

STATEMENT OF SCOPE

Optometry Examining Board

Rule No.: Opt 3, 4, 6, and 7

Relating to: Examination on the Treatment and Management of Ocular Disease

Rule Type: Both Permanent and Emergency

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

The Optometry Examining Board requires that license applicants pass Parts I, II, and III of the National Board of Examiners in Optometry (NBEO) examination. Part II of the NBEO has an embedded portion on the Treatment and Management of Ocular Disease (TMOD). The TMOD questions, “test 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,” in accordance with s. 449.04 (2), Stats. Therapeutic pharmaceutical agents include opioids, under s. 961.39, Stats. However, the passing score of Part II is determined as an overall score, so that applicants can fail the TMOD embedded questions yet pass Part II of the examination. The Board needs to amend the administrative rules for the health, safety, and welfare of the people of Wisconsin to clarify that applicants need to pass the TMOD portion as part of Part II.

If the administrative rules are not amended to require that new applicants have passed the TMOD portion, there will be licensed Optometrists who are authorized to prescribe therapeutic pharmaceutical agents, including opioids, who failed the TMOD questions on the board examination.

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

The objective of the rule project is to update the administrative rules to clarify a passing score on the NBEO examination to ensure that new licensees have successfully completed Parts I, II, and III including the embedded TMOD. For new applicants, applicants for licensure by endorsement, 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 for licensure.

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:

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 are an essential component of evaluating new 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 and consistent for all licensees.

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

Section 15.08 (5) (b), Stats., states that the 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.”

Section 227.11 (2) (b), Stats., sets forth the parameters of an agency’s rule-making authority, stating an agency, “may prescribe forms and procedures in connection with any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute, but this paragraph does not authorize the imposition of a substantive requirement in connection with a form or procedure.”

Section 449.04 (1) (c), Stats., requires that a, “person passes an examination approved or conducted by the examining board” in order to be granted a license. Subsection (2) states, “the examining board may do any of the following:

- (a) Prepare, administer, and grade the examination.
- (b) Approve in whole or in part an examination prepared, administered, and graded by the national board of examiners in optometry or another examination provider approved by the examining board.
- (c) Approve and administer an examination prepared and graded by or under the direction of the national board of examiners in optometry or another examination provider approved by the examining board.”

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

The Department estimates approximately 80 hours will be needed to perform the review and develop any rule changes. The Department will assign existing staff to perform the review and develop the rule changes. No additional resources will be required.

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

Applicants for licensure by exam, by endorsement, for TPA certificates, and late renewal.

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):

The rule changes contemplated in this project are not expected to have any negative economic impacts on any of the affected entities.

Contact Person:

Helen Leong, Administrative Rules Coordinator
Division of Policy Development, Department of Safety and Professional Services
(608) 266 – 0797 DSPSAdminRules@wisconsin.gov