



PROPOSED RULE MAKING

CR-102 (August 2017) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: September 05, 2017
TIME: 5:26 PM

WSR 17-18-088

Agency: Department of Health

Original Notice

Supplemental Notice to WSR

Continuance of WSR

Preproposal Statement of Inquiry was filed as WSR 17-11-022 ; 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).

Proposal is exempt under RCW .

Title of rule and other identifying information: (describe subject) WAC 246-824-035 (new), 246-824-040 (amended), 246-824-045 (new), 246-824-071(amended) and repealing WAC 246-824-060, 246-824-065, and 246-824-070. Dispensing optician examination for licensure. The department of health is proposing to create, amend, and repeal sections of rule related to the dispensing optician examination and licensure.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
10/10/17	1:00 p.m.	Department of Health Point Plaza East Room 153 310 Israel Road SE Tumwater, WA 98501	

Date of intended adoption: 10/17/2017 (Note: This is NOT the effective date)

Submit written comments to:

Name: Debra Mendoza

Address: Department of Health
Dispensing Optician Program
PO Box 47852
Olympia, WA 98504-7852

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

Fax: 360-236-2901

Other: 360-236-4841

By (date) 10/10/2017

Assistance for persons with disabilities:

Contact Debra Mendoza

Phone: 360-236-4841

Fax: (360) 236-2901

TTY: (360) 833-6388 or 711

Email: debra.mendoza@doh.wa.gov

Other:

By (date) 10/03/2017

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed rules designate the American Board of Opticianry and National Contact Lens Examiners (ABO-NCLE) as the examination requirement for dispensing optician licensure and repeal WAC 246-824-065, the requirement that the examining committee must administer the state licensing examination. The rules also clarify licensure requirements by amending WAC 246-824-040 to add licensure eligibility and add WAC 246-824-045 to establish application requirements. The proposed rules also remove the requirement of the jurisprudence exam for out-of-state applicants and repeal sections related to the state

administered exam. Finally, the proposed rules update the sections to be current and consistent with other secretary profession rules.

Reasons supporting proposal: RCW 18.34.080 requires the exam to determine whether an applicant has a thorough knowledge of the principles governing the practice of a dispensing optician and authorizes the examining committee to approve an exam prepared or administered by a private testing agency or association of licensing authorities. The proposed rules implement the statute's objectives by setting an effective examination to measure applicants' knowledge, skills, abilities, and competence by adopting the ABO-NCLE national examinations as Washington State's requirement for licensure. The proposed rules are necessary to set the examination and application requirements in rule. The updates are also needed to remove restrictive requirements for out of state applicants and to make the rules current and understandable for applicants and licensees.

Statutory authority for adoption: RCW 43.70.040

Statute being implemented: RCW 18.34.080

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

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

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Debra Mendoza	111 Israel Rd. Tumwater, WA 98501	360-236-4841
Implementation:	Debra Mendoza	111 Israel Rd. Tumwater, WA 98501	360-236-4841
Enforcement:	Debra Mendoza	111 Israel Rd. 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: Debra Mendoza

Address: Dispensing Optician Program
PO Box 47852
Olympia, WA 98504-7852

Phone: 360-236-4841

Fax: 360-236-2901

TTY: (360) 833-6388 or 711

Email: debra.mendoza@doh.wa.gov

Other:

No: Please explain:

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). 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 .

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If 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 analysis showing how costs were calculated. The proposed rule does not impose costs on businesses. The proposed rules amend licensing requirements for individual practitioners.

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

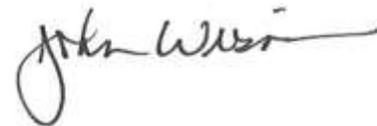
Email:

Other:

Date: 08/30/2017

Signature:

Name: John Wiesman, DrPH, MPH



Title: Secretary of Health

NEW SECTION

WAC 246-824-035 Examination. The examining committee approves the examinations from the American Board of Opticianry and National Contact Lens Examiners (ABO-NCLE) for dispensing optician licensure.

