

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

Form #2

Do Not Mark In This Box

2013 JUN -6 AM 11:51

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Board of Dental Examiners TITLE NUMBER: 5

RULE TYPE: Legislative CITE AUTHORITY: §31B-13-1304

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 2

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 12, 2013 AT 12:00 pm ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

West Virginia Board of Dental Examiners

PO Box 1447
Crab Orchard, WV 25827

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



Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

SUMMARY OF PROPOSED RULE

**TITLE 5
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF DENTAL EXAMINERS**

**SERIES 2
FORMATION AND APPROVAL OF PROFESSIONAL
LIMITED LIABILITY COMPANIES**

This rule is being amended to update the following due passage of Senate Bill 580:

Change of name from Dental Examiners to Dentistry; and

Update language in section 3 concerning the procedures for formation and approval.

Also, the Board proposes language concerning the approval and authorization of name changes.

STATEMENT OF CIRCUMSTANCES

CONCERNING A PROPOSED RULE

TITLE 5

LEGISLATIVE RULE

WEST VIRGINIA BOARD OF DENTAL EXAMINERS

SERIES 2

FORMATION AND APPROVAL OF PROFESSIONAL

LIMITED LIABILITY COMPANIES

Due to the passage of Senate Bill 580, with major revisions to the Dental Practice Act, it is necessary to promulgate this rule to update the name of the Board, update the language concerning procedures for formation and approval, and add language concerning the approval and authorization of name changes.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Formation and Approval of Professional Limited Liability Companies

Rule Title: _____

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Board of Dental Examiners

Address: PO Box 1447
Crab Orchard, WV 25827

Phone Number: 304-252-8266 Email: wybde@suddenlinkmail.com

Fiscal Note Summary

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

This rule will not have any impact on the general revenue of the state, any fees allowed by this rule will only effect the special revenue account of the Board of Dental Examiners.

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	0.00	100.00	100.00

Formation and Approval of Professional Limited Liability Companies

Rule Title: _____

Rule Title: _____

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

This rule would allow for a fee to process a request for a name change of a limited liability company, which will be proposed in the Board's fee rules at \$25.00 each request. The estimated amount of revenue for a fiscal year would be \$100.

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 fiscal impact will only affect those individuals seeking a name change for a professional limited liability company.

Date: 6/5/2013

Signature of Agency Head or Authorized Representative

Steven M. Comer

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TITLE 5
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF ~~DENTAL EXAMINERS~~ DENTISTRY

SERIES 2
FORMATION AND APPROVAL OF PROFESSIONAL
LIMITED LIABILITY COMPANIES

§5-2-1. General.

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

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

1.3. Filing Date. --

1.4. Effective Date. --

§5-2-2. Definitions.

2.1. Board. - The West Virginia Board of ~~Dental Examiners~~ Dentistry, established in W. Va. Code §30-4-4.

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 §30-4-1 et seq., by dentists.

§5-2-3. Procedures for Formation and Approval of Professional Limited Liability Companies for Dentists; Fees.

3.1. Dentists licensed to practice dentistry in an active status in this State who desire to render dental 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. ~~Dentists licensed to practice dentistry in an active status in this State who desire to render professional services as a limited liability company shall also comply with the provisions of W. Va. Code §§30-4-4b and 30-4-4c.~~ The name of a limited liability company in the area of dentistry shall contain nothing but the name, which must include surnames of one, some or every member of the firm or partnership, except in a case where a city, town or municipality may be used when necessary to make a name unique with the Secretary of State's Office.

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 one 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 and an annual renewal fee as set forth in the Board's fee schedule 5CSR3.

3.4.a. The requirement of carry 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 of the company, by:

(1) the deposit in trust or in bank escrow of cash, bank certificates of deposit or United States treasury obligation; or

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

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, that person shall notify the Board in writing within twenty days from the date that he or she ceased to be a member of the 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 the professional limited liability company by the Board, if the Board determines that the professional limited liability company remains in compliance with all the provision of this rule.

§5-2-4. Approval and Authorization of Change of Name.

4.1. Any professional limited liability company seeking a name change shall submit a written request to the Board, along with the appropriate amending documents for approval, and appropriate fee as set forth by the Board's fee schedule 5CSR3. Once approved an authorization for the name change will be sent to the Secretary of State.

§5-2-45. Notification of Non-compliance, Cessation of Rendering Professional Services.

45.1. 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, and upon receipt of the written notice, the professional limited liability company shall cease rendering professional services in the State.

§5-2-56. Dentist - Patient Relationship.

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