



**WISCONSIN STATE LEGISLATURE ...  
PUBLIC HEARING - COMMITTEE RECORDS**

**2005-06**

(session year)

**Senate**

(Assembly, Senate or Joint)

**Committee on ... Veterans, Homeland Security,  
Military Affairs, Small Business and Government  
Reform (SC-VHSMASBGR)**

**COMMITTEE NOTICES ...**

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
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**INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL**

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

**Senate**

**Record of Committee Proceedings**

**Committee on Veterans, Homeland Security, Military Affairs,  
Small Business and Government Reform**

**Clearinghouse Rule 05-036**

Relating to conduct, examinations, continuing education, and affecting small business.

Submitted by Department of Regulation and Licensing.

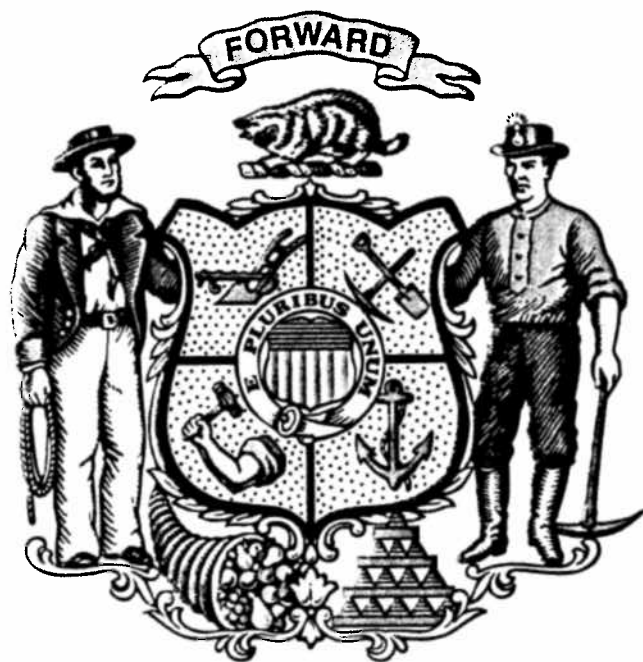
October 25, 2005      Referred to Committee on Veterans, Homeland Security, Military  
Affairs, Small Business and Government Reform.

November 25, 2005    No action taken.



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Daniel Lindstedt  
Committee Clerk





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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Ronald Sklansky**  
*Clearinghouse Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

#### CLEARINGHOUSE RULE **05-036**

AN ORDER to repeal the Note following Opt 6.03 (2), 6.04 (1) and 6.05 (4); to renumber Opt 6.04 (2); to renumber and amend Opt 6.05 (6); to amend Opt 5.10 (3) Note, 5.16, 6.04 (1) and 6.05 (2) (a) and (b) and (6) Note; and to create Opt 5.02 (5), 5.08 (2) (d), 6.02 (3), 6.04 (2), (6) and (7) and 6.05 (6) (a) to (o), relating to conduct, examinations, continuing education, and affecting small business.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

05-02-2005 RECEIVED BY LEGISLATIVE COUNCIL.

05-26-2005 REPORT SENT TO AGENCY.

RNS:MO

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached      YES       NO



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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*Legislative Council Deputy Director*

### CLEARINGHOUSE RULE 05-036

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated January 2005.]**

#### **2. Form, Style and Placement in Administrative Code**

a. In s. Opt 5.16, the word “and” following the stricken-through language should also be stricken-through, as it is in the note following s. Opt 5.10 (3).

b. In s. Opt 6.02 (3), the extent of the applicability of the definition, and the other definitions under s. Opt 6.02, should be clearly stated; for example, the definitions might be preceded by the phrase “In this chapter:”. [See s. 1.01 (7) (a), Manual.]

c. On page 2, the plain language analysis repeats exactly the same paragraph for SECTION 12 of the rule that it used for SECTION 10. Above on the same page, the plain language analysis uses one paragraph to describe both SECTIONS 5 and 11, and it is not clear why it does not similarly use just one paragraph to describe SECTIONS 10 and 12 of the rule.

