



## STATE OF WISCONSIN

Department of Safety and Professional Services  
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**Governor Scott Walker      Secretary Dave Ross**

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**OPTOMETRY EXAMINING BOARD  
TELECONFERENCE  
Room 121A, 1400 E. Washington Avenue, Madison  
Contact: Angela Hellenbrand 608-266-2112  
September 30, 2013**

*The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a record of the actions and deliberations of the Board.*

**9:00 A.M.**

**OPEN SESSION – CALL TO ORDER – ROLL CALL**

**A. Adoption of Agenda**

**B. Administrative and Legislative Rule Matters – Discussion and Consideration**

- 1) Adoption of Clearinghouse Rule 13-017 amending Opt. 5.02 relating to lens prescriptions **(3-8)**
- 2) Approval of Scope Statement to amend Opt. 2, 5, 6 relating to updating Board and profession practices **(9-12)**

**C. Public Comments**

**ADJOURNMENT**

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**State of Wisconsin  
Department of Safety & Professional Services**

**AGENDA REQUEST FORM**

1) Name and Title of Person Submitting the Request:  <b>Sharon Henes</b> <b>Administrative Rules Coordinator</b>		2) Date When Request Submitted: <i>20 September 2013</i>	
		Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before the meeting for all others</li> </ul>	
3) Name of Board, Committee, Council, Sections: Optometry Examining Board			
4) Meeting Date:  <b>30 Sept 2013</b>	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? <b>Adoption of Clearinghouse Rule 13-017 amending Opt 5.02 relating to lens prescriptions.</b>	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by _____ (name)  <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:  Adopt Clearinghouse Rule 13-017			
11) Authorization			
<i>Sharon Henes</i>		<i>20 September 2013</i>	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

STATE OF WISCONSIN  
OPTOMETRY EXAMINING BOARD

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IN THE MATTER OF RULE-MAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	OPTOMETRY EXAMINING BOARD
OPTOMETRY EXAMINING BOARD	:	ADOPTING RULES
	:	CLEARINGHOUSE RULE 13-017

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ORDER

An order of the Optometry Examining Board to amend Opt 5.02(4) relating to lens prescription.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:** § 449.08, Wis. Stats.

**Statutory authority:** § 15.08(5)(b)

**Explanation of agency authority:** Each examining board shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or professional.

**Related statute or rule:** Opt 5

**Plain language analysis:**

Modification of the definition for lens prescription would provide clarity and create a consistency between lens prescriptions and contact lens prescriptions. Health care entities are increasingly utilizing electronic prescriptions and signatures as a way to improve patient safety, and control costs.

**Summary of, and comparison with, existing or proposed federal regulation:** None

**Comparison with rules in adjacent states:**

**Illinois:** In Illinois no ophthalmic lenses, prisms or contact lenses may be sold or delivered to an individual without a prescription signed by a licensed optometrist or a physician licensed to practice medicine in all of its branches. It does not specifically address electronic prescription.

**Iowa:** In Iowa a person shall not dispense or adapt an ophthalmic spectacle lens or lenses without first receiving authorization to do so by a written, electronic or facsimile prescription from a person licensed as an optometrist or physician.

**Michigan:** Michigan optometry statutes and rules do not have a definition of an optometrist prescription.

**Minnesota:** Minnesota requires prescriptions furnished to the patient to be signed by the examining optometrist. It does not specify whether the prescription may be electronic.

**Summary of factual data and analytical methodologies:**

The Optometry Examining Board reviewed their rules with the goal of reducing the burden on small business while continuing to ensure public safety. The Board recognized the efficiencies and accuracy which could be obtained with electronic lens prescriptions. The allowance of electronic lens prescriptions brings the rule in line with contact lens prescriptions.

This rule change was highlighted in the SBRRB's 2013 Wisconsin Regulatory Review Report. As noted in the report, thousands of patients will be able to enjoy the increased speed and accuracy of electronic prescriptions for eyeglasses.

**Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:**

This rule was posted for public comment on the economic impact of the proposed rule, including how this proposed rule may affect businesses, local government units and individuals, for a period of 14 days. No comments were received relating to the economic impact of the rule.

**Fiscal Estimate and Economic Impact Analysis:**

The Fiscal Estimate and Economic Impact Analysis is attached.

**Effect on small business:**

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at [Greg.Gasper@wisconsin.gov](mailto:Greg.Gasper@wisconsin.gov), or by calling (608) 266-8608.

