, 1997

2. Statutory authority for promulgating emergency rule:

West Virginia Code §31B-13-1304, §29A-3-15

3. Date of filing of proposed legislative rule: February 28, 1997

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule?

The emergency rule adopts new language

5. Has the same or similar emergency rule previously been filed and expired?

No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.

The benefits of professional limited liability companies require that professional licensing boards move rapidly to permit the formation and approval of such entities. Various groups of physicians have requested that the Board of Osteopathy act expeditiously with respect to this matter. In addition, there may be groups of professionals who have formed limited liability companies in the past who must be required to re-form and re-file in accordance with the requirements of SB338, and such companies are not currently in compliance with the requirements of SB338 and the public is thus not protected in the absence of approval of the proposed rule on an emergency basis.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

N/A

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

The benefits of professional limited liability companies require that professional licensing boards move rapidly to permit the formation and approval of such entities. Various groups of physicians have requested that the Board of Osteopathy act expeditiously with respect to this matter. In addition, there may be groups of professionals who have formed limited liability companies in the past who must be required to re-form and re-file in accordance with the requirements of SB338, and such companies are not currently in compliance with the requirements of SB 338 and the public is thus not protected in the absence of approval of the proposed rule on an emergency basis.



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.

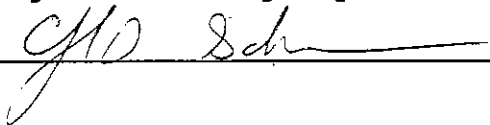
Professional limited liability companies apparently have financial advantages for professionals.

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
MAR 5 10 28 AM '97
OFFICE OF THE CLERK
SECRETARY OF STATE

§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.