

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #3

Do Not Mark In This Box

FILED

2004 AUG 25 P 4: 16

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

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

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: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.


Authorized Signature

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: August 25, 2004

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Board of Dental Examiners
207 South Heber Street
Beckley, WV 25801

LEGISLATIVE RULE TITLE: Formation and Approval of Professional Limited Liability
Companies

1. Authorizing statute(s) citation 31B-13-1304

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 10, 2004

b. What other notice, including advertising, did you give of the hearing?
Comment Period Only - Noticed in the State Register, sent notification to all licensees by letter dated June 10, 2004, posted on our web site and notified the West Virginia Dental Association, West Virginia Dental Hygiene Association and West Virginia Dental Assistants Association by letter dated June 10, 2004.

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 12, 2004 4:00 p.m.

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received x

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

August 5, 2004

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

John F. Parkulo
West Virginia Board of Dental Examiners
207 South Heber Street
Beckley, WV 25801

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

same as item "f"

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

n/a Comment period only

b. Date of hearing or comment period:

Comment period ended July 12, 2004 at 4:00 p.m.

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

August 2, 2004

d. Attach findings and determinations and reasons:

Attached Yes

SUMMARY OF PROPOSED RULE

To change the language of the rules to allow a larger possible number of PLLC name possibilities while insuring the continued use of surnames and to remove the amount of fees and inserting fees as set forth in the Board's fee schedule.

STATEMENT OF CIRCUMSTANCES

To change the language of the rules to allow a larger possible number of PLLC name possibilities while insuring the continued use of surnames and to remove the amount of fees and inserting fees as set forth in the Board's fee schedule.

□
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Formation And Approval Of Professional Limited Liability Companies

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Board of Dental Examiners

Address: 207 South Heber Street

Beckley, WV 25801

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	none	none			
PERSONAL SERVICES	none	none			
CURRENT EXPENSE	none	none			
REPAIRS & ALTERATIONS	none	none			
EQUIPMENT	none	none			
OTHER	none	none			

2. Explanation of Above Estimates:

n/a

3. Objectives of These Rules:

see attachment

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:

none

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

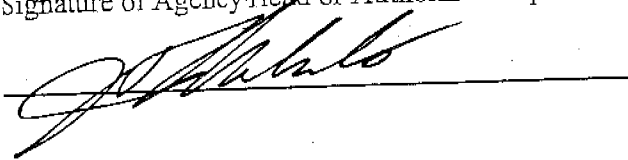
To change the language of the rules to allow a larger possible number of PLLC name possibilities while insuring the continued use of surnames and to remove the amount of fees and inserting fees as set forth in the Board's fee schedule.

C. Economic Impact on Citizens/Public at Large.

none

Date: 6-9-2004

Signature of Agency Head or Authorized Representative:



A handwritten signature in cursive script, appearing to read "J. M. White", is written over a horizontal line.

ATTACHMENT TO FISCAL NOTE

To change the language of the rules to allow a larger possible number of PLLC name possibilities while insuring the continued use of surnames and to remove the amount of fees and inserting fees as set forth in the Board's fee schedule.

TITLE 5
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF DENTAL EXAMINERS

FILED

SERIES 2
FORMATION AND APPROVAL OF PROFESSIONAL
LIMITED LIABILITY COMPANIES

2004 AUG 25 P 4: 16

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§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, 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 surname 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 of ~~\$200~~ and an annual renewal fee of ~~\$150~~ as set forth in the Board's fee schedule.

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. 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.

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

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

FINDINGS, DETERMINATIONS AND REASONS

The Board received no written comments during the comment period. Therefore, made no changes to the rule as initially filed.