Also, the detailed analysis does not include a description of SECTION 7. In addition, the description of SECTION 13 should describe what the repealed subsection does.

d. On page 5, the “Effect on small business” section of the rule summary states that the rule is still being reviewed to determine the economic impact on a “substantial” number of small businesses. However, if the rule will have any effect on small business, that should be stated in this section. Also on page 5, the caption “Determination of significant fiscal effect on the private sector” (in which the determination appears premature given that the rule is still being reviewed for its effect on small business) should have the following caption: “Analysis and supporting

documents used to determine effect on small business or in preparation of economic impact report.” [See s. 1.02 (2), Manual.]

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

On page 5, the first sentence under “Effect on small business” refers to “s. 227.114 (1) (a), Stats.” The “(a)” should be deleted, since there is no par. (a) in sub. (1) of s. 227.114, Stats.

#### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. On page 3, it appears that the first sentence of the first paragraph under Minnesota should read: “The rules specify that ... an optometrist or physician must provide ...”, but apparently the insertion of the rule citation into the sentence broke up the sentence and made the first part incomplete. This can be avoided by placing the rule citation in parentheses at the end of the sentence. Similarly, on page 4, the first paragraph under Illinois is difficult to read and could be made clearer by separating the rule citation from the rest of the paragraph rather than incorporating it into the first sentence.

b. In the comparison with rules in adjacent states, some of the subjects and verbs do not correspond grammatically. For example, on page 3 in the second sentence of the third paragraph on Minnesota, it appears that there should be a comma after “limitations”; “are” and “allows” in the fourth line should be deleted; “received” in the fourth line and “may be taken” in the fifth line should both be replaced with “allowed”; “accept” in the sixth line should be deleted; and “accepted” should be inserted after “Cope.” The same comment applies similarly to lines 3 to 5 on page 4, and “Cope” should be capitalized (to correspond to the first mention of “COPE”) throughout the rule summary.

c. The last three words on page 3 should be replaced with “the release of contact lens prescriptions.”

d. On the second line of page 4, “alternating” should be replaced with “alternative.”

e. On page 4, in the next-to-last sentence of the Illinois comparison, “Hardship” should not be capitalized.

f. In the first sentence of s. Opt 6.05 (6) Note, the comma after “Inc.” should be deleted.





**Jim Doyle**  
Governor

**WISCONSIN DEPARTMENT OF  
REGULATION & LICENSING**

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**Celia M. Jackson**  
Secretary



October 24, 2005

LETTER OF TRANSMITTAL

**TO:** Senate Chief Clerk  
Attention: Robert Marchant  
17 West Main Street, Room 401  
Risser Justice Building  
Madison, Wisconsin 53702

**FROM:** Pamela A. Haack, Paralegal  
Department of Regulation and Licensing  
Office of Legal Counsel  
1400 East Washington Avenue, Room 152-01  
Madison, Wisconsin 53702

The attached rule jacket containing a report to the legislative standing committee is being submitted for delivery to the Speaker of the Assembly pursuant to section 227.19 (4) (b) 4., Stats.

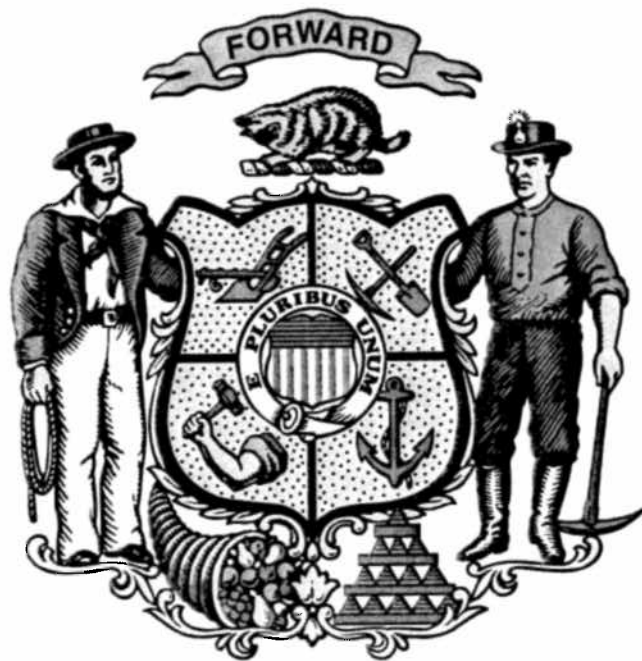
Please stamp or sign a copy of this letter to acknowledge receipt. If you have any questions concerning the final draft form or desire additional information, please contact me at 266-0495.

