

**WHY NURSE PRACTITIONERS CHOOSE  
A PLLC WHEN FORMING A CLNIC**

Nancy Lee Nelson, J.D., MPH, BAN  
Michael J. Weber, J.D.  
Weber & Nelson Law Office, PLLC  
Minneapolis, Minnesota

---

---

---

---

---

---

---

---

**OBJECTIVES**

- Describe why a nurse practitioner may choose a PLLC rather than an LLC as it relates to the Corporate Practice of Medicine Doctrine.
- Describe three benefits of a PLLC/LLC.
- Identify two ways a PLLC/LLC can lose liability protection.
- Explain the rationale of a business plan and an operating agreement.
- List two of the four taxation choices of a PLLC/LLC.
- List resources for a new NP Clinic.

---

---

---

---

---

---

---

---

**Professional Limited Liability Companies  
are Created by State Law**

Uniform Law Commission ("ULC")  
National Conference of Commissioners on Uniform State Laws  
**The Uniform Limited Liability Company Act 1994**  
The Revised Uniform Limited Liability Company Act 1996 &  
2006  
(Last Amended 2013)

---

---

---

---

---

---

---

---

**Twenty States have Enacted the ULC's LLC Act**

Arizona (2018) Pennsylvania (2017)  
 Illinois (2016) Connecticut (2016) North Dakota (2015)  
 Vermont (2015) Idaho (2015) Washington (2015)  
 Alabama (2014) Minnesota (2014) South Dakota (2013)  
 Florida (2013) New Jersey (2012) California (2012)  
 District of Columbia (2011) Utah (2011) Nebraska (2010)  
 Wyoming (2010) Iowa (2008) Idaho (2008)

South Carolina (2019) is working on enacting the ULC's LLC Act.

---

---

---

---

---

---

---

---

**STATES THAT ALLOW NPs FULL PRACTICE**

Washington State Oregon Idaho  
 Montana Wyoming Nevada Colorado  
 Arizona New Mexico  
 North Dakota South Dakota Nebraska,  
 Minnesota Iowa  
 Maine New Hampshire Connecticut  
 Vermont Rhode Island,  
 Maryland Washington, D.C.

**21 States**

---

---

---

---

---

---

---

---

**STATES WITH REDUCED PRACTICE FOR NPs**

Utah Kansas  
 Wisconsin Illinois Indiana  
 Kentucky Ohio  
 West Virginia Pennsylvania New York  
 New Jersey Delaware  
 Arkansas Mississippi Alabama Louisiana

**16 States**

---

---

---

---

---

---

---

---

**STATES WITH RESTRICTED PRACTICE FOR NPs**

Michigan Massachusetts  
California Texas Oklahoma  
Missouri Tennessee Virginia  
North Carolina South Carolina Georgia  
Florida

12 States

---

---

---

---

---

---

---

---

**American Association of Nurse Practitioners**

Map showing State and Categories of either 1) Full practice by an NP, or 2) Reduced practice by an NP, or 3) Restricted practice by an NP.  
<https://www.aanp.org/advocacy/state/state-practice-environment>

More Detailed NP practice information is available by clicking on the state on the above map. Simply Click "on" your state to learn more legal details regarding nurse practitioner practice.

---

---

---

---

---

---

---

---

**Forming a PLLC by a Nurse Practitioner  
Requires Knowledge of these State Statutes**

Limited Liability Company Act

Professional Firms Act

Nurse Practice Act

---

---

---

---

---

---

---

---

**Professional Limited Liability Companies  
and the  
Corporate Practice of Medicine Doctrine**

Tied to Physician Licensing Laws  
Expanded to other health professionals

Protects the public from commercial exploitation of health care  
professionals who make treatment decisions for patients.

Prevents a negative influence on medical treatment

The doctrine can prevent non-health professionals from owning or  
operating a business where health professionals make treatment decisions.

---

---

---

---

---

---

---

---

**Corporate Practice of Medicine**

*Isles Wellness Inc. v. Progressive Northern Insurance Co.,  
Allstate Indemnity Company.*

Whether operating a chiropractic clinic in violation of the  
Corporate Practice of Medicine voids all contracts between the  
client and its patients' insurers as a matter of public policy

Since Isle Wellness did not intentionally violate the laws of  
Minnesota, the contracts in this case were not void since there  
was a lack of clarity related to chiropractors and whether the  
Corporate Practice of Medicine applied to chiropractors

---

---

---

---

---

---

---

---

**Corporate Practice of Medicine**

*Allstate Insurance Company vs. Northfield Medical Center*

The New Jersey High Court unanimously reinstated an  
insurance company's fraud claims and \$4 million dollar  
verdict against a management company, its owner the their  
attorney for knowingly violating the Corporate Practice laws.  
The court held that the practice's failure to comply with the  
statute meant the practice failed to satisfy a "necessary  
precondition to a valid insurance claim.