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-824-040 (~~(Application for examination.)~~) Licensure eligibility. (~~((1) An individual shall make application for examination, in accordance with RCW 18.34.070, on an application form prepared and provided by the secretary.~~

~~(2) The apprenticeship training requirement shall be supported with certification by the licensed individual (or individuals) who provided such training.~~

~~(3) If an applicant is unable to attend his or her scheduled examination, and so notifies the secretary in writing at least 7 days prior to the scheduled examination date, the applicant will be re-scheduled at no additional charge. Otherwise, the fee will be forfeited. (Emergencies considered.)~~

~~(4) If an applicant takes the examination and fails to obtain a satisfactory grade, he or she may be scheduled to retake the examination by submitting an application and paying the statutory examination fee.~~

~~(5) Applications and fees for examination and all documents required in support of the application must be submitted to the division of professional licensing, department of health, at least sixty days prior to the scheduled examination. Failure to meet the deadline will result in the applicant not being scheduled until the next scheduled examination.~~

~~(6) Apprenticeship training shall be completed prior to the application deadline.)~~ To be eligible for licensure, applicants must:

(1) Be eighteen years or more of age; and

(2) Graduate from an accredited high school or receive a general equivalency degree; and

(3) Complete one of the following:

(a) At least six thousand hours of certified apprenticeship training that must be completed in no less than three years as required under chapter 18.34 RCW; or

(b) An accredited opticianry course as described in WAC 246-824-050; or

(c) Practice as a dispensing optician in a state other than Washington for at least five years except as provided in WAC 246-824-071.

(4) Successfully pass one of the following examinations:

(a) The state examination offered on or before August 31, 2017;

(b) On or after June 1, 2015, the basic competency examination, basic contact lens examination, and the practical examinations from ABO-NCLE. This requirement can also be met by successfully passing the ABO-NCLE advanced competency examination, advanced contact lens examination, and the practical examinations on or after June 1, 2015.

NEW SECTION

WAC 246-824-045 License application. An applicant for a dispensing optician license must submit the following:

- (1) A completed application on forms provided by the department;
- (2) Proof of eligibility under WAC 246-824-040;
- (3) Verification of passing the examination under WAC 246-824-040(4);
- (4) Proof of completing four clock hours of AIDS education and training as required by chapter 246-12 WAC, Part 8; and
- (5) Fees required under WAC 246-824-990.

AMENDATORY SECTION (Amending WSR 02-18-025, filed 8/23/02, effective 9/23/02)

WAC 246-824-071 (~~(License by endorsement.)~~) Applicants currently licensed in other states. ~~((1) A license)) Before licensure to any individual currently licensed to practice as a dispensing optician (may be issued without examination to an individual who is currently licensed in another state that has licensing standards substantially equivalent to those currently applicable in Washington state.~~

~~(2) The department will issue a license by endorsement upon receipt of:~~

- ~~(a) A completed application and application fee;~~
- ~~(b) The applicant will provide documentation from the state in which the applicant is currently licensed sufficient to establish that the state's licensing standards are substantially equivalent to the licensing standards currently applicable in Washington state;~~
- ~~(c) A completed open book state law questionnaire;~~
- ~~(d) Documentation of) in another state, as provided in chapter 18.34 RCW, applicants must provide evidence of:~~

~~(1) Verification of credential from any state and the state's substantially equivalent licensing standards;~~

~~(2) Completion of four clock hours of AIDS education as required in chapter 246-12 WAC, Part 8;~~

~~((e)) (3) Verification from all states in which the applicant has ever held a license, whether active or inactive, indicating that the applicant is not subject to charges or disciplinary action for unprofessional conduct or impairment.~~

~~((3) If licensure by endorsement is not granted, and the applicant is otherwise qualified for the licensing examination, he or she may apply for licensure by examination in accordance with RCW 18.34.070 and WAC 246-824-040.~~

~~(4) Endorsement application fees may be applied towards the examination fee if licensure by endorsement is not granted.))~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

