



PROPOSED RULE MAKING

CR-102 (July 2022) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: June 02, 2023

TIME: 3:33 PM

WSR 23-12-063

Agency: Department of Health

Original Notice

Supplemental Notice to WSR

Continuance of WSR

Preproposal Statement of Inquiry was filed as WSR 23-01-097 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: WAC 246-824-075 Continuing education requirements for dispensing opticians. The Department of Health (department) is proposing rule amendments to include health equity continuing education (CE) to implement Engrossed Substitute Senate Bill 5229 (chapter 276, Laws of 2021).

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
July 17, 2023	12:30pm	The Department of Health will be holding a virtual only hearing. Register in advance for this webinar: https://us02web.zoom.us/webinar/register/WN_JHDA-rojTf2iekDOHH3Mhw After registering, you will receive a confirmation email containing information about joining the webinar.	During this time the Department of Health will be conducting three rules hearings. The department will be accepting verbal comments for the following professions regarding health equity continuing education: WAC 246-824-075 Dispensing Opticians WAC 246-825-110 Genetic Counselors WAC 246-850-140 Orthotics and Prosthetics

Date of intended adoption: 07/24/2023 (Note: This is NOT the effective date)

Submit written comments to:

Name: Kristina Bell, Program Manager

Address: Department of Health

PO Box 47852

Olympia, WA 98504-7852

Email: <https://fortress.wa.gov/doh/policyreview>

Fax: 360-236-2901

Other:

By 07/17/2023

Assistance for persons with disabilities:

Contact: Kristina Bell, Program Manager

Phone: 360-236-4841

Fax: 360-236-2901

TTY: 711

Email: Kristina.bell@doh.wa.gov

Other:

By 06/30/2023

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

RCW 43.70.613(3)(b) directs the rule-making authority for each health profession licensed under Title 18 RCW subject to continuing education to adopt rules requiring a licensee to complete health equity continuing education training at least once

every four years. The statute also directs the department to create model rules establishing the minimum standards for health equity CE programs. The department adopted model rules for health equity CE minimum standards on November 23, 2022, under WSR 22-24-002. Any rules developed for dispensing opticians must meet or exceed the minimum standards in the model rules found at WAC 246-12-800 through 246-12-830.

The department is proposing to amend WAC 246-824-075 to include two hours of CE in health equity every four years for dispensing opticians. The proposal also establishes enforceable credentialing requirements and safety mechanisms for patients receiving dispensing optician services.

Reasons supporting proposal: The goal of health equity CE training is to equip health care workers with the skills to recognize and reduce health inequities in their daily work. The content of health equity trainings includes implicit bias training to identify strategies to reduce bias during assessment and diagnosis in an effort to address structural factors, such as bias, racism, and poverty, that manifest as health inequities.

Engrossed Substitute Senate Bill 5229 (ESSB 5229) (Chapter 276, Laws 2021), codified as RCW 43.70.613, directs the rule-making authority for each health profession licensed under Title 18 RCW, subject to continuing education (CE), to adopt rules requiring a licensee to complete health equity continuing education training at least once every four years. The statute also directs the department to establish model rules creating minimum standards for health equity CE training programs.

Rulemaking is necessary to achieve the statute's goals and objectives by providing updated requirements that are clear, concise, and necessary to ensure patient safety. Rulemaking establishes enforceable credentialing requirements and safety mechanisms for patients receiving dispensing optician services.

Statutory authority for adoption: RCW 18.34.120, RCW 43.70.613, RCW 43.70.040, RCW 18.130.040

Statute being implemented: RCW 43.70.613(1)

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Type of proponent: Private Public Governmental

Name of proponent: (person or organization) Department of Health

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting: Kristina Bell, Program Manager	111 Israel Rd SE Tumwater, WA 98501	360.236.4841
Implementation: Kristina Bell, Program Manager	111 Israel Rd SE Tumwater, WA 98501	360.236.4841
Enforcement: Kristina Bell, Program Manager	111 Israel Rd SE Tumwater, WA 98501	360.236.4841

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name: Kristina Bell, Program Manager

Address: Department of Health

PO Box 47852-7852

Olympia, WA 98507
Phone: 360-236-4841
Fax: 360-236-2901
TTY: 711
Email: Krisitna.bell@doh.wa.gov
Other:

No: Please explain:

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:

[RCW 34.05.310](#) (4)(b)
(Internal government operations)

[RCW 34.05.310](#) (4)(e)
(Dictated by statute)

[RCW 34.05.310](#) (4)(c)
(Incorporation by reference)

[RCW 34.05.310](#) (4)(f)
(Set or adjust fees)

[RCW 34.05.310](#) (4)(d)
(Correct or clarify language)

[RCW 34.05.310](#) (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#) (does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: *Check one.*

The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.

The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):

The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:

Fax:
TTY:
Email:
Other:

Date: June 2, 2023

Name: Kristin Peterson, JD for Umair A. Shah, MD, MPH

Title: Chief of Policy for Secretary of Health

Signature:

A handwritten signature in cursive script that reads "Kristin Peterson". The signature is written in black ink on a white background.

WAC 246-824-075 Continuing education requirements for dispensing opticians. Purpose and scope. The purpose of continuing education is to ensure the continued high quality of services provided by licensed dispensing opticians. Continuing education consists of programs of learning which contribute directly to the advancement or enhancement of skills in the field of opticianry, designed to keep the licensed dispensing opticians informed of current and forecasted developments in a rapidly changing field.

(1) Basic requirements. Licensed dispensing opticians whose three-year continuing education reporting cycle begins on or after June 1, 2015, must complete ~~((thirty))~~ 30 hours of continuing education every three years ~~((as required in chapter 246-12 WAC, Part 7))~~ according to the requirements in WAC 246-12-170 through 246-12-240. Of the ~~((thirty))~~ 30 hours every three years:

(a) A minimum of five hours must be completed in each of the three years;

(b) At least ~~((fifteen))~~ 15 of the credit hours must relate to contact lenses.

(2) Approved continuing education courses may be completed through the following methods or activities:

(a) Attendance at a local state or national program;

(b) Self-study through distance learning;

(c) Electronically through webinar or video presentations.

(3) Courses offered by the following organizations are presumed to qualify as continuing education courses. The secretary reserves the right to refuse to accept credits in any course if the secretary determines that the course did not provide information sufficient in amount or relevancy to opticianry:

(a) American Board of Opticianry;

(b) National Academy of Opticianry;

(c) Optical Laboratories Association;

(d) National Contact Lens Examiners;

(e) Contact Lens Society of America;

(f) Opticians Association of Washington;

(g) Joint Commission of Allied Health

Personnel in Ophthalmology;

(h) Council on Optometric Practitioner Education;

(i) Opticianry colleges or universities approved by the secretary;

(j) Speakers sponsored by any of the above organizations;

(k) Any state or national opticianry association; and

(l) Additional qualifying organizations or associations as approved by the secretary.

(4) Dispensing opticians must complete a minimum of two hours in health equity continuing education training every four years by complying with WAC 246-12-800 through 246-12-830.

(a) This training must be completed by the end of the second full continuing education reporting period after January 1, 2024, or the second full continuing education reporting period after initial licensure, whichever is later.

(b) The hours spent completing health equity continuing education under this section count toward meeting applicable continuing education requirements in this section.