Thank you.

*Jeffrey Rusk*

10-24-05

05-036



**STATE OF WISCONSIN  
OPTOMETRY EXAMINING BOARD**

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**IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : OPTOMETRY EXAMINING BOARD  
OPTOMETRY EXAMINING BOARD : ADOPTING RULES  
: (CLEARINGHOUSE RULE 05-036)**

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TO: Alan J. Lasee  
President of the Senate  
Room 219 South, State Capitol  
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the OPTOMETRY EXAMINING BOARD is submitting in final draft form rules relating to conduct, examinations and continuing education.

Please stamp or sign a copy of this letter to acknowledge receipt. If you have any questions concerning the final draft form or desire additional information, please contact Pamela Haack at 266-0495.

Thank you.

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**STATE OF WISCONSIN  
OPTOMETRY EXAMINING BOARD**

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**IN THE MATTER OF RULE-MAKING : REPORT TO THE LEGISLATURE  
PROCEEDINGS BEFORE THE : ON CLEARINGHOUSE RULE 05-036  
OPTOMETRY EXAMINING BOARD : (s. 227.19 (3), Stats.)**

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**I. THE PROPOSED RULE:**

The proposed rule, including the analysis and text, is attached.

**II. REFERENCE TO APPLICABLE FORMS:**

No new or revised forms are required by these rules.

**III. FISCAL ESTIMATES:**

The department finds that this rule has no significant fiscal effect on the private sector. The proposed rule will have minimal impact on the department's funds.

**IV. STATEMENT EXPLAINING NEED:**

The changes addressed in this rule-making order include: federal rules changed with regards to optometrists providing patients with copies of their contact lens prescriptions; under existing rules optometrists have to perform minimum eye examinations at health fairs or other free screenings; the rules are unclear as to which continuing education courses are acceptable by the board as well as the amount of hours a credential holder can receive for distance learning.

These proposed rules will define the failure of releasing a contact lens prescription free of charge to a patient following release of the patient from a contact lens fitting and initial follow-up care as professional conduct. These rules will create a definition of a limited eye screening, and then adds an exemption for providing a minimum eye examination where a limited eye screening is performed. These proposed rules are updated with regards to courses accepted for fulfilling continuing education requirements.

**V. NOTICE OF PUBLIC HEARING AND SUMMARY OF PUBLIC COMMENTS:**

A public hearing was held on June 2, 2005.

Appearances: Peter Theo, Wisconsin Optometric Association, Nicole Gerken, Wal-Mart Optical, Onalaska, and Chad Leathers, Wal-Mart, Oshkosh.

There were no other appearances nor were any written comments received.

**VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:**

All of the recommendations suggested in the Clearinghouse Report were accepted in whole.

**VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:**

These rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats.

STATE OF WISCONSIN  
OPTOMETRY EXAMINING BOARD

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IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : OPTOMETRY EXAMINING BOARD  
OPTOMETRY EXAMINING BOARD : ADOPTING RULES  
: (CLEARINGHOUSE RULE 05-036)

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PROPOSED ORDER

An order of the Optometry Examining Board to repeal the Note following Opt 6.03 (2), the Note following Opt 6.04 (1), and Opt 6.05 (4); to renumber Opt 6.04 (2); to renumber and amend Opt 6.05 (6); to amend the Note following Opt 5.10 (3), Opt 5.16, 6.04 (1), 6.05 (2) (a) and (b) and the Note following Opt 6.05 (6); and to create Opt 5.02 (5), 5.08 (2) (d), 6.02 (intro.) and (3), 6.04 (2), (6) and (7) and 6.05 (6) (a) to (o), relating to conduct, examinations and continuing education.

