

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #4

**FILED**

JUL 20 10 10 AM '98

OFFICE OF THE SECRETARY OF STATE  
WEST VIRGINIA

**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

AGENCY: WV Board of Chiropractic TITLE NUMBER: 4

CITE AUTHORITY WV 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 & 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.

Conrad Skye 7-17-98

Authorized Signature

\$2.80

**TITLE 4  
LEGISLATIVE RULES  
WEST VIRGINIA BOARD OF CHIROPRACTIC EXAMINERS**

**SERIES 4  
FORMATION AND APPROVAL OF  
PROFESSIONAL LIMITED LIABILITY COMPANIES**

**§4-4-1. General.**

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

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

1.3. Filing Date. -- \_\_\_\_\_, 19\_\_

1.4. Effective Date. -- \_\_\_\_\_, 19\_\_

**§4-4-2. Definitions.**

2.1 Board. - The West Virginia Board of Chiropractic, established in W. Va. Code §30-16-4.

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 30-16-1 et seq., by Chiropractic Physicians.

**§4-4-3. Procedures for Formation and Approval of Professional Limited Liability Companies for Chiropractic Physicians. Fees.**

3.1 Chiropractic Physicians licensed to practice chiropractic in an active status in this State who desire to render chiropractic professional services as a limited liability company shall comply with the provisions of West Virginia Code §31B-1301 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 list of names of its 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 or an 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 managers or employees arising out of the performance of professional services to patients or clients of the company, by:

(1) Deposit in trust or in bank escrow of cash, bank certificates of deposit or United States treasury obligation; 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 chiropractic physicians licensed under the provisions of West Virginia Code §30-16-1 et seq. shall re-form and re-file pursuant to the provisions of West Virginia Code §31B-1301 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, they shall notify the Board in writing within twenty days that the person has 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, provided that the Board determines that the professional limited liability company remains in compliance with all the provisions of this rule.

**§4-4-4. 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, and upon

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

**§4-4-5 Chiropractic Physician-Patient Relationships.**

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



**WEST VIRGINIA LEGISLATURE**  
**Legislative Rule-Making Review Committee**

*State Capitol - Room MB-49*  
*Charleston, West Virginia 25305*  
*(304) 347-4840*

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

July 14, 1998

*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: Connie J. Skaggs  
WV Board of Chiropractic Examiners  
P.O. Box 153  
St. Albans, WV 25177

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Formation and Approval of Professional Limited Liability Companies, 4CSR4**

FILED  
JUL 15 10 13 AM '98  
OFFICE OF THE SECRETARY OF STATE  
WEST VIRGINIA

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   X
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. \_\_\_\_\_

July 14, 1998

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If the first page of this form indicates that your agency has agreed to modify the proposed rule in accordance with a motion adopted by the Committee, your agency should consult with the Committee's counsel on the preparation of the modifications. By **Thursday, July 23, 1998**, your agency must file **1 copy** of your modified rule with the Secretary of State's office and **10 copies** with the LRMRC.

**Please disregard this notice if you have already filed your final, modified rule.** Committee rules state that a copy of this letter must be on file for each agency filing a rule.

Very truly yours,

A handwritten signature in cursive script that reads "Teri Anderson".

Teri Anderson  
Administrative Assistant

LRMRC:tla

FILED  
DAG

ANALYSIS OF PROPOSED LEGISLATIVE RULES Jul 8 9 02 AM '98

Agency: Board of Chiropractic Examiners

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

Subject: Regulation of Chiropractic Practice, 4CSR4

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PERTINENT DATES

Filed for public comment: June 27, 1997  
Public comment period ended: July 31, 1997  
Filed following public comment period: August 6, 1997  
Filed LRMRC: August 6, 1997  
Filed as emergency:

Fiscal Impact: None

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 provides that licensed chiropractors may form professional limited liability companies. It requires a company to annually file a list of its members with a \$100 fee. It sets forth the statutory provisions regarding professional liability insurance. It also requires that the Board be notified when any person ceases to be a member of a limited liability company.

Section 4 provides that the Board is to provide written notification to a professional limited liability company that is not in compliance with the requirements of the rule that they are to cease rendering services.

Section 5 provides that the provisions of the proposed rule do not alter or affect the chiropractic patient relationship.

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**AUTHORITY**

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

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**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.