

Report From Agency

**STATE OF WISCONSIN
OPTOMETRY EXAMINING BOARD**

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
OPTOMETRY EXAMINING BOARD : CR 19-033
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I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

n/a

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

Optometrists licensed after 2006 have the authority under chapter 449 to prescribe controlled substances and remove foreign bodies from an eye or from an appendage to the eye. Under section 449.04 (2), Stats., applicants are required to be tested on, “knowledge regarding general and ocular pharmacology as it relates to optometry with particular emphasis on the use of topical ocular diagnostic pharmaceutical agents and therapeutic pharmaceutical agents, including the treatment of adverse reactions to such pharmaceutical agents, and knowledge regarding the removal of foreign bodies from an eye or from an appendage to the eye.” The TMOD embedded questions in Part II of the NBEO are an essential component of evaluating applicants’ preparation for practicing optometry competently in the State of Wisconsin. Optometrists licensed before 2006 are required to pass the TMOD exam or its equivalent prior to being granted a therapeutic pharmaceutical agent (TPA) certificate, which provides the authority to prescribe controlled substances and remove foreign bodies from an eye or from an appendage to the eye.

Thus, this rule project will ensure that the administrative rules are compliant with statute. For new applicants, applicants for licensure by endorsement who were licensed after 1996, and for those who are submitting a late renewal, the rules identifying qualifying exams need to be updated to clarify that passage of the TMOD is required, in accordance with the statutorily-defined minimum standards.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD’S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Optometry Examining Board held a public hearing on May 30, 2019. The following people either testified at the hearing, or submitted written comments:

- In favor: Peter Theo, Wisconsin Optometric Association

The Optometry Examining Board made no modifications to its rule-making proposal prompted by public comments.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment: 5.b.

Response: Reject.

Due to the various requirements included in ch. Opt 6 for prescribing pharmaceutical agents, providing a broader reference gives notice to the applicant that additional requirements might be necessary and where to look to find them. Providing a more specific reference could potentially mislead the applicant depending on their circumstances. Additionally, since ch. Opt 6 is under a full revision, any more specific cross-reference would be inaccurate once the revised Opt 6 becomes effective.

All of the remaining recommendations suggested in the Clearinghouse Report have been accepted in whole.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

n/a