

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

Form #2

Do Not Mark In This Box

FILED

2014 MAY 14 P 3:50

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Board of Dentistry 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: _____

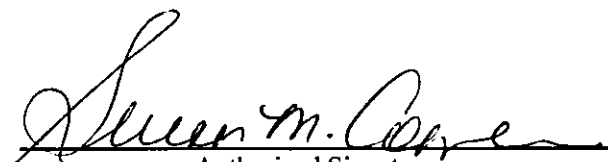
TITLE OF RULE BEING PROPOSED: _____

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 June 13, 2014 AT 1:00 pm ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

West Virginia Board of Dentistry

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 DENTISTRY**

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

The proposed amendments to this rule are in relation to amendments proposed in Series 1 of the Board's rules, which would lift the prohibition of trade names and allow for some trade names in the practice of dentistry.

STATEMENT OF CIRCUMSTANCES

CONCERNING A PROPOSED RULE

TITLE 5

LEGISLATIVE RULE

WEST VIRGINIA BOARD OF DENTISTRY

SERIES 2

FORMATION AND APPROVAL OF PROFESSIONAL

LIMITED LIABILITY COMPANIES

Recognizing the widespread use of trade names around the country, the Board wishes to put this rule forth for comments. The proposed amendments in this rule refers to series 1, which sets forth the allowance for the use of trade names following certain requirements.

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 Dentistry

Address: PO Box 1447
Crab Orchard, WV 25827

Phone Number: 304-252-8266 Email: wvbde@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 should have no impact on costs or 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			

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.

n/a

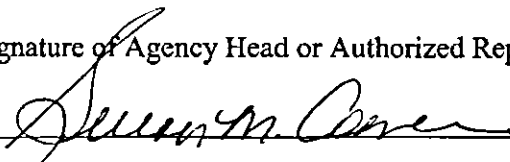
MEMORANDUM

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.

n/a

Date: 5/9/2014

Signature of Agency Head or Authorized Representative



**TITLE 5
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF 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 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. The name of a dental 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 comply with the rules concerning the practice of dentistry under trade name.

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.

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

5.1. 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.

§5-2-6. Dentist - Patient Relationship.

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