

WSR 24-18-029

PROPOSED RULES

DEPARTMENT OF HEALTH

(Board of Optometry)

[Filed August 26, 2024, 10:07 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-16-043.

Title of Rule and Other Identifying Information: Changing the scope of practice for optometrists. The board of optometry (board) is proposing amendments to WAC 246-851-400, 246-851-410, 246-851-570 through 246-851-600; and establishing new WAC 246-851-515 to implement SSB 5389 (chapter 400, Laws of 2023), which expands the optometrist scope of practice to include certain advanced procedures and establishes requirements for a license endorsement.

Hearing Location(s): On October 11, 2024, at 9:20 a.m., at the Department of Labor and Industries, Room S119, 7273 Linderson Way S.W., Tumwater, WA 98501; or virtual. Join on your computer, mobile app or room device https://gcc02.safelinks.protection.outlook.com/ap/t-59584e83/?url=https%3A%2F%2Fteams.microsoft.com%2F1%2Fmeetup-join%2F19%253ameeting_ZDB1njIyZDYtNzU4Ny00MDYxLWE3ZDctZGJmM2IzODJlOTBk%2540thread.v2%2F0%3Fcontext%3D%257b%2522tid%2522%253a%252211d0e217-264e-400a-8ba0-57dcc127d72d%2522%252c%2522oid%2522%253a%2522ff9584b4-58d6-48a3-bb6f-a317987e6178%2522%257d&data=05%7C02%7CMegan.Maxey%40doh.wa.gov%7C64c3215839b94c248e9608dcaff9d0c5%7C11d0e217264e400a8ba057dcc127d72d%7C0%7C0%7C638578734690938419%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6IklhaWwiLCJXVCi6Mn0%3D%7C0%7C%7C%7C&sdata=CCr0uiIk2FsquguhGFVOTtuEYslTbiY1RRMnkJnSYD10%3D&reserved=; or call in (audio only) 564-999-2000, 833-322-1218 (Toll-free), Phone Conference ID 988 501 129#.

Date of Intended Adoption: October 11, 2024.

Submit Written Comments to: Kristina Bell, P.O. Box 47852, Olympia, WA 98504, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, beginning date and time of this filing, by October 3, 2024, at 11:59 p.m.

Assistance for Persons with Disabilities: Contact Kristina Bell, phone 360-236-4841, fax 360-236-2901, TTY 711, email kristina.bell@doh.wa.gov, by October 3, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board is proposing new WAC 246-851-515 and amendments to WAC 246-851-400, 246-851-410, and 246-851-570 through 246-851-600. The proposed changes are in response to the statutory changes created by SSB 5389 codified in RCW 18.54.010. The bill expands optometrist scope of practice to include advanced procedures an optometrist may perform with a license endorsement. The expanded scope is further defined through a list of prohibited ophthalmic surgical procedures. The board is required to adopt rules for education, training, and exams to qualify for an advanced procedures license endorsement.

By December 1, 2024, and annually thereafter, the board, in coordination with the department of health, must analyze and report on the outcomes of the advanced procedures authorized in RCW 18.53.010 during the previous year. The reporting period expires December 31, 2028.

Reasons Supporting Proposal: SSB 5389 expands the scope of practice for optometrists, including allowing certain advanced procedures with a license endorsement. The new law requires the board to adopt

rules for education, training, and exams to qualify for a license endorsement. The board will also examine rules establishing adverse reporting requirements regarding the advanced procedures performed under the license endorsement.

Statutory Authority for Adoption: RCW 18.54.070; and SSB 5389 (chapter 400, Laws of 2023), codified in RCW 18.53.010.

Statute Being Implemented: RCW 18.53.010 and 18.54.070.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Board of optometry, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kristina Bell, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4841.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Kristina Bell, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4841, fax 360-236-2901, TTY 711, email kristina.bell@doh.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The proposed rules only apply to credential holders and not businesses.

Scope of exemption for rule proposal:

Is fully exempt.

