

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 25-027)

ORDER

An order of the Optometry Examining Board to **repeal** Opt 1.02 (5) (i) and 5.02 (2); and to **create** Opt 1.02 (5) (h) 4. relating to Definitions.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Sections 449.01 (1) (a) 2. a. and 449.01 (2), Stats.

Statutory authority: Sections 15.08 (5) (b) and 227.11 (2) (a), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats. provides that each examining board “[s]hall 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.”

Section 227.11 (2) (a), Stats. provides that “Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.”

Related statute or rule:

None.

Plain language analysis:

In chapter Opt 5, the quality standards for ophthalmic lenses in Opt 5.11 and the disclosure requirements on extended-wear contact lenses in Opt 5.14 were removed by a previous rule. However, the definition of extended-wear contact lenses was left in Opt 5. This rule removes this obsolete definition. In chapter Opt 1, the definition of a minimum eye examination for the fitting of contact lenses includes a requirement to inform the patient of the risks if contact lenses are prescribed for extended wear. This rule removes

that requirement and creates a new requirement to counsel the patient on the risks of wearing contact lenses during sleep.

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

None.

Comparison with rules in adjacent states:

Illinois:

Rules of the Illinois Department of Financial and Professional Regulation regulate the practice of optometry [68 Ill. Adm. Code 1320.100]. This section regulates the prescribing and fitting of any ophthalmic lenses including contact lenses. However, no part of the Illinois optometry code specifically mentions extended-wear contact lenses.

Iowa:

Rules of the Iowa Board of Optometry regulate the furnishing of prescriptions to patients [645 IAC 181.3 (154)]. This section provides requirements for the eye examination, for the lenses, and for the prescription. However, no part of the Iowa optometry code specifically mentions extended-wear contact lenses.

Michigan:

Michigan laws regulate the prescribing of contact lenses [MCL 333.5553 to 333.5559]. They provide the regulations optometrists need to follow for prescribing and eye examination. However, they don't specifically mention extended-wear contact lenses.

Minnesota:

Minnesota statutes regulate ophthalmic services and ophthalmic goods provided by optometrists [Minnesota Statutes, 145.711 to 145.714]. They regulate eye examinations, fittings, and products provided. However, they don't specifically mention extended-wear contact lenses.

Summary of factual data and analytical methodologies:

The proposed rules were developed by the Board reviewing the current definitions in chapters Opt 1 and 5 and deciding what changes were necessary.

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 at Jennifer.Garrett@wisconsin.gov or (608) 266-2112.

Agency contact person:

Jake 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 1.02 (5) (h) 4. is created to read:

Opt 1.02 (5) (h) 4. The potential risks or complications of wearing contact lenses during sleep.

SECTION 2. Opt 1.02 (5) (i) is repealed.

SECTION 3. Opt 5.02 (2) is repealed.

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 10-07-2025

Lisa L. Slaby, O.D.

Chairperson
Optometry Examining Board