



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: July 31, 2023

TIME: 3:46 PM

WSR 23-16-109

Agency: Department of Health – Board of Optometry

[X] Original Notice

[] Supplemental Notice to WSR

[] Continuance of WSR

[X] Preproposal Statement of Inquiry was filed as WSR 21-24-102 ; 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: The Board of Optometry (board) is proposing several rule changes regarding the variety of course types and adjusting hourly limits for continuing education (CE) for licensed optometrists in WAC 246-851-090, 246-851-125, 246-851-140, 246-851-150, 246-851-155, 246-851-170, and 246-851-230.

Hearing location(s)

Date: 09/08/2023

Time: 9:00:am

Physical Location: Labor & Industries
7273 Linderson Way S.W., Room S119
Tumwater, WA 98501

Comment:

Link to virtual meeting:

https://teams.microsoft.com//meetup-join/19%3ameeting_ODQ3NzA2NDEtNDI5Yi00ZTYyLThiODctMmVkMDU3ZmE2OTkx%40thread.v2/0?context=%7b%22id%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%22oid%22%3a%22b0a413cc-861e-438f-ad33-52df6d9a4283%22%7dMicrosoft Teams meeting Join on your computer, mobile app or room device Join the meeting Meeting ID: 286 469 743 295 Passcode: BLEXQT Download Teams | Join on the Web Or call in (audio only) +1 564-999-2000,,893212425# United States, Olympia 833) 322-1218,,893212425# United States (Toll-free) Phone Conference ID: 893 212 425#

Date of intended adoption: 09/08/2023 (Note: This is NOT the effective date)

Submit written comments to:

Name: Kristina Bell, Program Manager
Address: Department of Health

Assistance for persons with disabilities:

Contact: Kristina Bell, Program Manager
Phone: 360-236-4841

PO Box 47852
Olympia, WA 98504-7852

Email: <https://fortress.wa.gov/doh/policyreview>
Fax: 360-236-2901
Other:
By: 08/28/2023

Fax: 360-236-2901
TTY: 711
Email: Kristina.bell@doh.wa.gov
Other:
By: 08/28/2023

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposal would clarify and expand access to CE courses required for an optometrist's licensure renewal. This includes new definitions, adjusting limits on types and categories allowable for CE, references to other required trainings, and certain allowances during a declared state of emergency.

Reasons supporting proposal: The board's intent is to keep a robust standard while increasing access and flexibility for the continuing education rules. During the declared emergency for the coronavirus disease 2019 (COVID-19) pandemic, the board adopted and implemented a policy statement allowing licensed optometrists to accrue unlimited online (virtual) CE to satisfy their license renewal requirements (WSR 23-06-036). The board rescinded the policy in May 2023 after the public emergency declaration ended (WSR 23-13-041). The proposed rule would implement changes based on experience gained from the COVID-19 pandemic.

Statutory authority for adoption: RCW 18.54.070

Statute being implemented: Chapter 18.53 RCW

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) The Board of Optometry

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting: Kristina Bell	111 Israel Rd SE Tumwater, WA 98501	360.236.4841
Implementation: Kristina Bell	111 Israel Rd SE Tumwater, WA 98501	360.236.4841
Enforcement: Kristina Bell	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
Olympia, WA 98504-7852
Phone: 360-236-4841

Fax: 360-236-2901
TTY: 711
Email: Kristina.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: 03/10/2023

Name: William Prothero, Optometrist

Title: Chair, Board of Optometry

Signature:

A handwritten signature in black ink that reads "William Prothero OD". The signature is written in a cursive style with a large initial 'W' and a distinct 'OD' at the end.

WAC 246-851-090 Continuing education requirement. (1) The definitions in this subsection apply throughout this section:

(a) "Asynchronous" means the course instructor and learner are not together at the same time, have no real-time communications, and the content is learner-paced.

(b) "Synchronous in-person" means the instructor is in the same room and face-to-face with the learner, even if other formats are used as audiovisual aids for teaching the course.

(c) "Synchronous virtual" means the course instructor is not physically present but is meeting with learners in real time and can provide immediate feedback.

(2) A licensed optometrist must complete and document ((fifty)) 50 total hours of continuing education every two years ((and comply with chapter 246-12 WAC, Part 7)) in compliance with WAC 246-12-170 through 246-12-235. Of the 50 total credit hours:

(a) A minimum of 10 credit hours must be completed through synchronous in-person learning;

(b) A maximum of 25 credit hours may be completed through asynchronous learning;

(c) The remaining credit hours may be completed through any combination of synchronous virtual learning and asynchronous learning; and

(d) In the event of a declaration of emergency for the state of Washington or federal declaration of emergency affecting the state of Washington, all credit hours may be completed through synchronous virtual or asynchronous learning for the duration of the declared emergency.

(3) Documentation of continuing education credit hours is a certificate of completion, letter, or other document which must:

(a) Verify or confirm attendance or completion of continuing education hours, with the exception of hours earned under WAC 246-851-170 category 5;

(b) Be provided by the organization providing the education activity; and

(c) Contain at least the following information:

(i) Date of attendance or completion;

(ii) Hours earned; and

(iii) Course title or subject.

((+2)) (4) A licensed optometrist ((must)) may alternatively meet the continuing education requirements ((by:

(a) ~~Completing fifty hours of education that complies with WAC 246-851-125 through 246-851-230; or~~

(b) ~~Alternatively meeting the requirements of this subsection)) of this section by providing proof that ((he or she:~~

(i) ~~Holds a current Optometric Recognition Award from the American Optometric Association;~~

(ii)) the licensee:

(a) Holds a current certification by the American Board of Optometry or other certification program deemed substantially equivalent to American Board of Medical Specialties' programs; or

((+iii)) (b) Is practicing solely outside of Washington state and meets the continuing education requirements of the state or territory in which ((he or she)) the licensee practices.