Analysis prepared by the Department of Regulation and Licensing.

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ANALYSIS

**Statutes interpreted:**

Sections 449.01 (1), 449.08 and 449.18 (7), Stats.

**Statutory authority:**

Sections 15.08 (5) (b), 227.11 (2) and 449.18 (7), Stats.

**Explanation of agency authority:**

The Optometry Examining Board is authorized under ss. 449.07 and 449.08, Stats., to discipline optometrists for unprofessional conduct and under s. 449.18 (7), Stats., to require applicants for renewal to attend continuing education courses approved by the board.

**Related statute or rule:**

There are no statutes or rules other than those listed above.

**Plain language analysis:**

SECTIONS 1 and 2. Under the current law, it is unprofessional conduct for an optometrist to fail to perform a minimum eye examination in certain instances. There are three exceptions to this provision in the current rules. In these rules, the board proposes to add a fourth exception which would permit an optometrist to perform a "limited eye screening" without having to

perform a minimum eye examination. The proposed rules also include a definition of the term "limited eye screening."

SECTIONS 3 and 4. Under the current law, it is unprofessional conduct for an optometrist to fail to release, upon request by a patient and at no cost to the patient, a copy of the patient's contact lens prescription following release of the patient from contact lens fitting and initial follow-up care. In these rules, the board proposes to remove the language from the rules that conditions the release of a contact lens prescription upon a patient's request. This change is consistent with regulations recently adopted by the Federal Trade Commission.

SECTION 5 creates an introduction to s. Opt 6.02.

SECTIONS 6 and 12. Under the current law, optometrists who hold certificates to use therapeutic pharmaceutical agents are required to complete 30 hours of continuing education biennially in order to renew their certifications. The current law does not limit the number of continuing education hours that may be obtained through alternative delivery methods such as home-study courses, self-study packages, computer courses, televideo conferencing, or other delivery methods. In these rules, the board proposes to limit the number of hours that may be obtained through alternative delivery methods to 6 hours per biennium. One exception to this limitation would be in instances where certificate holders submit evidence of "hardship." The proposed rules include a definition of the term "hardship."

SECTIONS 7 and 9 repeal Notes.

SECTION 8. Under the current rules, certificate holders are required to complete 30 hours of approved continuing education relating to the diagnosis and management of eye disease or removal of superficial foreign bodies from the eye or from an appendage to the eye in each biennial period. Seven of the 30 hours must be in the diagnosis and management of glaucoma and 2 of the 30 hours must relate to the responsible use of controlled substances and substance abuse concerns, new drugs used for ophthalmic therapeutic purposes which have been approved by the Federal Food and Drug Administration or other topics as designated by the board. The proposed rule will permit a certificate holder to claim credit for course work that covers one or more of the subject matters area identified in SECTION 11. In addition, the proposed rules removes the requirement that a certificate holder complete 2 hours of continuing education that relate to the responsible use of controlled substances and substance abuse concerns, new drugs used ophthalmic therapeutic purposes which have been approved by the Federal Food and Drug Administration or other topics designated by the board. This change is being made because of the lack of courses available to credential holders to take in order to fulfill the 2 hour requirement.

SECTION 10 renumbers a subsection.

SECTIONS 11 and 13. Under the current law, the 30 hours of continuing education that optometrists who hold certificates to use therapeutic pharmaceutical agents are required to complete biennially must relate to the diagnosis and management of eye disease or removal of superficial foreign bodies from the eye or from an appendage to the eye. In these rules, the board

proposes to expand the subject matter of continuing education course work to include areas of practice that relate to the "practice of the profession of optometry" as defined in s. 449.01, Stats. Note that the board also proposes to limit the number of hours to six that may be claimed for subject matter that is not specifically related to the diagnosis and management of eye disease or removal of superficial foreign bodies from the eye or from an appendage to the eye.

