WEST VIRGINIA CODE: §31B-13-1305

§31B-13-1305. Professional relationships not affected; liability for debts, etc., of limited liability company, its members, managers, employees and agents; individual liability.

(a) The provisions of this article shall not be construed to alter or affect the professional relationship between an individual furnishing professional services and a person receiving that service either with respect to liability arising out of that professional service or any confidential relationship between the individual rendering and the individual receiving the professional services, and all confidential relationships enjoyed under the laws of this state, whether now in existence, or hereafter enacted, shall remain inviolate.

(b) A member, manager, agent or employee of a professional limited liability company shall not, by reason of being a member, manager, agent or employee of a professional limited liability company, be personally liable for any debts or claims against, or the acts or omissions of the professional limited liability company or of another member, manager, agent or employee of the professional limited liability company.

(c) The professional limited liability company shall be liable for the acts or omissions of its members, managers, agents and employees to the same extent to which any other limited liability company would be liable for the acts or omissions of its members, managers, agents and employees while they are engaged in carrying on the professional limited liability company business.

(d) Notwithstanding any provision of this article to the contrary, any individual who renders a professional service as a member, manager, agent or employee of a professional limited liability company is liable for a negligent or wrongful act or omission in which the individual personally participated to the same extent as if the individual rendered the professional service as a sole practitioner.

(e) A professional limited liability company organized under this article shall carry at all times at least $1 million of professional liability insurance which shall insure the limited liability company and its members against liability imposed upon the company or any of its members arising out of the performance of professional services to patients or clients of the company by any of the members or professional or nonprofessional managers or employees of the limited liability company.

(f) If, in any proceeding, compliance by a professional limited liability company with the requirements of subsection (e) of this section is disputed, that issue shall be determined by the court, and the burden of proof of compliance shall be on the person who claims the limitation of liability set forth in subsection (b) of this section.

(g) If a professional limited liability company is in compliance with the requirements of

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subsection (e) of this section, the requirements of this section shall not be admissible or in any way be made known to a jury in determining an issue of liability for or extent of the obligation or damages in question.

(h) A professional limited liability company is considered to be in compliance with subsection (e) of this section if it provides $1 million of funds specifically designated and segregated for the satisfaction of judgments against the limited liability company, its members or any of its professional or nonprofessional managers or employees resulting from any of the types of claims covered by subsection (e) of this section, 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.

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