

**Report From Agency**

**STATE OF WISCONSIN  
OPTOMETRY EXAMINING BOARD**

---

**IN THE MATTER OF RULEMAKING :  
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE  
OPTOMETRY EXAMINING BOARD : CR 15-078**

---

**I. THE PROPOSED RULE:**

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

**II. REFERENCE TO APPLICABLE FORMS: N/A**

**III. FISCAL ESTIMATE AND EIA:**

The Fiscal Estimate and EIA is attached.

**IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:**

The purpose of the rule is update and reorganize the examination and unprofessional conduct chapters; remove obsolete provisions; reflect current practices and technologies; clarify the procedures for renewal and reinstatement; and to implement 2013 Act 114 and 2013 Act 345.

**V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:**

**The Optometry Examining Board held a public hearing on October 29, 2015. The following people either testified at the hearing, or submitted written comments:**

Peter Theo representing Wisconsin Optometry Association

**The Board of Optometry summarizes the comments received either by hearing testimony or by written submission as follows:**

The comments were in support of the proposed rule.

**The Board of Optometry did not make any modifications to its rule-making proposal prompted by public comments.**

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

**Comment 2b:** Section 10 repeats statutory language defining the optometrist's duty of informed consent. The Board may wish to consider whether this repetition of statutory language is necessary.

**Response:** The statutory language defines the duty of informed consent and directs the board to promulgate rules implementing the statutory duty. This rule implements the statutory duty and provides it is unprofessional conduct to violate any rule of the Board, which would include the duty of informed consent.

**Comment 4e:** The repealed s. Opt 5.10 (3) and (4) contain requirements for prescription specifications that are not found in the new reorganized requirements. The Board should confirm it intends that failure to fulfill these requirements will no longer be unprofessional conduct.

**Response:** The Board confirms the intention to repeal these requirements.

**Comment 4f:** The repealed s. Opt 5.11 is not replaced in the new reorganized requirements. The Board should review the deletion of the references to requirements in s. Opt 5.10(1)(d) and the American National Standards Institute table and consider whether a reference to those requirements should be placed elsewhere.

**Response:** The board confirms the repeal of Opt 5.11 (1). The Board is reconsidered the repeal of Opt 5.11(2) and the reference to the American National Standards Institute table. The board will be addressing this standard at a future time.

**Comment 4h:** The Board could consider adding a reference to s. Opt 7.06 in s. Opt 7.05 (2), such as "subject to s. 7.06".

**Response:** The Board decides not to add the reference as renewal and reinstatement are separate actions.

All of the remaining recommendations suggested in the Clearinghouse Report have been accepted in whole.

## **VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:**

This rule does not have an effect on small business.