SECTION 14. Currently, under s. Opt 6.05 (4), if a continuing education course includes subject matter other than the subject matter identified under s. Opt 6.05 (2) (a), only the board approved portion of the course that relates to the areas identified under subsection qualify as continuing education course work required under ch. Opt 6. The proposed rules repeals s. Opt 6.05 (4). This change is being made because s. Opt 6.05 (2) is being revised to state that only course work pertinent to the practice of optometry will be approved by the board.

SECTIONS 15 and 16. Under the current law, the board accepts continuing education course work approved by the Council on Optometric Practitioner Education (COPE). The law does not specify the subject matter of COPE courses that may be taken to satisfy the continuing education requirements. In these proposed rules, the board proposes to specify the subject matter of the COPE courses that may be taken to satisfy the continuing education requirements.

SECTION 17 amends the address listed in the Note.

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

The Federal Trade Commission requires a prescriber to provide a patient with a copy of a contact lens prescription when the prescriber completes a contact lens fitting, regardless of whether or not the patient makes a request for a copy of the prescription.

**Comparison with rules in adjacent states:**

**Minnesota:**

The rules specify that an optometrist or physician must provide a copy of the patient's prescription upon completion of the patient's eye examination and fitting. An optometrist or physician may refuse to give a patient a copy of the patient's prescription until after the patient has paid for the eye examination and fitting, but only if the optometrist or physician would have required immediate payment from that patient if the examination had revealed that no ophthalmic goods were required. (145.712 Requirements for contact lenses prescription, subdivision 1., copy of prescription)

The rules appear to be silent as to performing a "limited eye screening."

The rules under CE requirements are silent as to any provision or exemptions regarding a "hardship," credit hour limitations in any specific topic or courses approved by COPE. Minnesota does have provisions for acceptable CE requirements and limitations, including 40 hours of CE required in a biennium, 15 credits of CE courses from an alternative delivery



method, no more than 8 credits in a biennium allowed in an optometry related topic, and courses approved by COPE are accepted (Minnesota R 6500.0900 to 5400.1700).

More may be found at <http://www.revisor.leg.state.mn.us/arule/6500/>

**Michigan:**

The rules are silent as to performing a “limited eye screening” and the release of contact lens prescriptions.

The rules under CE requirements are silent as to any provision or exemptions regarding a “hardship” and CE courses received from an alternative delivery method. However, the rules do have provisions for acceptable CE requirements and limitations, including 40 hours of CE required in a biennium, no more than 8 credits in a biennium in an optometry related topic, and courses approved by COPE are accepted (Michigan R 338.256, 338.256a, 338.256b).

More may be found at

[http://www.state.mi.us/orr/emi/admincode.asp?AdminCode=Single&Admin\\_Num33800251&Dpt=CH&RngHigh=](http://www.state.mi.us/orr/emi/admincode.asp?AdminCode=Single&Admin_Num33800251&Dpt=CH&RngHigh=)

**Illinois:**

The rules have a provision which is similar to that of the “limited eye screening” and is allowed under Illinois Rules Section 1320.1200:

Visual Screening is defined as a limited series of ocular observations, measurements or tests provided without a fee to determine if a complete eye examination, as described in Section 1320.90, by a licensed optometrist or a physician licensed to practice medicine in all of its branches, is recommended.

3) When a visual screening is performed, the recipient of the screening shall be clearly informed in writing and shall receive a copy of the following:

- A) Results and limitations of the screening;
- B) That the screening is not representative of or a substitute for an eye exam;
- C) That the screening will not result in a prescription for visual correction;
- D) That visual screening referral criteria for a complete eye examination must meet accepted optometric professional standards criteria; and
- E) The name and address of the charitable organization sponsoring the screening and the chairperson of the supervisory committee.

The rules appear to be silent as to the release of contact lens prescriptions.

The rules under CE requirements are silent regarding CE courses received from an alternative delivery method, courses offered by COPE (with the exception of out-of-state CE courses), and maximum CE credits per topic in a biennium. However, the rules do have provisions for

receiving a waiver for CE requirements in cases of hardship and 24 hours of CE are required in a biennium.

More may be found at

<http://www.ilga.gov/commission/jcar/admincode/068/06801320sections.html>.

