

## CHAPTER 13-FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPANIES

### 1301. DEFINITIONS

As used in this Code, unless the context otherwise requires, the term:

- (a) "Foreign professional service limited liability company" means a professional service limited liability company, whether or not denominated as such, organized under the laws of a jurisdiction other than the Nation, (i) each of whose members and managers, if any, is a professional authorized by law to render a professional service within the Nation and who is or has been engaged in the practice of such profession in such professional service limited liability company or a predecessor entity, or will engage in the practice of such profession in the professional service limited liability company within thirty days of the date such professional becomes a member, or each of whose members and managers, if any, is a professional at least one of such members is authorized by law to render a professional service within the Nation and who is or has been engaged in the practice of such profession in such professional service limited liability company or predecessor entity, or will engage in the practice of such profession in the professional service limited liability company within thirty days of the date such professional becomes a member, or (ii) authorized by, or holding a license, certificate, registration or permit issued by the licensing authority to render a professional service within the Nation; except that all members and managers, if any, of a foreign professional service limited liability company that provides health services in the Nation shall be licensed in the Nation. With respect to a foreign professional service limited liability company which provides veterinary services, each member of such foreign professional service limited liability company shall be licensed to practice veterinary medicine. With respect to a foreign professional service limited liability company which provides medical services, each member of such foreign professional service limited liability company must be licensed to practice medicine in the Nation. With respect to a foreign professional service limited liability company which provides dental services, each member of such foreign professional service limited liability company must be licensed to practice dentistry in the Nation. With respect to a foreign professional service limited liability company which provides professional engineering, land surveying, architectural and/or landscape architectural services, each member of such foreign professional service limited liability company must be licensed to practice one or more of such professions in the Nation.
- (b) "Licensing authority" means, for the purposes of this Code, the State of New York.
- (c) "Profession" includes any practice as any attorney and counselor-at-law, or as a licensed physician, and those professions designated in title eight of the New York education law.
- (d) "Professional" means an individual duly authorized to practice a profession, a professional service corporation, a professional service limited liability company, a foreign professional

service limited liability company, a registered limited liability partnership, a foreign limited liability partnership, a foreign professional service corporation or a professional partnership.

- (e) "Professional service" means any type of service to the public that may be lawfully rendered by a member of a profession within the purview of his or her profession.
- (f) "Professional partnership" means (1) a partnership without limited partners each of whose partners is a professional authorized by law to render a professional service within the Nation, (2) a partnership without limited partners each of whose partners is a professional, at least one of whom is authorized by law to render a professional service within the Nation or (3) a partnership without limited partners authorized by, or holding a license, certificate, registration or permit issued by the licensing authority pursuant to the New York education law to render a professional service within the Nation; except that all partners of a professional partnership that provides medical services in the Nation must be licensed to practice medicine in the Nation and all partners of a professional partnership that provides dental services in the Nation must be licensed to practice dentistry in the Nation; and further except that all partners of a professional partnership that provides professional engineering, land surveying, architectural, and/or landscape architectural services in the Nation must be licensed to practice one or more of such professions.
- (g) "Professional service limited liability company" means a limited liability company organized under this Code.

### **1302. RENDERING OF PROFESSIONAL SERVICE**

- (a) No foreign professional service limited liability company may render a professional service in the Nation except through individuals authorized by law to render such professional service as individuals in the Nation.
- (b) Each final plan and report made or issued by a foreign professional service limited liability company practicing professional engineering, architecture, landscape architecture or land surveying shall bear the name and seal of one or more professional engineers, architects, landscape architects, or land surveyors, respectively, who are in responsible charge of such plan or report.
- (c) Each report, diagnosis, prognosis and prescription made or issued by a foreign professional service limited liability company practicing medicine, dentistry, podiatry, optometry, ophthalmic dispensing, veterinary medicine, pharmacy, nursing, psychology, physical therapy or chiropractic shall bear the signature of one or more physicians, dentists, podiatrists, optometrists, ophthalmic dispensers, veterinarians, pharmacists, nurses, licensed psychologists, physical therapists or chiropractors, respectively, who are in responsible charge of such report, diagnosis, prognosis or prescription.
- (d) Each record, transcript, report and hearing report prepared by a foreign professional service

limited liability company practicing certified shorthand reporting shall bear the signature of one or more certified shorthand reporters who are in responsible charge of such record, transcript, report or hearing report.

