

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #4

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Dec 16 10 05 AM '98

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: BOARD OF ACUPUNCTURE TITLE NUMBER: 32

CITE AUTHORITY W.Va. CODE § 31B-13-1304

AMENDMENT TO AN EXISTING RULE: YES NO

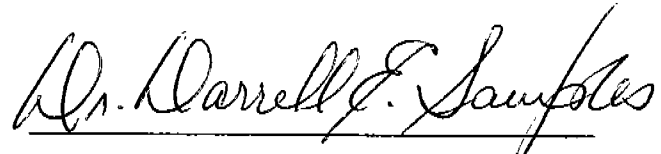
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 32 CRS 13

TITLE OF RULE BEING PROPOSED: FORMATION AND APPROVAL
OF PROFESSIONAL LIMITED LIABILITY
COMPANIES

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.


Authorized Signature

\$2.80

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32 CRS 13

**Title 32
Legislative Rule
Board of Acupuncture**

DEC 16 10 05 AM '98

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**Series 13
Formation and Approval of Professional
Limited Liability Companies**

32-13-1. General.

1.1. Scope. --This legislative rule establishes the procedures for the formation and approval of professional limited liability companies for acupuncturists.

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

1.3. Filing date. --

1.4. Effective date. --

32-13-2. Definitions.

2.1. Board. --The West Virginia Board of Acupuncture, established in W. Va. Code § 30-36-1 et seq.

2.2. Professional limited liability company. -- A limited liability company organized under the W. Va. Code § 31B-13-1 et seq. for the purpose of rendering a professional service.

2.3. Professional services. --The services rendered under W. Va. Code § 30-36-1 et seq., by acupuncturists.

32-13-3. Procedures for Formation and Approval of Professional Limited Liability Companies for Acupuncturists. Fees.

3.1. Acupuncturists licensed to practice acupuncture in an active status in this State who desire to render acupuncture and oriental medical 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 \$100.00 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 judgements against the company members or any of its professional or nonprofessional services to patients or clients of the company, by:

3.3.a.1. Deposit in trust or in bank escrow of cash, a bank certificate of deposit or United States treasury obligations; or

3.3.a.2. A bank letter of credit or insurance company bond.

3.4. Every 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.

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

3.6. If any person ceases to be a member of any professional limited liability company, the Board shall be notified in writing within twenty days therefrom that the person has ceased to be a member of a 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 provision of this rule.

32-13-4. Notification of Non-compliance, Cessation of Rendering Professional Services.

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

32-13-5. Practitioner-Patient Relationship.

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



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Nov 16 12 17 PM '98

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

State Capitol - Room MB-49
Charleston, West Virginia 25305
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November 12, 1998

Senator Mike Ross, Co-Chairman
Delegate Mark Hunt, Co-Chairman
Debra A. Graham, Counsel

Joseph A. Altizer, Associate Counsel
Rita Pauley, Associate Counsel
Teri Anderson, Administrative Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Dr. Darrell E. Samples
Board of Acupuncture
P.O. Box 252
Huntington, WV 25707

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Formation and Approval of Professional Limited Liability Companies, 32CSR13**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
(a) as originally filed
(b) as modified by the agency
2. Authorize the agency to promulgate part of the Legislative rule;
a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with
certain amendments; amendments and a statement of reasons
for such recommendation is attached.
4. Authorize the agency to promulgate the Legislative rule as
modified with certain amendments; amendments and a
statement of reasons for such recommendation is attached.

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Board of Acupuncture

Subject: Formation and Approval of Professional Limited Liability Companies, 32CSR13

PERTINENT DATES

Filed for public comment: July 1, 1998
Public comment period ended: July 31, 1998
Filed following public comment period: August 3, 1998
Filed LRMRC: August 3, 1998
Filed as emergency:

Fiscal Impact: None

OFFICE OF THE CLERK OF THE HOUSE OF DELEGATES
SECRETARY OF STATE

SEP 10 10 30 AM '98

FILED

ABSTRACT

The proposed rule is new. The following is a section by section synopsis of the proposed rule.

Section 1 is the standard general section, setting forth the scope, authority, filing date and effective date of the proposed rule.

Section 2 defines terms.

Section 3 permits acupuncturists to form professional limited liability companies. It requires a company to file annually with the Board and maintain professional liability insurance. The annual filing fee is \$100.

Section 4 requires a company to cease operating upon notice from the Board that it is not in compliance with the provisions of the rule.

Section 5 provides that the provisions of the proposed rule are not to be construed as altering the practitioner-patient relationship.

AUTHORITY

Statutory authority: W.Va. Code, §31B-13-1304, which provides, in part, as follows:

The licensing board for each of the professions authorized to form professional limited liability companies under this article shall propose legislative rules for promulgation, in accordance with the provisions of article three, chapter twenty-nine-a of this code, providing for the implementation of this article and the procedures for the formation and approval of professional limited liability companies for the particular profession under the jurisdiction of such licensing board. The rules of each licensing board shall permit the formation and approval of professional limited liability companies with members from different professions.

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

Yes.

VIII. OTHER.

Counsel has technical modifications to suggest.