

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

Do Not Mark In this Box

FILED

APR 3 10 04 AM '98

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE.**

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

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: Series 2

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

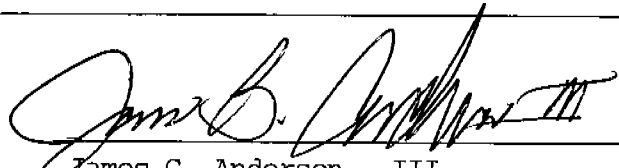
THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB 329

SECTION 64-9-7, PASSED ON March 14, 1998

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON

THE FOLLOWING DATE: April 13, 1998


James G. Anderson, III
Executive Secretary

\$2.80

TITLE 5
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF DENTAL EXAMINERS

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, 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 and §30-4-4c. The name of a limited liability company in the area of dentistry shall contain nothing but the surname of every member of the 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 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.
 - 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) 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 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, 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 provisions 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.

Senate Bill No. 279

5-2

1 (By Senator(s) Ross, Anderson, Bowman,
2 Macnaughtan, Boley and Buckalew)

3 [Introduced January 30, 1998; referred to the
4 Committee on the Judiciary.]

5
6
7
8
9

10 A BILL to amend and reenact section seven, article nine,
11 chapter sixty-four of the code of West Virginia, one
12 thousand nine hundred thirty-one, as amended, relating
13 to authorizing the board of dental examiners to
14 promulgate a legislative rule relating to the
15 formation and approval of professional limited
16 liability companies.

17 *Be it enacted by the Legislature of West Virginia:*

18 That section seven, article nine, chapter sixty-four
19 of the code of West Virginia, one thousand nine hundred
20 thirty-one, as amended, be amended and reenacted, to read
21 as follows:

22 **ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND**
23 **BOARDS TO PROMULGATE LEGISLATIVE RULES.**

1 §64-9-7. Board of dental examiners.

2 (a) The legislative rule filed in the state register
3 on the twenty-first day of June, one thousand nine hundred
4 ninety-six, under the authority of section four-a, article
5 four, chapter thirty of this code, modified by the board of
6 dental examiners to meet the objections of the legislative
7 rule-making review committee and refiled in the state
8 register on the twenty-third day of October, one thousand
9 nine hundred ninety-six, relating to the board of dental
10 examiners (rules for the West Virginia board of dental
11 examiners, 5 CSR 1), is authorized.

12 (b) The legislative rule filed in the state register
13 on the twenty-eighth day of July, one thousand nine hundred
14 ninety-seven, authorized under the authority of section one
15 thousand three hundred and four, article thirteen, chapter
16 thirty-one-b, of this code, modified by the board of dental
17 examiners to meet the objections of the legislative
18 rule-making review committee and refiled in the state
19 register on the twenty-first day of November, one thousand
20 nine hundred ninety-seven, relating to the board of dental
21 examiners (formation and approval of professional limited
22 liability companies, 5 CSR 2), is authorized.

23

1 NOTE: The purpose of this bill is to authorize the
2 Board of Dental Examiners to promulgate a legislative rule
3 relating to the Formation and Approval of Professional
4 Limited Liability Companies.

5
6 Strike-throughs indicate language that would be
7 stricken from the present law, and underscoring indicates
8 new language that would be added.

8517

5-2

H. B. 4153

1 Bill-Denta

(By Delegates Hunt, Linch, Compton, Jenkins,
Faircloth and Riggs)

2

3

[Introduced January 30, 1998; referred to the

4

Committee on the Judiciary.]

5

6

7

8

9

10 A BILL to amend and reenact section seven, article nine,
11 chapter sixty-four of the code of West Virginia, one
12 thousand nine hundred thirty-one, as amended, relating
13 to authorizing the board of dental examiners to
14 promulgate a legislative rule relating to the
15 formation and approval of professional limited
16 liability companies.

17 *Be it enacted by the Legislature of West Virginia:*

18 That section seven, article nine, chapter sixty-four
19 of the code of West Virginia, one thousand nine hundred
20 thirty-one, as amended, be amended and reenacted, to read
21 as follows:

22 **ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND**
23 **BOARDS TO PROMULGATE LEGISLATIVE RULES.**

4153

1 §64-9-7. Board of dental examiners.

2 (a) The legislative rule filed in the state register
3 on the twenty-first day of June, one thousand nine hundred
4 ninety-six, under the authority of section four-a, article
5 four, chapter thirty of this code, modified by the board of
6 dental examiners to meet the objections of the legislative
7 rule-making review committee and refiled in the state
8 register on the twenty-third day of October, one thousand
9 nine hundred ninety-six, relating to the board of dental
10 examiners (rules for the West Virginia board of dental
11 examiners, 5 CSR 1), is authorized.

12 (b) The legislative rule filed in the state register
13 on the twenty-eighth day of July, one thousand nine hundred
14 ninety-seven, authorized under the authority of section one
15 thousand three hundred and four, article thirteen, chapter
16 thirty-one-b, of this code, modified by the board of dental
17 examiners to meet the objections of the legislative
18 rule-making review committee and refiled in the state
19 register on the twenty-first day of November, one thousand
20 nine hundred ninety-seven, relating to the board of dental
21 examiners (formation and approval of professional limited
22 liability companies, 5 CSR 2), is authorized.

23

1 NOTE: The purpose of this bill is to authorize the
2 Board of Dental Examiners to promulgate a legislative rule
3 relating to the Formation and Approval of Professional
4 Limited Liability Companies.

5
6 Strike-throughs indicate language that would be
7 stricken from the present law, and underscoring indicates
8 new language that would be added.