- (e) Each report and statement prepared by a foreign professional service limited liability company practicing public accounting or certified public accounting shall bear the signature of one or more public accountants or certified public accountants, respectively, who are in responsible charge of such report or statement.
- (f) Each opinion prepared by a foreign professional service limited liability company practicing law shall bear the signature of one or more attorneys and counselors-at-law who are in responsible charge of such opinion.
- (g) In addition to the requirements in subdivision (b) through (f) of this section, each document prepared by a foreign professional service limited liability company that under the rules, regulations, laws or customs of the applicable profession is required to bear the signature of an individual in responsible charge of such document, shall be signed by one or more such individuals licensed to practice in the Nation.

### **1303. PROFESSIONAL RELATIONSHIPS AND LIABILITIES**

- (a) Each member, manager, employee or agent of a foreign professional service limited liability company who performs professional services in the Nation on behalf of such limited liability company shall be personally and fully liable and accountable for any negligent or wrongful act or misconduct committed by him or her or by any person under his or her direct supervision and control while rendering such professional services in the Nation and shall bear professional responsibility for compliance by such limited liability company with all laws, rules and regulations governing the practice of a profession in the Nation.
- (b) Each shareholder, director, officer, employee, member, manager, partner or agent of a professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership or professional partnership that is a member, manager, employee or agent of a foreign professional service limited liability company who performs professional services in the Nation on behalf of such foreign professional service limited liability company shall be personally and fully liable and accountable for any negligent or wrongful act or misconduct committed by him or her or by any person under his or her direct supervision and control while rendering professional services in the Nation in his or her capacity as a member, manager, employee or agent of such foreign professional service limited liability company and shall bear professional responsibility for compliance by such limited liability company with all laws, rules and regulations governing the practice of the profession in the Nation.
- (c) The relationship of a professional to a foreign professional service limited liability company

with which such professional is associated, whether as a member, manager, employee or agent, shall not modify or diminish the jurisdiction over such professional of the licensing authority and in the case of an attorney and counselor-at-law or a professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership, engaged in the practice of law, the Oneida Nation Court.

#### **1304. FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY**

No foreign professional service limited liability company shall engage in any profession or carry on, or conduct or transact any other business or activities in the Nation other than the rendering of the professional services or the carrying on, or conducting or transacting of any other business or activities for which it is formed and is authorized to do business in the Nation; provided that such limited liability company may invest its funds in real estate, mortgages, stocks, bonds or any other type of investments; provided, further, that a foreign professional service limited liability company (i) authorized to practice law may only engage in another profession or other business or activities in the Nation or (ii) which is engaged in a profession or other business or activities other than law, may only engage in the practice of law in the Nation, to the extent not prohibited by any other law of the Nation or any rule adopted by the Oneida Nation Court.

#### **1305. LIMITED LIABILITY COMPANY ACT APPLICABLE**

Except for the provisions of sections eight hundred two and eight hundred nine of this Code, this Code shall be applicable to a foreign professional service limited liability company to the extent that the provisions thereof are not in conflict with the provisions of this Code. A foreign professional service limited liability company may practice in the Nation or may consolidate or merge with another limited liability company or other business entity, only if all of the professions practiced by such limited liability company or other business entity could be practiced by a single professional service limited liability company organized in the Nation.