**Agency contact person:**

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone (608) 261-2377; email at [Sharon.Henes@wisconsin.gov](mailto:Sharon.Henes@wisconsin.gov).

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TEXT OF RULE  
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SECTION 1. Opt 5.02(4) is amended to read:

**Opt 5.02(4)** “Lens prescription” means a written or electronic order that contains the specifications for ophthalmic materials for a particular patient for the purpose of treating the refractive or functional abilities of the visual system or the enhancement of visual performance.

SECTION 2. EFFECTIVE DATE. This rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

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(END OF TEXT OF RULE)  
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Dated \_\_\_\_\_

Agency \_\_\_\_\_

Member of the Board  
Optometry Examining Board

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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1. Type of Estimate and Analysis

Original    Updated    Corrected

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2. Administrative Rule Chapter, Title and Number

Opt 5.02(4)

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3. Subject

Relating to lens prescription

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4. Fund Sources Affected

GPR    FED    PRO    PRS    SEG    SEG-S

5. Chapter 20, Stats. Appropriations Affected

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6. Fiscal Effect of Implementing the Rule

No Fiscal Effect    Increase Existing Revenues    Increase Costs  
 Indeterminate    Decrease Existing Revenues    Could Absorb Within Agency's Budget  
 Decrease Cost

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7. The Rule Will Impact the Following (Check All That Apply)

State's Economy    Specific Businesses/Sectors  
 Local Government Units    Public Utility Rate Payers  
 Small Businesses (if checked, complete Attachment A)

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8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes    No

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9. Policy Problem Addressed by the Rule

The current definition for lens prescription states a "written order" which could be interpreted to not allow for an electronic signature. A contact lens prescription does not have the requirement of "written order" and requires a signature. Modification of the current definition for lens prescription would provide clarity and create a consistency between lens prescriptions and contact lens prescriptions.

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10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

This rule was posted for 14 days for economic impact comments and none were received.

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11. Identify the local governmental units that participated in the development of this EIA.

None. This rule does not affect local governmental units.

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12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

This rule will not have an economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units or the state's economy as a whole.

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13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The benefit to the proposed rule is bring the rules for lens prescriptions in line with contact lens prescriptions. Health care entities are increasingly utilizing electronic prescriptions and signatures as a way to improve patient safety, inefficiencies and control costs. With this change, thousands of patients will be able to enjoy the increased speed and accuracy of electronic prescriptions for eyeglasses.

The alternative is to continue to have different requirements for a lens prescription and a contact lens prescription.

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14. Long Range Implications of Implementing the Rule

The long range implication is increased patient safety and efficiencies.

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15. Compare With Approaches Being Used by Federal Government

None

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**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

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16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)  
Iowa allows electronic prescriptions. Illinois and Minnesota laws do not specify whether a prescription may be electronic. Michigan does not appear to have a definition of an optometrist prescription.

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17. Contact Name Sharon Henes	18. Contact Phone Number (608) 261-2377
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This document can be made available in alternate formats to individuals with disabilities upon request.

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# STATEMENT OF SCOPE

## Optometry Examining Board

Rule No.: Opt 2, 5, 6

Relating to: Updating board and profession practices

Rule Type: Permanent

**1. Finding/nature of emergency (Emergency Rule only):**

N/A

**2. Detailed description of the objective of the proposed rule:**

The Optometry Examining Board reviewed their rules per Executive Order #61. The Board proposes to update the chapter on organization of the Board as well as update unprofessional conduct and the use of diagnostic and therapeutic pharmaceutical agents and removal of superficial foreign bodies from an eye chapters to reflect current standards and practices.

**3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

Currently the Board is required to use the latest copyright of Robert's Rules of Order to conduct business. The Board also has antiquated procedures for membership in international association of boards and payment of fees for delegates.

In addition, the Board would like to modify Opt 5.11 and Opt 6 to reflect current practices in an effort to reduce the burden on business and remove outdated standards.

**4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

§ 15.08(5)(b) Each examining board: shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.

**5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

75 hours

**6. List with description of all entities that may be affected by the proposed rule:**

Board members, licensees, and consumers

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

None

**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

There is minimal or no economic impact of implementing this rule and is not likely to have a significant economic impact on small businesses.

**Contact Person:** Sharon Henes, Administrative Rules Coordinator, (608) 261-2377

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Chair Signature

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Date Submitted

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