**Iowa:**

The rules appear to be silent as to performing a “limited eye screening.”

The rules have a provision under Iowa Rules Chapter 182.3(2) for the release of contact lens prescription stating: After the contact lenses have been adequately adapted and the patient released from initial follow-up care by the prescribing practitioner, the prescribing practitioner shall, upon request of the patient, provide a copy of the contact lens prescription, at no cost, for the duplication of the original contact lens.

The rules under CE courses received from an alternative delivery method, and CE credit limits per topic, with the exception of Ocular Disease (20 hours per biennium). The rules do specify an exception for a hardship under Iowa’s Rule Chapters 645—181.9(154,272C) Continuing education exemption for disability or illness. The board may, in individual cases involving disability or illness, grant exemptions of the minimum continuing education requirements or extension of time within which to fulfill the same or make the required reports. Iowa also accepts courses approved by COPE.

More may be found at <http://www.idph.state.ia.us/licensure/laws.asp?board=opt>.

**Summary of factual data and analytical methodologies:**

No study resulting in the collection of factual data was used in reference to this rule-making effort. The primary methodology for revising the rule is the board’s ongoing analysis and determination that a rule change is necessary.

**Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:**

The proposed rule will have minimal impact on the department’s funds.

**Anticipated costs incurred by private sector:**

The department finds that this rule has no significant fiscal effect on the private sector.

**Effect on small business:**

These proposed rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review

Coordinator may be contacted by email at [larry.martin@drl.state.wi.us](mailto:larry.martin@drl.state.wi.us), or by calling (608) 266-8608.

**Agency contact person:**

Pamela Haack, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708-8935. Telephone: (608) 266-0495. Email: [pamela.haack@drl.state.wi.us](mailto:pamela.haack@drl.state.wi.us).

**Place where comments are to be submitted and deadline for submission:**

Comments may be submitted to Pamela Haack at the Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 171, P.O. Box 89235, Madison, Wisconsin 53708-8935. Email to [pamela.haack@drl.state.wi.us](mailto:pamela.haack@drl.state.wi.us). Comments must be received on or before June 13, 2005 to be included in the record of rule-making proceedings.

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TEXT OF RULE

SECTION 1. Opt 5.02 (5) is created to read:

Opt 5.02 (5) "Limited eye screening" means an event where no spectacle prescription, contact lens prescription or treatment or management plan is generated.

SECTION 2. Opt 5.08 (2) (d) is created to read:

Opt 5.08 (2) (d) Where a limited eye screening is performed.

SECTION 3. The Note following Opt 5.10 (3) is amended to read:

Note: Federal Trade Commission ~~Rule~~ Rules 16 CFR 315.3 and 16 CFR 456.2 (a) ~~requires~~ require the release of a spectacle ~~prescription but does not require the release of a~~ and contact lens ~~prescription prescriptions~~. Under s. Opt 5.16, it is unprofessional conduct for an optometrist to fail to release, ~~upon request by a patient and~~ at no cost to the patient, a copy of the patient's contact lens prescription following release of the patient from contact lens fitting and initial follow-up care.

SECTION 4. Opt 5.16 is amended to read:

**Opt 5.16 Contact lens prescription release.** It shall be unprofessional conduct for an optometrist to fail to release, ~~upon request by a patient and~~ at no cost to the patient, a copy of the patient's contact lens prescription following release of the patient from contact lens fitting and initial follow-up care.

SECTION 5. Opt 6.02 (intro.) is created to read:

**Opt 6.02 Definitions.** (intro.) In this chapter:

SECTION 6. Opt 6.02 (3) is created to read:

Opt 6.02 (3) "Hardship" means serious illness, as determined by a licensed health care provider, or some other personal adversity, as determined by the board.

SECTION 7. The Note following Opt 6.03 (2) is repealed.