#### **1306. FILING REQUIREMENTS**

(a) A foreign professional service limited liability company may apply for authority to do business in the Nation. An application entitled "Application for authority...(name of limited liability company) under section thirteen hundred six of the Limited Liability Company Code," shall be signed and verified by an authorized person for the limited liability company and delivered to the Nation Clerk. It shall set forth:

- (1) the name of the foreign professional service limited liability company. If the name does not end with the words "Professional Limited Liability Company" or "Limited Liability Company" or the abbreviation "P.L.L.C.", "PLLC", "L.L.C.", or "LLC", it shall in addition to the foregoing set forth the name to be used in the Nation, ending with the words "Professional Limited Liability Company" or "Limited Liability

Company" or the abbreviation "P.L.L.C.", "PLLC", "L.L.C.", or "LLC";

- (2) the jurisdiction and date of its formation;
- (3) a statement of the profession or professions to be practiced in the Nation and a statement that the foreign professional service limited liability company is authorized to practice such profession or professions in the jurisdiction of its formation;
- (4) the name, address and, where applicable, license number of each professional within the foreign professional service limited liability company who is licensed to practice the profession or professions in the Nation;
- (5) the address where its office is to be located;
- (6) a designation of the Nation Clerk as its agent upon whom process against it may be served and the post office address within or without the Nation to which the Nation Clerk shall mail a copy of any process against it served upon him or her; and
- (7) if it is to have a registered agent, his or her name and address within the Nation and a statement that the registered agent is to be its agent upon whom process against it may be served.

(b) Attached to the application for authority shall be:

- (1) a certificate by an authorized officer of the jurisdiction of its formation that the foreign professional service limited liability company is an existing limited liability company;
- (2) a certificate or certificates issued by the licensing authority that each professional within such limited liability company who is an individual and intending to practice the profession or professions in the Nation is licensed to practice said profession or professions in the Nation and for each such professional that is a professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership, (A) such certificate or certificates issued by the licensing authority shall certify either (i) that each such professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership intending to practice a profession in the Nation is authorized by law to practice in the Nation the profession that such foreign limited liability company intends to practice in the Nation and, if applicable, that each shareholder, member or partner of such proposed member or manager is authorized by law to render the professional service that such foreign limited liability company intends to practice in the Nation or (ii) that one or more of such professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership,

foreign limited liability partnership or professional partnership, intending to practice a profession in the Nation is authorized by law to practice in the Nation the profession that such foreign limited liability company intends to practice and that one or more of the shareholders, members or partners of such proposed members or managers are authorized to practice within the Nation each profession that such foreign limited liability company will be authorized to practice within the Nation and (B) there shall be attached to the application for authority a certificate by an authorized officer of the jurisdiction of its formation that the professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership or foreign limited liability partnership is validly existing and, in the case of a foreign professional service limited liability company or foreign limited liability partnership, a certificate from the Nation Clerk that such foreign professional service limited liability company or foreign limited liability partnership is authorized to do business under the laws of the Nation; and

- (3) a certificate or certificates, issued by the licensing authority in the case of a foreign professional service limited liability company providing health services, stating that each member or manager of the foreign professional service limited liability company is licensed to practice said profession in the Nation.

- (c) The fee for filing the application for authority shall be two hundred dollars, payable to the Nation Clerk.

### **1308. REGULATION OF PROFESSIONS**

- (a) A foreign professional service limited liability company, other than a foreign professional service limited liability company authorized to practice law, shall be under the supervision of the Nation Clerk and be subject to disciplinary proceedings and penalties, and its authority to do business shall be subject to suspension, revocation or annulment for cause.
- (b) A foreign professional service limited liability company authorized to practice law shall be subject to the regulation and control of, and its authority to do business shall be subject to suspension, revocation or annulment for cause by the Oneida Nation Court.

### **1309. LICENSING OF INDIVIDUALS**

No member, manager or employee of a foreign professional service limited liability company who is an individual shall practice his or her profession in the Nation unless such individual is duly licensed to practice such profession in the Nation.