August 26, 2024
Melissa Dacumos, OD, Chair
Board of Optometry

OTS-5565.3

AMENDATORY SECTION (Amending WSR 91-22-061, filed 11/1/91, effective 12/2/91)

WAC 246-851-400 Certification required for use of pharmaceutical agents. (1) Licensed optometrists using pharmaceutical agents in the practice of optometry shall have a minimum of (~~sixty~~) 60 hours of didactic and clinical instruction in general and ocular pharmacology as applied to optometry, and for therapeutic purposes an additional minimum (~~seventy-five~~) 75 hours of didactic and clinical instruction, and certification from an institution of higher learning, accredited by those agencies recognized by the United States (~~Office~~) Department of Education or the Council on (~~Post-Secondary Accreditation~~) Higher Education to qualify for certification by the optometry board to use drugs for diagnostic and therapeutic purposes.

(2) Optometrists must obtain the required instructions in both diagnostic and therapeutic categories in order to be eligible to qualify for certification to use drugs for therapeutic purposes.

(3) The instruction in ocular therapeutics must cover the following subject area in order to qualify for certification training:

(a) Ocular pharmacology.

- (i) Corneal barrier, blood-aqueous, /-retinal barrier.
- (ii) Routes of drug administration for ocular disease.
- (iii) Prescription writing and labeling.
- (iv) Ocular side-effects of systemic drugs.
- (b) Anti-infectives.
 - (i) General principles of anti-infective drugs.
 - (ii) Antibacterial drugs.
 - (iii) Treatment of ocular bacterial infections.
 - (iv) Antiviral drugs.
 - (v) Treatment of ocular viral infections.
 - (vi) Antifungal drugs.
 - (vii) Treatment of ocular fungal infections.
 - (viii) Antiparasitic drugs.
 - (ix) Treatment of parasitic eye disease.
- (c) Anti-inflammatory drugs.
 - (i) Nonsteroidal anti-inflammatory drugs (NSAIDS).
 - (ii) General principles of mast-cell stabilizers.
 - (iii) Antihistamines.
 - (iv) Ocular decongestants.
 - (v) Treatment of allergic disease.
 - (vi) Treatment of inflammatory disease.
 - (vii) Cycloplegic drugs.
 - (viii) Treatment of ocular trauma.
 - (ix) Ocular lubricants.
 - (x) Hypertonic agents.
 - (xi) Antiglaucoma drugs.

Each subject area shall be covered in sufficient depth so that the optometrist will be informed about the general principles in the use of each drug category, drug side effects and contra indications, and for each disease covered the subjective symptoms, objective signs, diagnosis and recommended treatment and programs.

AMENDATORY SECTION (Amending WSR 91-06-025, filed 2/26/91, effective 3/29/91)

WAC 246-851-410 Drug formulary. Pursuant to RCW 18.53.010(3) the optometry board adopts the following drug formulary of topically applied drugs administered for ~~((diagnostic and))~~ diagnosis, treatment, or mitigation purposes.

- (1) Drugs for diagnostic or therapeutic purposes.
 - (a) Mydriatics.
 - (b) Cycloplegics.
 - (c) Miotics.
 - (d) Anesthetics.
- (2) Drugs for therapeutic purposes only.
 - (a) Anti-infectives.
 - (b) Antihistamines and decongestants.
 - (c) Ocular lubricants.
 - (d) Antiglaucoma and ocular hypotensives.
 - (e) Anti-inflammatories.
 - (f) Hyperosmotics.
 - (g) ~~((Other topical drugs approved for ocular use by the FDA.))~~

Anti-parasitics.

(h) All other topical drugs and compounds used for the diagnosis, treatment or mitigation of conditions of the eye and adnexa approved by the FDA (both on-label and off-label).

NEW SECTION

WAC 246-851-515 License endorsement to perform advanced procedures. A licensed optometrist may perform advanced procedures as provided by RCW 18.53.010 only after being issued a license endorsement to perform advanced procedures by the secretary. The secretary shall issue an endorsement to perform advanced procedures to a licensed optometrist who provides evidence in a manner acceptable to the board, to include the following:

- (1) A completed application on forms provided by the secretary;
- (2) Provide evidence of:

(a) A course that contains supervised hands-on experience, with live patients, in the categories of procedures listed in RCW 18.53.010 (2) or is supplemented by residency, internship, or other supervised program that offers hands-on experience with patients. The course must:

(i) Be offered by an institution of higher education accredited by those agencies recognized by the United States Department of Education or the Council on Higher Education; and

(ii) Approved by the Washington state board of optometry.