SECTION 8. Opt 6.04 (1) is amended to read:

**Opt 6.04 Continuing education.** (1) A certificate holder shall complete 30 hours of approved continuing education ~~relating to diagnosis and management of eye disease or removal of superficial foreign bodies from the eye or from an appendage to the eye~~ in each biennial registration period. Seven ~~Seven~~ A minimum of 7 of the 30 hours ~~must shall~~ be ~~in the diagnosis and management of approved glaucoma education, and 2 of the 30 hours must relate to the responsible use of controlled substances and substance abuse concerns, new drugs used for ophthalmic therapeutic purposes which have been approved by the federal food and drug administration or other topics as designated by the board.~~ Except as provided in sub. (2), approved continuing education hours shall relate to the diagnosis and management of eye disease or the removal of superficial foreign bodies from the eye or from an appendage to the eye.

SECTION 9. The Note following Opt 6.04 (1) is repealed.

SECTION 10. Opt 6.04 (2) is renumbered Opt 6.04 (2m).

SECTION 11. Opt 6.04 (2) is created to read:

Opt 6.04 (2) No more than a combined total of 6 hours of continuing education per biennium may be claimed for course work that relates to one or more of the following subject matter:

- (a) Contact lens.
- (b) Functional vision – pediatrics.
- (c) General optometry.
- (d) Low vision.
- (e) Jurisprudence.
- (f) Practice management.

SECTION 12. Opt 6.04 (6) and (7) are created to read:

Opt 6.04 (6) Except as provided in sub. (7), no more than a combined total of 6 hours of continuing education per biennium may be claimed for course work obtained through alternative delivery methods such as home-study courses, self-study packages, computer courses, televideo conferencing, or other delivery methods approved by the board under s. Opt 6.05 (5).

(7) The board may permit a certificate holder to claim more than 6 hours of continuing education per biennium for course work obtained through alternative delivery methods such as home-study courses, self-study packages, computer courses, televideo conferencing, or other delivery methods approved by the board, if the credential holder submits evidence, satisfactory to the board, of hardship.

SECTION 13. Opt 6.05 (2) (a) and (b) are amended to read:

Opt 6.05 (2) (a) ~~The subject matter of the course pertains to therapeutic pharmaceuticals, removal of superficial foreign bodies from the eye or from an appendage to the eye, responsible use of controlled substances and substance abuse concerns, new drugs used for ophthalmic therapeutic purposes which have been approved by the federal food and drug administration, or other topics as designated by the board~~ the practice of optometry.

(b) The provider of the continuing education course agrees to monitor the attendance and furnish a certificate of attendance to each participant. The certificate of attendance shall certify successful completion of the course.

SECTION 14. Opt 6.05 (4) is repealed.

SECTION 15. Opt 6.05 (6) is renumbered Opt 6.05 (6) (intro.) and is amended to read:

Opt 6.05 (6) (intro.) A continuing education course approved by the ~~council on optometric practitioner education~~ Council on Optometric Practitioner Education (COPE) which satisfies the criteria established under sub. (2), and is included in one of the following categories established by COPE, may shall be approved by the board without receipt of a course approval application from the provider.;

SECTION 16. Opt 6.05 (6) (a) to (o) are created to read:

Opt 6.05 (6) (a) CL - Contact lens.

(b) FV - Functional vision – pediatrics.

(c) G – Glaucoma.

(d) GO - General optometry.

(e) JP – Jurisprudence.

(f) LV - Low vision.

- (g) NO - Neuro-optometry.
- (h) OS - Management of ophthalmic surgery.
- (i) PD - Principles of diagnosis.
- (j) PH - Pharmacology.
- (k) PM - Practice management.
- (L) RS - Refractive surgery management.
- (m) SD - Systemic disease.
- (n) TA - Treatment anterior segment.
- (o) TP - Treatment posterior segment.

SECTION 17. The Note following Opt 6.05 (6) is amended to read:

Note: The Council on Optometric Practitioner Education (COPE) is a committee of the International Association of Boards of Examiners in Optometry, Inc. (IAB). An application for course approval by COPE may be obtained at ~~4330 East West Highway, Suite 1117, Bethesda, Maryland 20814-4408~~ 1750 South Brentwood Boulevard, Suite 503, St. Louis, MO 63144-1341.