---

---

---

---

---

---

---

---

**Corporate Practice of Medicine**

*Andrew Carothers, M.D.P.C.*  
vs.  
*Progressive Insurance Company.*

A New York appellate Court found a medical practice failed to comply with the state's corporate practice laws by funneling profits to non health professionals and cut costs at the expense of quality patient care. For that reason, the court treated the payments as fraudulent.

---

---

---

---

---

---

---

---

**BENEFITS OF A PLLC/LLC**

- Lower Start-up Costs
- Ease of Formation, Operation and Administration
- Fewer Regulatory Filings
- Less Paper Work

---

---

---

---

---

---

---

---

**BENEFITS OF PLLC/LLC continued . . .**

- Limited Liability Protection
- Pass-through Taxation Treatment
- Not liable for your small business debt

---

---

---

---

---

---

---

---

**RISKS TO LIMITED LIABILITY PROTECTION**

- 1. Your own malpractice or tort
- 2. Personal Guarantee of a loan
- 3. Piercing the PLLC/LLC Veil

---

---

---

---

---

---

---

**Piercing the PLLC/LLC Veil**

- Intermingling Corporate Funds and  
Personal funds of the Members
- Corporate and/or Member Fraud
- Undercapitalization

---

---

---

---

---

---

---

**PIERCING THE PLLC/LLC VEIL**

- Failure to keep records such as financial  
transactions between members and the LLC/PLLC
- Any activities that lead a court to believe the  
LLC/PLLC is not materially distinct from its members

---

---

---

---

---

---

---

**RATIONALE FOR A BUSINESS PLAN**

"If you fail to plan, you are planning to fail." Benjamin Franklin

Your Business Plan may attract investors.  
A Business Plan is a Strategic Tool for your PLLC to Succeed

Outlines the steps needed to succeed

Includes and helps achieve short and long term goals & objectives

Can help to provide a cohesive presentation to funders  
Raise \$\$

---

---

---

---

---

---

---

---

**The Business Plan includes:**

- Executive Summary
- Vision and goals
- Company description
- Services offered
- Marketing Plan
- Operational Plan
- Management and Organization
- Structure and Capitalization
- Financial Plan

---

---

---

---

---

---

---

---

**RATIONALE FOR AN OPERATING AGREEMENT**

Without an Operating Agreement, your business will be governed by default rules in state statutes.

If there is no agreed upon Operating Agreement, the members may battle in court since how things are done can be disputed.

Allows you to conduct business in the way that fits best for your PLLC/LLC.

Protects your PLLC/LLC limited liability status including personal liability.

Provides a foundation based on agreement among members.

---

---

---

---

---

---

---

---

**THE OPERATING AGREEMENT**

Describes the operations and management of the LLC  
Sets forth the agreements among the members related to:

- Rights, Responsibilities & Disputes
- How Profits are Divided and When distributed
  - Expenses
- Selling a member's Interest
  - Dissolution of the LLC
  - Death of a member

---

---

---

---

---

---

---

---

**IRS Treatment of PLLCs**

If you have a PLLC/LLC and do not elect your federal tax treatment the IRS decides for you:

1. A single-member PLLC/LLC: Sole Proprietorship  
(Disregarded Entity: The PLLC/LLC's existence is disregarded (PLLC/LLC is one with the member))
2. Multiple Member PLLC/LLC: Partnerships

STATES VARY IN THEIR TAX TREATMENT

---

---

---

---

---

---

---

---

**TAX ADVANTAGES OF A PLLC/LLC**

CHOICES ON HOW YOU ARE TAXED BY THE IRS:

- Sole Proprietorship
- Partnership
- C Corporation (Form 8832)
- S Corporation (Form 2553)

State Income taxes may vary among states so check your state taxes. Having a good tax attorney can be very helpful.

---

---

---

---

---

---

---

---



**(IRS) PASS THROUGH ENTITY**

The income from the entity is allocated among the members.

- The taxes are levied at the individual member's share.
- All profits and losses pass through the LLC to the members.
- Profits and Losses are reported on the member's taxes.
- The LLC does not pay federal income taxes.

---

---

---

---

---

---

---

**TAX ELECTION**

Election of a C Corporation generally will increase taxes.

Election of an S corporation can result in tax savings.

Profits from S-corporations are not subject to self-employment tax. However, to save money revenues have to high enough that profits remain after paying employee shareholders a required reasonable compensation.

---

---

---

---

---

---

---

**NEEDED RESOURCES FOR A PLLC**

- Attorney
- Tax Professional
- Insurance Agent
- Billing Company
- Marketing Professional
- IT Professional

---

---

---

---

---

---

---

**NEEDED RESOURCES FOR A PLLC**

- American Association of Nurse Practitioners (“AANP”)
- Small Business Association (“SBA”)
- Association of Women’s Business Centers
- Mentors: Consult with other Nurse Practitioners, who have a clinic
- Online Articles, Books, etc.

---

---

---

---

---

---

---