

STATEMENT OF SCOPE

Optometry Examining Board

Rule No.: Opt 5

Relating to: Unprofessional conduct

Rule Type: Permanent

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

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

The Board has determined that a revision of Opt 5 is necessary to ensure the requirements are current with standards of care and practice standards. Specifically, the Board will consider Opt 5.14, relating to disclosure requirements on extended wear contact lenses, and Opt 5.11, which mandates that licensees verify that ophthalmic lenses meet technical standards. The Board will undertake a comprehensive review to potentially update the identified provisions and the chapter to ensure consistency and clarity for licensees.

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:

The Board would like to review the quality standards for ophthalmic lenses referenced in Opt 5.11 and the disclosure requirements in Opt 5.14 to ensure that the administrative rules are reflective of the current practice of optometry and adequately protects patients. The Board will take action to review and potentially update the identified provisions and further review the chapter to ensure it is current with standards of care and practice standards.

This review will ensure that licensees have clear guidance on the requirements for professional conduct.

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) (a), Stats., sets forth the parameters of an agency’s rule-making authority, stating an 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.”

Section 449.25, Stats., provides that the examining board shall promulgate rules relating to informed consent, stating that, “[a]ny optometrist who treats a patient shall inform the patient about the availability of reasonable alternate modes of treatment and about the benefits and risks of these treatments...”

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 :

Licensed optometrists and their patients.

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.

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