

STATE OF WISCONSIN
OPTOMETRY EXAMINING BOARD

IN THE MATTER OF RULEMAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : OPTOMETRY EXAMINING BOARD
OPTOMETRY EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 23-040)

ORDER

An order of the Optometry Examining Board to **amend** Opt 8.02 (1), (1m), and (3s), and to **create** Opt 8.02 (1s), relating to continuing education.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 448.40 (1), Stats.

Statutory authority: ss. 15.08 (5) (b) and 449.06 (2m), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides each examining board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains. . .”

Section 449.06 (2m), Stats., provides that “the examining board shall promulgate rules requiring a person who is issued a license to practice optometry to complete, during the 2–year period immediately preceding the renewal date specified in s. 440.08(2)(a), not less than 30 hours of continuing education. The rules shall include requirements that apply only to optometrists who are allowed to use topical ocular diagnostic pharmaceutical agents under s. 449.17 or who are allowed to use therapeutic pharmaceutical agents or remove foreign bodies from an eye or from an appendage to the eye under s. 449.18.”

Related statute or rule: None.

Plain language analysis:

The board is updating the continuing education requirements in order to clarify the number of in person continuing education hours required to renew an optometry license. Additionally, the continuing education requirements are also being reviewed and updated to create clarity and ensure required topics reflect the current practice of optometry, which takes into consideration if the licensee holds a DEA registration and does not prescribe controlled substances.

On July 11, 2024, the Joint Committee for Review of Administrative Rules (JCRAR) indefinitely objected to part of CR 23-040 in Section 1 that amends s. Opt 8.02 (1) by adding the sentence “a licensee may elect to complete 1 of the 30 hours related to cultural competency or diversity training.” Consequently, the Optometry Examining Board has removed that provision.

Summary of, and comparison with, existing or proposed federal regulation:

N/A

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule:

N/A

Comparison with rules in adjacent states:

Illinois: Rules of the Illinois Department of Financial and Professional Regulation establish continuing requirements for optometrists licensed in Illinois. [68 Ill. Adm. Code 1320.80]. Currently, the State of Illinois does not require licensed optometrists to complete cultural competency or DEI continuing education requirements.

Iowa: Rules of the Iowa Board of Optometry establish continuing education requirements for optometrists licensed in Iowa [645 IAC 181.1 – 181.111]. Currently, the State of Iowa does not require licensed optometrists to complete cultural competency or DEI continuing education requirement.

Michigan: Rules of the Michigan Board of Optometry establish continuing medical education requirements for optometrists licensed in Michigan [Mich Admin Code, R 338.319 to R 338.323]. Currently, the State of Michigan does not currently require licensed optometrists to complete cultural competency or DEI continuing education requirements.

Minnesota: Rules of the Minnesota Board of Optometry establish continuing education requirements for optometrists licensed in Minnesota [Minnesota Rules, Chapter 6500.3000]. Currently, the State of Minnesota does not currently require licensed optometrists to complete cultural competency or DEI continuing education requirements.

Summary of factual data and analytical methodologies:

The proposed rules were developed by obtaining input and feedback from the Optometry Board with additional information from the Association of Schools and Colleges of Optometry (ASCO).

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

The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis are 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 Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-6795.

Agency contact person:

Jacob Pelegrin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. Opt 8.02 (1) and (1m) are amended to read:

Opt. 8.02 (1) A licensee shall complete 30 hours of approved continuing education in each biennial registration period. ~~A minimum of 20 of the 30 hours shall relate to ocular health, conditions, or disease management.~~

Opt 8.02 (1m) ~~During the biennial registration period commencing December 15, 2019 and ending December 14, 2021, unless~~ Each biennium, except as provided in sub. (1s), and unless granted a hardship waiver in accordance with sub. (3m), the 30 required hours of continuing education shall include ~~2 hours~~ 1 hour on the topic of responsible prescribing of controlled substances.

SECTION 2. Opt 8.02 (1s) is created to read:

Opt 8.02 (1s) The board shall provide an exemption to any licensee under sub. (1m) if the optometrist does not hold a DEA registration and does not prescribe controlled substances.

SECTION 3. Opt 8.02 (3s) is amended to read:

Opt 8.02 (3s) An optometrist who by the renewal date has been licensed for one year or less from the date issued shall not be required to report continuing education for the first

renewal of the license. An optometrist who by the renewal date holds a license for more than one year and less than 2 years shall be required to report 15 hours of approved continuing education for the first renewal of the license. A minimum of 10 of the 15 hours shall be attended in person.

SECTION 4. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

Dated 7/23/2024

Agency .



Optometry Examining Board