

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

**FILED**

**MAY 12 10 37 AM '97**

Form #1

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF PUBLIC HEARING ON A PROPOSED RULE**

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

RULE TYPE: Legislative; CITE AUTHORITY 31B-13

AMENDMENT TO AN EXISTING RULE: YES \_\_\_ NO x

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 2

TITLE OF RULE BEING PROPOSED: Legislative Rule West Virginia Board of  
Dental Examiners

DATE OF PUBLIC HEARING: Thursday, June 26, 1997 TIME: 1:00 p.m.

LOCATION OF PUBLIC HEARING: West Virginia Board of Dental Examiners Office  
207 S. Heber Street  
Beckley, WV 25801

COMMENTS LIMITED TO: ORAL \_\_\_ , WRITTEN \_\_\_ , BOTH x

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: West Virginia Board of  
Dental Examiners

The Department requests that persons wishing to make  
comments at the hearing make an effort to submit written  
comments in order to facilitate the review of these comments.

PO Drawer 1459

Beckley, WV 25802-1459

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL



Authorized Signature  
Executive Secretary



Dr. Charles L. Lake  
President  
4511 Spring Hill Avenue  
S. Charleston, WV 25309

Mrs. Susan F. Lilly, R.D.H.  
Secretary  
297 Spring Valley Drive  
Berkeley Springs, WV 25411

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204 Echols Lane  
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James G. Anderson, III  
Executive Secretary  
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## West Virginia Board of Dental Examiners

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John C. Dixon, D.D.S.  
1961 Parkwood Road  
Charleston, WV 25314

Mrs. Lydia Winfrey  
112 Circle Drive  
Princeton, WV 24740

### SUMMARY OF THE PROPOSED RULE

Promulgation for implementation of 31B-13 et. seq. of procedures for the formation and approval of Professional Limited Liability Companies by the West Virginia Board of Dental Examiners for the dental profession.



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### STATEMENT OF CIRCUMSTANCES

Promulgation for implementation of 31B-13 et. seq. of procedures for the formation and approval of Professional Limited Liability Companies by the West Virginia Board of Dental Examiners for the dental profession.

**APPENDIX B**

**FISCAL NOTE FOR PROPOSED RULES**

**Rule Title:** Formation & Approval of Professional Limited Liability Companies

**Type of Rule:**  **Legislative**     **Interpretive**     **Procedural**

**Agency:** West Virginia Board of Dental Examiners

**Address:** 207 S. Heber Street  
PO Drawer 1459  
Beckley, WV 25802-1459

**1. Effect of Proposed Rule**    UNKNOWN

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<b>ESTIMATED TOTAL COST</b>	\$	\$	\$	\$	\$
<b>PERSONAL SERVICES</b>					
<b>CURRENT EXPENSE</b>					
<b>REPAIRS &amp; ALTERNATIONS</b>					
<b>EQUIPMENT</b>					
<b>OTHER</b>					

**2. Explanation of above estimates:**

Please note rule requires initial filing fee of \$200.00 and renewal fee of \$150.00 annually being the same as dental corporations. Since the Board handles dental corporations there will be no additional personnel, equipment, etc. and the above fees will cover additional time for processing.

**3. Objectives of these rules:**

Implementation of legislative requirement.

**Rule Title:** Formation & 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.**

None

**C. Economic Impact on Citizens/Public at Large.**

None

**Date:** May 9, 1997

**Signature of Agency Head or Authorized Representative**



James G. Anderson, III  
Executive Secretary

FILED

TITLE 5  
LEGISLATIVE RULE  
WEST VIRGINIA BOARD OF DENTAL EXAMINERS

MAY 12 10 37 AM '97

SERIES 2  
FORMATION AND APPROVAL OF PROFESSIONAL  
LIMITED LIABILITY COMPANIES

OFFICE OF 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 West Virginia 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 West Virginia Code §30-4-4b, §30-4-4c, and further that any such limited liability company in the area of dentistry shall contain nothing but the surname of every member of such firm or partnership.
- 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 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 \$200 and an annual renewal fee of \$150.
  - 3.4.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 managers or employees arising out of the performance of professional services to patients 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 blank letter of credit or 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 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, the Board shall be so notified in writing within twenty days thereafter that such person has ceased to be a member of such 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 provisions of this rule.

**§5-2-4. Notification of Non-compliance, Cessation of Rendering Professional Services.**

- 4.1. Should the Board determine 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 so notify the professional limited liability company in writing, and upon receipt of such written notice, said 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.