

STATE OF WISCONSIN
OPTOMETRY EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	NOTICE OF TIME PERIOD
PROCEEDINGS BEFORE THE	:	FOR COMMENTS FOR THE
OPTOMETRY EXAMINING BOARD	:	ECONOMIC IMPACT ANALYSIS

NOTICE IS HEREBY GIVEN of the time period for public comment on the economic impact of this proposed rule of the Optometry Examining Board relating to Definitions, including how this proposed rule may affect businesses, local government units and individuals. The comments will be considered when the Department of Safety and Professional Services prepares the Economic Impact Analysis pursuant to § 227.137. Written comments may be submitted to:

Jake Pelegrin, Administrative Rules Coordinator
Division of Policy Development
Department of Safety and Professional Services
PO Box 8366
Madison, WI 53708-8935
DSPSAdminRules@wisconsin.gov

The deadline for submitting economic impact comments is March 14, 2025.

PROPOSED 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 will be 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.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis will be attached upon completion.

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.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Jake Pelegrin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing to be included in the record of rule-making proceedings.

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)
