



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia  
Secretary Of State

## NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Dentistry WV Board of

RULE TYPE: Legislative

TITLE-SERIES: 5-02

RULE NAME: Formation and Approval of Professional  
Limited Liability Companies

CITE AUTHORITY: §31B-13-1304

The above proposed Legislative rules, 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.

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

Yes

**Susan Combs -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**

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. -- ~~April 21, 2015.~~

1.4. Effective Date. -- ~~June 1, 2015.~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on August 1, 2032.

**§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~~ A dental professional limited liability company shall not have as a member anyone other than a person who is duly licensed by the Board 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 shall comply with the rules concerning the practice of dentistry under a 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 rule, Fees Established by the Board,~~ 5CSR3.

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 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 of the company, by:

3.4.a.1. the deposit in trust or in bank escrow of cash, bank certificates of deposit or United States treasury obligation; or

3.4.a.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 provisions 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 rule, Fees Established by the Board,~~ 5CSR3. Once approved the Board shall send 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. Once the Board determines a professional limited liability company is not in compliance and/or that its certificate of authorization is expired 60 days or more, the Board shall notify the Secretary of State that the professional limited liability company's certificate of authorization is no longer valid.

5.3. A professional limited liability company whose certificate is expired for 60 days or more may submit an application to reinstate its certificate of authorization on an application prescribed by the Board. The fee shall be in the amount of the renewal fee plus any applicable late fees as set forth in the Board's rule, Fees Established by the Board, 5CSR3.

5.4. The Board may approve an application to reinstate a certificate of authorization if the professional limited liability company comes into compliance with W. Va. Code §31B-13-1301 et seq., the Secretary of State's Office, and the provisions of this rule. The Board shall notify the Secretary of State of the reinstatement of a certificate of authorization.

5.5. If a professional limited liability company fails to adhere to W. Va. Code §31B-13-1301 et seq., and the provisions of this rule concerning the practice of dentistry of a dental professional limited liability company the Board may file a complaint and take possible disciplinary actions against the company and/or its licensee members.

**§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.