(b) Successful completion of one of the following examinations for advanced procedures:

(i) National examination for advanced procedures as defined by the National Board of Examiners in Optometry; or

(ii) Examination provided by the course offered by an institution that meets (a)(i) of this subsection;

(3) Enter into an agreement with a qualified physician licensed under chapter 18.71 RCW or an osteopathic physician licensed under chapter 18.57 RCW for rapid response if complications occur during an advanced procedure:

(a) For the purpose of this section, a qualified physician means a physician who is actively licensed under chapter 18.71 or 18.57 RCW and who is trained in and capable of responding to complications which may arise from the optometric advanced procedures defined in RCW 18.53.010(2);

(b) The optometrist shall maintain the completed and signed documentation and have it available upon request by the board if audited;

(4) A licensed optometrist shall report every advanced procedure authorized under RCW 18.53.010(2) and include any complications or adverse events during their annual reporting period. The reporting period ends December 31, 2028;

(5) Optometrists are excluded from performing the procedures listed in RCW 18.53.010(3). The performance of these procedures would be considered professional misconduct and would be subject to disciplinary action by the board of optometry.

AMENDATORY SECTION (Amending WSR 10-21-067, filed 10/15/10, effective 11/15/10)

WAC 246-851-570 Certification required for use or prescription of drugs administered orally for diagnostic or therapeutic purposes.

(1) To qualify for certification to use or prescribe drugs administered orally for diagnostic or therapeutic purposes, a licensed optometrist must provide documentation that he or she:

(a) Is certified to use or prescribe topical drugs for diagnostic and therapeutic purposes under WAC 246-851-400 and has successfully completed a minimum of (~~sixteen~~) 16 hours of didactic and eight hours of supervised clinical instruction from an institution of higher learning, accredited by those agencies recognized by the United States (~~Office~~) Department of Education or the Council on (~~Postsecondary Accreditation~~) Higher Education; or

(b) Holds a current active optometry license in another state that has licensing standards substantially equivalent to those in Washington state. The licensee's level of licensure must also be substantially equivalent to the licensing standards in Washington state.

(2) The didactic instruction must include a minimum of (~~sixteen~~) 16 hours in the following subject area:

(a) Basic principles of systemic drug therapy;
(b) Side effects, adverse reactions and drug interactions in systemic therapy;

(c) Review of oral pharmaceuticals:

(i) Prescription writing;

(ii) Legal regulations in oral prescription writing;

(iii) Systemic antibacterials in primary eye care;

(iv) Systemic antivirals in eye care;

(v) Systemic antifungal in eye care;

(vi) Systemic antihistamines and decongestants and their uses in eye care;

(vii) Oral dry eye agents;

(viii) (~~Anti-emetic~~) Antiemetic and their use in eye care;

(ix) Systemic diuretics and their management of elevated IOP;

(x) Systemic epinephrine;

(d) Review of systemic medication in ocular pain management:

(i) Legal regulations with scheduled medication;

(ii) Systemic nonsteroidal anti-inflammatory drugs (NSAIDs);

(iii) Systemic noncontrolled analgesics;

(iv) Systemic controlled substances;

(e) Review of oral medications used for sedation and anti-anxiety properties in eye care:

(i) Controlled anti-anxiety/sedative substances;

(ii) Legal ramifications of prescribing anti-anxiety drugs;

(f) Review of systemic medications used during pregnancy and in pediatric eye care:

(i) Legal ramifications in prescribing to this population;

(ii) Dosage equivalent with pregnancy and pediatrics;

(iii) Medications to avoid with pregnancy and pediatrics;

(g) Applied systemic pharmacology:

(i) Eyelid and adnexal tissue;

(ii) Lacrimal system and peri-orbital sinuses;

(iii) Conjunctival and corneal disorders;

(iv) Iris and anterior chamber disorders;

(v) Posterior segment disorders;

(vi) Optic nerve disease;

- (vii) Peripheral vascular disease and its relationship with ocular disease;
 - (viii) Atherosclerotic disease;
 - (ix) Other/course review.
- (3) The supervised clinical instruction must include at least eight hours in the following subject areas:
- (a) Vital signs;
 - (b) Auscultation;
 - (c) Ear, nose and throat;
 - (d) Screening neurological exam.
- (4) Written examination to cover required curriculum.

