

STATE OF WISCONSIN
OPTOMETRY EXAMINING BOARD

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : OPTOMETRY EXAMINING BOARD
OPTOMETRY EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 18-021)

ORDER

An order of the Optometry Examining Board to repeal Opt 8.02 (4), (8), (9) and (10); to amend Opt 8.02 (1), (2), and (3); to repeal and recreate Opt 8.03 and 8.03 (Note); and to create Opt 8.01 (4), Opt 8.02 (1m), (3e), (3m), and (3s), relating to continuing education.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 449.06 (2m), Stats.

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

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides examining boards, “shall 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...”

Related statute or rule:

None.

Plain language analysis:

Section 1 adds a definition of “hour” to clarify how to calculate continuing education events for the purposes of this chapter.

Section 2 modifies the designated continuing education topics from 7 hours of glaucoma education to 20 of the 30 hours relating to ocular health, conditions, or disease management. This change expands the subject matter designation on the available topics of continuing education for licencees.

Section 3 requires that licensees obtain two hours of continuing education related to responsible prescribing of controlled substances for the 2019/2021 biennium.

Section 4 clarifies that licensees who are not authorized to use diagnostic and therapeutic agents may not use continuing education courses on the removal of superficial foreign bodies from an eye or from an appendage to the eye to satisfy the minimum of 20 of 30 continuing education hours on ocular health, conditions, or disease management requirement.

Section 5 creates three new sections for Opt 8.02. Section Opt 8.02 (3e) provides that at least 20 hours must be completed in person, allowing for an increase from the previous rule to 10 hours which may be completed by alternative methods. Any course which is not in person must be approved by the Council on Optometric Practitioner Education (COPE), Joint Accreditation for Interprofessional Continuing Education, or by the Board. Section Opt 8.02 (3m) allows for additional hours to be completed by methods other than in person for cases of hardship. Section Opt 8.02 (3s) provides a clearer standard of what continuing education is required for a new licensee's first renewal.

Section 6 repeals provisions relating to topics which have been clarified by new provisions in this rule project. The revision in Section 2 eliminates the need for Section Opt 8.02 (4). Section Opt 8.02 (3s) simplifies the repealed Section Opt 8.02 (8), which required licensees who are licensed in the middle of a biennium to prorate their continuing education. Lastly, Sections Opt 8.02 (9) and (10), related to alternative delivery methods are repealed as the topic is now addressed in Section Opt 8.02 (3e).

Section 7 lists the organizations which provide approved continuing education. If a continuing education course is provided by an organization not on the approved list then the organization can apply for approval by supplying the listed information. The provider also agrees to provide a certificate of attendance to each participant. A Note is included with information on how to obtain the form referenced in Opt 8.03 (2).

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

None.

Comparison with rules in adjacent states:

Illinois: Illinois requires 30 hours of continuing education every two years. At least 12 hours of credit shall be certified by an approved optometry college, osteopathic or medical college, or pharmacy college. The remaining continuing education may be earned through papers published, teaching students at an optometry school, and self-instruction or video teleconferencing that is sponsored by any approved optometry college, institution or national or state optometry association. A program sponsor requesting approval shall submit an application with a list of all courses and programs offered, including a description, location, date, and time the course is offered. There are no specific continuing education requirements on prescribing controlled substances.

Iowa: Iowa requires 50 hours of continuing education every two years. Only 10 hours of credit is allowed for correspondence or local study group programs. There is also a limit on the number of credit hours in the following topics: practice management courses (limit of 6 hours); dependent adult abuse and child abuse identification (limit of 2 hours) and postgraduate study courses (limit of 20 hours). Continuing education may be taken through programs sponsored by COPE, associations, and optometry schools. There are no specific continuing education requirements on prescribing controlled substances.

Michigan: Michigan requires 40 hours of continuing education every two years. A licensee who holds a certification to administer topical ocular diagnostic pharmaceutical agents or certification to administer and prescribe therapeutic pharmaceutical agents or both shall complete 20 hours of board approved continuing education in pharmacological management of ocular conditions. Approved continuing education includes courses approved by COPE or other continuing education programs that are approved by the Board. A program sponsor requesting approval shall submit an application with the clinical optometry program content, instructor credentials, description of delivery method and of physical facilities used, number of lecture hours on the content, and attendance monitoring plan. Beginning with the 2018 renewal cycle, and all renewal cycles thereafter, licensees are required to complete 2 hours of board approved continuing education in pain and symptom management.

Minnesota: Minnesota requires 40 continuing education credits every two years. Licensees may acquire up to 15 hours through home study, up to 6 hours on practice management, and up to 7 by providing medical eye care and eyeglasses helping underserved people. Licensees may also obtain continuing education credits for presentation of a lecture or for preparation of articles or books accepted for publication. A program sponsor requesting approval from the Board must submit a program, schedule and course description to the Board. There are no specific continuing education requirements on prescribing controlled substances. However, the Board may, when compelled by an emerging public health issue, require all optometrists to attend specified subjects of continuing education for a biennium.

