

# 11CSR 7

## TITLE 11 LEGISLATIVE RULE WEST VIRGINIA BOARD OF MEDICINE

### SERIES 7 FORMATION AND APPROVAL OF PROFESSIONAL LIMITED LIABILITY COMPANIES

#### **§11-7-1. General.**

1.1. Scope. -- This legislative rule addresses procedures for the formation and approval of professional limited liability companies for physicians, podiatrists, and others legally authorized to render the same or compatible professional services under W. Va. Code §31B-13-1301 et seq.

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

1.3. Filing Date. -- April 9, 2012.

1.4. Effective Date. -- May 1, 2012.

#### **§11-7-2. Definitions.**

2.1. "Board" means the West Virginia Board of Medicine, as provided for in W. Va. Code §30-3-1 et seq.

2.2. "Professional limited liability company" means a limited liability company organized under the provisions of the W. Va. Code, Chapter 31B, for the purpose of rendering a professional service.

2.3. Same or compatible professional services means services rendered by physicians, osteopathic physicians, and podiatrists.

#### **§11-7-3. Procedures for Formation and Approval of Professional Limited Liability Companies for Physicians and Podiatrists; Fees.**

3.1. Physicians licensed to practice medicine and surgery in an active status in this State may join together with those rendering the same or compatible services to render professional services as a limited liability company. They shall comply with the provisions of W. Va. Code §31B-13-1301 et seq. A professional limited liability company may not have as a member a person who is not legally authorized to render the professional services for which the professional limited liability company was organized.

3.2. Podiatrists licensed to practice podiatry in an active status in this State who desire to render professional services as a limited liability company shall comply with the provisions of W. Va. Code §31B-13-1301 et seq. Podiatrists may join together with those rendering the same or

## 11CSR 7

compatible services to render professional services as a limited liability company. A professional limited liability company may not have as a member a person who is not legally authorized to render the professional services for which the professional limited liability company was organized.

3.3. The name of a professional limited liability company shall contain the words "professional limited liability company" or the abbreviation "P.L.L.C.", "PLLC", "Professional LLC" or "Professional L.L.C."

3.4. A professional limited liability company shall file with the Board at the time of formation, the names of its one or more member(s), 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. Thereafter, every professional limited liability company on an annual basis on or before the first day of July, shall file with the Board the names of its member(s), and written documentation that the professional limited liability company carries at least one million dollars of professional limited liability insurance, together with an annual renewal fee of \$100.

3.4.a. The requirement under W. Va. Code §31B-13-1305 that a professional limited liability company 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 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.

3.5. 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. The Board shall approve every professional limited liability company in compliance with all the provisions of this rule, and every professional limited liability company remaining in compliance with this rule shall remain approved by the Board.

3.7. If a person ceases to be a member of a professional limited liability company, he or she shall notify the Board in writing within twenty days from that departure. A person ceasing to be a member of a professional limited liability company does 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.

## 11CSR 7

### **§11-7-4. 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 of its noncompliance and shall order the professional limited liability company to stop rendering professional services. Upon receipt of the written notice, the professional limited liability company shall cease rendering professional services.

### **§11-7-5. Physician-Patient and Podiatrist-Patient Relationship.**

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