

The NEW Nevada Professional Limited Liability Company (PLLC)
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In 2007, the Nevada legislature authorized the use of Professional Limited Liability Companies (PLLC) for professionals, such as physicians. Prior to 2007, professionals were restricted to using Professional Corporations (PC).

The PLLC is superior to the PC in several ways. First, it offers much more flexibility in operation and management than a PC. There is no Board of Directors or officers of a PLLC. Rather, the PLLC is managed by one or more managers. There are no formalities in operating a PLLC, such as annual meetings with minutes of the Board of Directors and Shareholders.

Another key feature of the LLC is that profits and losses can be distributed in a non pro-rata fashion. That is, compensation arrangements between members may be based on something other than percentage of ownership – perhaps something like percentage of profits derived from a member would be one way to structure the arrangement.

PLLCs have another distinct advantage over PCs in the area of liability protection. If a shareholder of a PC is sued by a third party and loses, the shares of the PC may be attached in order to satisfy the judgment. This could result in a foreclosure of the shareholder's interest and sale of assets held by the PC to settle the claim. In Nevada, however, a creditor's only remedy against a PLLC interest is a "charging order." A charging order is an order from a court served on the Manager of a PLLC directing the Manager to make distributions to the creditor of any amounts that will be distributed to the member. If the Manager chooses not to make a distribution to the member, then the creditor receives nothing. It is possible that the creditor could actually end up reporting income it never receives and being subject to taxes on that income. In 2007 the Nevada legislature extended the charging order remedy to shareholders of corporations, but made an exception for shareholders of PCs, thus leaving those shareholders exposed.

A PLLC can be formed by one or more professionals and the membership interests are restricted only to members of that profession, similar to the shareholder rules for PCs. PLLCs are generally taxed as a partnership, which means they are pass-through entities which do not pay income tax at the entity level. A single member LLC is generally a disregarded entity for income tax purposes and will report its income and expenses on Schedule C of the member's 1040.

A PLLC can also elect to be taxed as a corporation and then elect to be taxed as a subchapter "S" corporation. This feature allow for a tax-exempt reorganization of PCs currently taxed as "S" corporations to PLLCs taxed as "S" corporations. Physicians should give serious consideration to either organizing their practices in the PLLC form or re-organizing their practices into the PLLC form to take advantage of this change in the law.