(5) Nothing in this section exempts a licensed optometrist from the education and training requirements for:

- (a) Suicide prevention in WAC 246-851-245; or
- (b) Health equity in WAC 246-851-225.

AMENDATORY SECTION (Amending WSR 15-24-119, filed 12/1/15, effective 1/1/16)

WAC 246-851-125 Category 1—Credit for education from optometry-specific organizations. (1) A minimum of ~~((twenty-five))~~ 25 credit hours in category 1 ~~((credit hours))~~ must be earned in any two-year reporting period.

(2) ~~((Up to ten category 1 credit hours may be earned for live courses attended remotely, provided that attendees have the documented opportunity to question the instructor and hear the questions of other attendees in real time.~~

~~(3))~~ Credits may be obtained for ~~((in-person live-attended))~~ education offered by the following optometry-specific course and program sources:

(a) The American Optometric Association (AOA) and its state affiliates;

(b) Educational institutions accredited by the Association of Schools and Colleges of Optometry (ASCO);

(c) The Association of Regulatory Boards of ~~((Optometry))~~ Optometry's (ARBO) ~~((and its state agency members))~~ Council on Optometric Practitioner Education (COPE)—Accredited education;

(d) ARBO member boards;

(e) Nationally recognized academic and scholarly optometric organizations including, but not limited to, the American Academy of Optometry, the Optometric Extension Program, and the College of Optometrists in Vision Development; and

~~((e))~~ (f) Ophthalmic referral centers, secondary and tertiary ophthalmic specialty providers.

AMENDATORY SECTION (Amending WSR 15-24-119, filed 12/1/15, effective 1/1/16)

WAC 246-851-140 Category 2—Credit for education from nonoptometric organizations. (1) A maximum ~~((of twenty))~~ 20 credit hours in category 2 ~~((credit hours))~~ may be earned in any two-year reporting period.

(2) Credits may be obtained for ~~((in-person live-attended))~~ education offered by the following nonoptometry-specific course and program sources:

(a) ~~((Category 1 and category 2))~~ Continuing medical education courses in category 1 and category 2 as approved by the ((medical quality assurance commission)) American Medical Association or their affiliates;

(b) First aid, ~~((CPR))~~ cardiopulmonary resuscitation, and other emergency-related courses; and

(c) Industry-sponsored scientific courses that enhance the knowledge of ocular conditions and diseases, and their treatments.

AMENDATORY SECTION (Amending WSR 15-24-119, filed 12/1/15, effective 1/1/16)

WAC 246-851-150 Category 3—Credit for teaching. (1) A maximum of ~~((ten))~~ 10 credit hours in category 3 ~~((credit hours))~~ may be earned in any two-year reporting period.

(2) Credits may be obtained for formal and informal optometric instruction.

(a) Three credit hours will be granted for each course hour taught.

(b) Credit will be granted for only the first time a course is taught.

(c) Qualifying courses must be presented to ~~((optometrists))~~ practitioners or allied health professionals.

AMENDATORY SECTION (Amending WSR 15-24-119, filed 12/1/15, effective 1/1/16)

WAC 246-851-155 Category 4—Credit for publishing and exhibiting. (1) A maximum of ~~((ten))~~ 10 credit hours in category 4 ~~((credit hours))~~ may be earned in any two-year reporting period.

(2) Five credits may be obtained for each paper, exhibit, publication, or for each chapter of a book that is authored and published.

(a) A paper must be published in a recognized optometric, scientific, or medical journal.

(b) A qualifying paper or exhibit must be presented to ~~((optometrists))~~ practitioners or allied health professionals.

(c) Credit may be claimed only once for the scientific materials published or exhibited.

(d) Credit will be assigned as of the date materials were presented or published.

AMENDATORY SECTION (Amending WSR 15-24-119, filed 12/1/15, effective 1/1/16)

WAC 246-851-170 Category 5—Credit for ~~((self-directed study))~~ self-study. ~~((1))~~ A maximum of twenty-five category 5 credit hours may be earned in any two-year reporting period.

~~((2))~~ Credits may be obtained for nonsupervised individual continuing educational activities.

~~((a))~~ Subject matter must be from professional optometric or medical literature or multimedia material;

~~((b))~~ Course material may be presented in any form of printed or electronic media;

~~(c) Courses must be approved by a category 1 organization listed in WAC 246-851-125; and~~

~~(d) Successful completion of an examination or other assessment tool is required for qualifying credit. Up to ten category 5 credit hours may be earned by submitting in lieu of an assessment tool a non-handwritten report which includes a copy of the article, publication source and date, and at least ten descriptive statements from the article.)~~ (1) A maximum of 10 credit hours may be earned through self-study without an instructor physically present.

(2) A licensed optometrist shall receive two credit hours for each self-study completed. Each self-study must include:

(a) A copy of the article, and its publication source and date; and

(b) A two-page typewritten and dated synopsis of what has been learned by the licensed optometrist.

(3) Self-study material must be from professional optometrist or medical literature, and includes reading a book, study clubs, research materials or other publications that contribute to the professional knowledge and development of the licensed optometrist, or enhance services provided to patients.

AMENDATORY SECTION (Amending WSR 15-24-119, filed 12/1/15, effective 1/1/16)

WAC 246-851-230 Credits for practice management courses. A maximum of ~~(ten)~~ 10 credit hours may be granted in any two-year reporting period for practice management courses or programs.