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 (END OF TEXT OF RULE)  
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The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated \_\_\_\_\_ Agency \_\_\_\_\_  
 Chairperson  
 Optometry Examining Board

Opt 5, 6 CR05-036 (Conduct, exams, CE) Draft to Legislature 10-24-05



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Ronald Sklansky**  
*Clearinghouse Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

#### CLEARINGHOUSE RULE 05-036

AN ORDER to repeal the Note following Opt 6.03 (2), 6.04 (1) and 6.05 (4); to renumber Opt 6.04 (2); to renumber and amend Opt 6.05 (6); to amend Opt 5.10 (3) Note, 5.16, 6.04 (1) and 6.05 (2) (a) and (b) and (6) Note; and to create Opt 5.02 (5), 5.08 (2) (d), 6.02 (3), 6.04 (2), (6) and (7) and 6.05 (6) (a) to (c), relating to conduct, examinations, continuing education, and affecting small business.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

05-02-2005 RECEIVED BY LEGISLATIVE COUNCIL.

05-26-2005 REPORT SENT TO AGENCY.

RNS:MO

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached      YES       NO





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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 05-036

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated January 2005.]**

#### **2. Form, Style and Placement in Administrative Code**

a. In s. Opt 5.16, the word “and” following the stricken-through language should also be stricken-through, as it is in the note following s. Opt 5.10 (3).

b. In s. Opt 6.02 (3), the extent of the applicability of the definition, and the other definitions under s. Opt 6.02, should be clearly stated; for example, the definitions might be preceded by the phrase “In this chapter:”. [See s. 1.01 (7) (a), Manual.]

c. On page 2, the plain language analysis repeats exactly the same paragraph for SECTION 12 of the rule that it used for SECTION 10. Above on the same page, the plain language analysis uses one paragraph to describe both SECTIONS 5 and 11, and it is not clear why it does not similarly use just one paragraph to describe SECTIONS 10 and 12 of the rule.

Also, the detailed analysis does not include a description of SECTION 7. In addition, the description of SECTION 13 should describe what the repealed subsection does.

d. On page 5, the “Effect on small business” section of the rule summary states that the rule is still being reviewed to determine the economic impact on a “substantial” number of small businesses. However, if the rule will have any effect on small business, that should be stated in this section. Also on page 5, the caption “Determination of significant fiscal effect on the private sector” (in which the determination appears premature given that the rule is still being reviewed for its effect on small business) should have the following caption: “Analysis and supporting

documents used to determine effect on small business or in preparation of economic impact report.” [See s. 1.02 (2), Manual.]

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

On page 5, the first sentence under “Effect on small business” refers to “s. 227.114 (1) (a), Stats.” The “(a)” should be deleted, since there is no par. (a) in sub. (1) of s. 227.114, Stats.

#### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. On page 3, it appears that the first sentence of the first paragraph under Minnesota should read: “The rules specify that ... an optometrist or physician must provide ...”, but apparently the insertion of the rule citation into the sentence broke up the sentence and made the first part incomplete. This can be avoided by placing the rule citation in parentheses at the end of the sentence. Similarly, on page 4, the first paragraph under Illinois is difficult to read and could be made clearer by separating the rule citation from the rest of the paragraph rather than incorporating it into the first sentence.

b. In the comparison with rules in adjacent states, some of the subjects and verbs do not correspond grammatically. For example, on page 3 in the second sentence of the third paragraph on Minnesota, it appears that there should be a comma after “limitations”; “are” and “allows” in the fourth line should be deleted; “received” in the fourth line and “may be taken” in the fifth line should both be replaced with “allowed”; “accept” in the sixth line should be deleted; and “accepted” should be inserted after “Cope.” The same comment applies similarly to lines 3 to 5 on page 4, and “Cope” should be capitalized (to correspond to the first mention of “COPE”) throughout the rule summary.

c. The last three words on page 3 should be replaced with “the release of contact lens prescriptions.”

d. On the second line of page 4, “alternating” should be replaced with “alternative.”

e. On page 4, in the next-to-last sentence of the Illinois comparison, “Hardship” should not be capitalized.

f. In the first sentence of s. Opt 6.05 (6) Note, the comma after “Inc.” should be deleted.