AMENDATORY SECTION (Amending WSR 19-04-071, filed 2/1/19, effective 3/4/19)

WAC 246-851-580 Drug list. Pursuant to RCW 18.53.010(~~((4))~~) (2) and (7), the optometry board adopts the following drug formulary of oral Schedule II hydrocodone combination products, Schedule III through V controlled substances, ~~((and))~~ legend drugs, and injectable drugs for diagnostic ~~((and))~~, therapeutic, or mitigation purposes in the practice of optometry. No licensed optometrist may use, prescribe, dispense, purchase, possess, or administer these drugs except as authorized and to the extent permitted by the board. This section includes the approved oral and injectable drug formulary. Optometrists must consult WAC 246-851-590 for specific guidelines on these drugs or drug categories.

(1) Approved nonscheduled oral drugs include:

- ~~(a) ((Antibiotic agents excluding those listed in WAC 246-851-590(1)).~~
- ~~(b) Antiviral agents.~~
- ~~(c) Antifungal agents listed under WAC 246-851-590(2).~~
- ~~(d) Antihistamine agents.~~
- ~~(e) Decongestant agents.~~
- ~~(f) Dry eye agents.~~
- ~~(g) Anti-emetic agents listed under WAC 246-851-590(3).~~
- ~~(h) Diuretic agents listed under WAC 246-851-590(4).~~
- ~~(i) Nonsteroidal anti-inflammatory agents excluding those listed in WAC 246-851-590(5).~~
- ~~(j)) Analgesics and adjuvant analgesics agents.~~
- (b) Antibiotic agents excluding those listed in WAC 246-851-590(1).
- (c) Antiemetic agents listed under WAC 246-851-590(3).
- (d) Antifungal agents listed under WAC 246-851-590(2).
- (e) Antihistamine agents.
- (f) Antiparasitic agents.
- (g) Antiviral agents.
- (h) Corticosteroid agents.
- (i) Decongestant agents.
- (j) Diagnostic dye agents.
- (k) Diuretic agents listed under WAC 246-851-590(4).
- (l) Dry eye agents.
- (m) Nonsteroidal anti-inflammatory agents excluding those listed in WAC 246-851-590(5).

(2) Approved oral controlled substances limited to Schedule II hydrocodone combination products and Schedules III, IV, and V.

- (a) Schedule II hydrocodone combination products.
- (b) Schedule III controlled substances.
- (c) Schedule IV controlled substances.
- (d) Schedule IV anti-anxiety/sedative ((agents)) substances.
- (e) Schedule V controlled substances.

(3) Approved injectable substances ((-Administration of)). Local injections with the exception of, vitreous, subtenon, retrobulbar, intraorbital, or botulinum toxin.

(a) Local anesthetic agents, with or without epinephrine, with or without buffer.

(b) Local antibiotic agents excluding those listed in WAC 246-851-590(1).

(c) Local antifungal agents listed under WAC 246-851-590(2).

(d) Local corticosteroid agents.

(e) Local and IV diagnostic dye agents.

(f) IM epinephrine ((by injection)) for the treatment of anaphylactic shock.

AMENDATORY SECTION (Amending WSR 19-04-071, filed 2/1/19, effective 3/4/19)

WAC 246-851-590 Guidelines for the use of oral and injectable Schedule II hydrocodone combination products and Schedule III through V controlled substances and legend drugs. Nothing in these guidelines should be construed to restrict the recommendation of over-the-counter medications, vitamins, or supplements, nor restrict the ordering of any radiologic or laboratory testing necessary to the diagnosis of any eye related disease that is within the scope of practice of optometry.

(1) All ~~((oral))~~ forms and dosages of antibiotic agents will be available for use excluding: Vancomycin.

(2) Antifungal agents used in eye care shall fall into the following categories:

(a) All ~~((oral))~~ forms ~~((and dosages))~~ of polyene antifungals.

(b) All ~~((oral))~~ forms and dosages of imidazole antifungals.

(c) All ~~((oral))~~ forms and dosages of triazole antifungals.