Summary of factual data and analytical methodologies:

The Optometry Examining Board reviewed and updated the rule. A public hearing was held on May 31, 2018. Following the public hearing, on May 31, 2018, the Board moved unanimously to further amend Opt 8 to require all licensees to obtain two hours of continuing education on the topic of responsible prescribing of controlled substances for the 2019/2021 biennium and to sunset the requirement after the end of the 2019/2021 biennium. At the June 18, 2018 meeting, the Board moved to hold a second public hearing on the amendments to the rule made after the first public hearing. A second public hearing was held on January 24, 2019.

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 is 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 Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Helen Leong, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-2112; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. Opt 8.01 (4) is created to read:

(4) "Hour" means a minimum of 50 minutes of lecture.

SECTION 2. Opt 8.02 (title) and (1) are amended to read:

Opt 8.02 Continuing education requirements. (1) A licensee shall complete 30 hours of approved continuing education in each biennial registration period. A minimum of 7 ~~20~~ of the 30 hours shall ~~be approved glaucoma education. relate to ocular health,~~ relate to ocular health, conditions, or disease management.

SECTION 3. Opt 8.02 (1m) is created to read:

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

SECTION 4. Opt 8.02 (2) and (3) are amended to read:

(2) ~~Except as provided in sub. (4), approved~~ A minimum of 20 of the 30 hours of approved continuing education hours, as specified in sub. (1), required for optometrists

who are allowed to use diagnostic and therapeutic pharmaceutical agents shall relate to ~~the diagnosis and management of eye disease~~ ocular health, conditions, or disease management, or the removal of superficial foreign bodies from an eye or from an appendage to the eye.

~~(3) Except as provided in sub. (4), approved~~ A minimum of 20 of the 30 hours of approved continuing education hours, as specified in sub. (1), required for optometrists who are not allowed to use diagnostic and therapeutic pharmaceutical agents shall relate to ~~the diagnosis and management of eye disease~~ ocular health, conditions, or disease management.

SECTION 5. Opt 8.02 (3e), (3m), and (3s) are created to read:

(3e) At least 20 of the 30 hours of approved continuing education required under sub. (1) shall be completed by attending programs in person. Any programs not completed in person shall be COPE or Joint Accreditation for Interprofessional Continuing Education™ approved programs, in accordance with s. Opt 8.03 (1) (a), or programs approved under s. Opt 8.03 (2).

(3m) In cases of hardship, a licensee may apply to the board for any of the following:

(a) Approval of less than the 20 hours of in person continuing education required under sub. (3e).

(b) Approval of a continuing education program under s. Opt 8.03 (2).

(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.

SECTION 6. Opt 8.02 (4), (8), (9) and (10) are repealed.

SECTION 7. Opt 8.03 and Opt 8.03 (Note) are repealed and recreated to read:

Opt 8.03 Continuing education approval. (1) The board shall accept the following in satisfaction of continuing education for each biennium:

(a) Any continuing education program approved by COPE or Joint Accreditation for Interprofessional Continuing Education™.

(b) Any in person continuing education program relevant to the practice of optometry provided by one of the following organizations:

1. Wisconsin Optometric Association.
2. American Optometric Association.

3. American Academy of Optometry.
4. Optometric Extension Program Foundation.
5. Neuro-Optometric Rehabilitation Association.
6. College of Optometrists in Vision Development.
7. A school or college of optometry accredited by the Accreditation Council on Optometric Education.

(2) The board may approve a continuing education program not accepted under sub. (1). To apply for approval of a continuing education program, a provider shall submit to the board an application on forms provided by the department at least 30 days prior to the program. An application filed under this subsection or s. Opt 8.02 (3e) or (3m) (b) shall include all of the following:

- (a) Title of the program.
- (b) Date of the program.
- (c) General description and timed outline of the program.
- (d) Name and qualifications of the instructor.
- (e) Sponsoring organization of the program.
- (f) Category of the program relevant to the practice of optometry.
- (g) Approved number of continuing education program hours requested.
- (h) Delivery method of the program.

(3) The provider of the continuing education program under sub. (1) (b) or (2) agrees to monitor the attendance and furnish a certificate of attendance to each participant. The certificate of attendance shall certify successful completion of the program.

(4) In cases of hardship under s. Opt 8.02 (3m), the board may waive any requirement under this section or s. Opt 8.02 (3e) as deemed appropriate by the board.

Note: Application forms for continuing education program approval are available on the department's website at dps.wi.gov, or by request from the Department of Safety and Professional Services, P.O. Box 8366, Madison, Wisconsin 53708, or call (608) 266-2112.

SECTION 8. EFFECTIVE DATE. The rules adopted in this order shall take effect on December 15, 2019.

 (END OF TEXT OF RULE)

Dated _____

Agency _____

Chair
 Optometry Examining Board