(3) ~~((Anti-emetic))~~ Antiemetic agents used in eye care shall be the following medications:

(a) All oral forms and dosages of prochlorperazine.

(b) All oral forms and dosages of metoclopramide.

(c) All oral forms and dosages of promethazine.

(4) Diuretic agents used in eye care shall fall into the following categories:

(a) All oral forms and dosages of carbonic anhydrase inhibitors.

(b) All oral forms and dosages of osmotic diuretics. ~~((Osmotic diuretics shall be used only in the case of acute angle closure glaucoma administered in office, outpatient, and/or ambulatory procedures only.))~~

(5) All oral forms and dosages of nonsteroidal anti-inflammatory agents will be available for use. Excluding: Ketorolac tromethamine.

(6) Benzodiazepines prescribed, as anti-anxiety agents, shall be used for in-office, outpatient, and/or ambulatory procedures. This family of medications will be utilized as one dosage unit per prescription.

(7) Schedule II controlled substance will only include hydrocodone combination products.

(8) Schedules III and IV controlled substances will have a maximum quantity count of ~~((thirty))~~ 30 dosage units per prescription.

(9) Specific dosage for use and appropriate duration of treatment of oral medications listed in WAC 246-851-580(1) will be consistent with Food and Drug Administration on- and off-label indications.

(10) Notation of purpose shall be included on all prescriptions.

(11) An optometrist may not:

(a) ~~((Use, prescribe, dispense, or administer oral corticosteroids; or~~

~~(b-))~~ Prescribe, dispense, or administer a controlled substance for more than seven days in treating a particular patient for a single trauma, episode, or condition or for pain associated with or related to the trauma, episode, or condition; or

~~((c) Prescribe an oral drug within ninety days following ophthalmic surgery unless the optometrist consults with the treating ophthalmologist.))~~ (b) If treatment exceeding the time limitation ~~((is))~~ indicated, the patient must be referred to a physician licensed under chapter 18.71 RCW.

(12) To prescribe oral corticosteroids for more than seven days, an optometrist must consult with a licensed physician.

(13) The prescription or administration of drugs as authorized in this section is specifically limited to those drugs appropriate to treatment of diseases or conditions of the human eye and the adnexa that are within the scope of practice of optometry. The prescription or administration of drugs for any other purpose is not authorized.

~~((13))~~ (14) Nothing in this chapter may be construed to authorize the use, prescription, dispensing, purchase, possession, or administration of any Schedule I or II controlled substance with the exception of Schedule II hydrocodone combination products.

AMENDATORY SECTION (Amending WSR 10-21-067, filed 10/15/10, effective 11/15/10)

WAC 246-851-600 Certification required for administration of epinephrine by injection for treatment of anaphylactic shock. (1) To qualify for certification to administer epinephrine by injection for anaphylactic shock, licensed optometrists must provide documentation that he or she:

(a) Is certified to use or prescribe topical drugs for diagnostic and therapeutic purposes under WAC 246-851-400 and has successfully completed a minimum of four hours of didactic and supervised clinical instruction from an institution of higher learning, accredited by those agencies recognized by the United States ~~((Office))~~ Department of Education or the Council on ~~((Postsecondary Accreditation))~~ Higher Education to qualify for certification by the optometry board to administer epinephrine by injection; or

(b) Holds a current active license in another state that has licensing standards substantially equivalent to those in Washington state. The licensee's level of licensure must also be substantially equivalent to the licensing standards in Washington state.

(2) The didactic instruction must include the following subject area:

- (a) Review of urgencies, emergencies and emergency-use agents;
- (b) Ocular urgencies:

(i) Thermal burns-direct and photosensitivity-based ultraviolet burn;

(ii) Electrical injury;

(iii) Cryo-injury and frostbite;

(iv) Insect stings and bites;

(v) Punctures, perforations, and lacerations;

(c) General urgencies and emergencies:

(i) Anaphylaxis;

(ii) Hypoglycemic crisis;

(iii) Narcotic overdose.

(3) The supervised clinical instruction must include the following subject areas:

(a) Instrumentation;

(b) Informed consent;

(c) Preparation (patient and equipment);

(d) All routes of injections.

~~((4) With the exception of the administration of epinephrine by injection for treatment of anaphylactic shock, no injections or infusions may be administered by an optometrist.))~~