

WSR 23-16-109

PROPOSED RULES

DEPARTMENT OF HEALTH

(Board of Optometry)

[Filed July 31, 2023, 3:46 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-24-102.

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): On September 8, 2023, at 9:00 a.m., at Labor and Industries, 7273 Linderson Way S.W., Room S119, Tumwater, WA 98501; or virtual meeting via Microsoft Teams. Join on your computer, mobile app, or room device [https://teams.microsoft.com/l/meetup-join/19%3ameeting_ODQ3NzA2NDEtNDI5Yi00ZTYyLThiODctMmVkMDU3ZmE2OTkx%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%220id%22%3a%22b0a413cc-861e-438f-ad33-52df6d9a4283%22%7d, Meeting ID 286 469 743 295, Passcode BLEXQT; 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#](https://teams.microsoft.com/l/meetup-join/19%3ameeting_ODQ3NzA2NDEtNDI5Yi00ZTYyLThiODctMmVkMDU3ZmE2OTkx%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%220id%22%3a%22b0a413cc-861e-438f-ad33-52df6d9a4283%22%7d, Meeting ID 286 469 743 295, Passcode BLEXQT; 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: September 8, 2023.

Submit Written Comments to: Kristina Bell, Program Manager, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, by August 28, 2023.

Assistance for Persons with Disabilities: Contact Kristina Bell, Program Manager, phone 360-236-4841, fax 360-236-2901, TTY 711, email Kristina.bell@doh.wa.gov, by August 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 CE 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.

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, Program Manager, Department of Health, 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).

Scope of exemption for rule proposal:

Is fully exempt.

March 10, 2023
William Prothero, Optometrist, Chair
Board of Optometry

OTS-4445.5

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

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.

[Statutory Authority: RCW 18.54.070(2). WSR 15-24-119, § 246-851-090, filed 12/1/15, effective 1/1/16. Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-851-090, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW 18.54.070(2). WSR 97-12-088, § 246-851-090, filed 6/4/97, effective 7/5/97. Statutory Authority: RCW 18.54.070. WSR 92-06-030 (Order 248B), § 246-851-090, filed 2/26/92, effective 3/28/92; WSR 91-06-025 (Order 119B), recodified as § 246-851-090, filed 2/26/91, effective 3/29/91; WSR 88-07-047 (Order PM 710), § 308-53-100, filed 3/11/88. Statutory Authority: RCW 18.54.070(5). WSR 80-01-088 (Order PL 326), § 308-53-100, filed 12/28/79; Order PL 239, § 308-53-100, filed 3/3/76.]

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.

[Statutory Authority: RCW 18.54.070(2). WSR 15-24-119, § 246-851-125, filed 12/1/15, effective 1/1/16.]

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.

[Statutory Authority: RCW 18.54.070(2). WSR 15-24-119, § 246-851-140, filed 12/1/15, effective 1/1/16; WSR 97-12-088, § 246-851-140, filed 6/4/97, effective 7/5/97. Statutory Authority: RCW 18.54.070. WSR 91-06-025 (Order 119B), recodified as § 246-851-140, filed 2/26/91, effective 3/29/91. Statutory Authority: RCW 18.54.070(2). WSR 89-10-030 (Order PM 839), § 308-53-135, filed 4/27/89. Statutory Authority: RCW 18.54.070(5). WSR 80-01-088 (Order PL 326), § 308-53-135, filed 12/28/79.]

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.

[Statutory Authority: RCW 18.54.070(2). WSR 15-24-119, § 246-851-150, filed 12/1/15, effective 1/1/16; WSR 02-10-065, § 246-851-150, filed 4/26/02, effective 5/27/02; WSR 97-12-088, § 246-851-150, filed 6/4/97, effective 7/5/97. Statutory Authority: RCW 18.54.070. WSR 91-06-025 (Order 119B), recodified as § 246-851-150, filed 2/26/91, effective 3/29/91; Order PL 239, § 308-53-140, filed 3/3/76.]

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.

[Statutory Authority: RCW 18.54.070(2). WSR 15-24-119, § 246-851-155, filed 12/1/15, effective 1/1/16.]

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.

[Statutory Authority: RCW 18.54.070(2). WSR 15-24-119, § 246-851-170, filed 12/1/15, effective 1/1/16; WSR 04-21-077, § 246-851-170, filed 10/20/04, effective 11/20/04; WSR 97-12-088, § 246-851-170, filed 6/4/97, effective 7/5/97. Statutory Authority: RCW 18.54.070. WSR 91-22-061 (Order 210B), § 246-851-170, filed 11/1/91, effective 12/2/91; WSR 91-06-025 (Order 119B), recodified as § 246-851-170, filed 2/26/91, effective 3/29/91. Statutory Authority: RCW 18.54.070(2). WSR 89-10-030 (Order PM 839), § 308-53-146, filed 4/27/89. Statutory Authority: RCW 18.54.070(5). WSR 80-04-054 (Order PL 331), § 308-53-146, filed 3/21/80.]

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.

[Statutory Authority: RCW 18.54.070(2). WSR 15-24-119, § 246-851-230, filed 12/1/15, effective 1/1/16; WSR 97-12-088, § 246-851-230, filed 6/4/97, effective 7/5/97. Statutory Authority: RCW 18.54.070. WSR 91-22-061 (Order 210B), § 246-851-230, filed 11/1/91, effective 12/2/91; WSR 91-06-025 (Order 119B), recodified as § 246-851-230, filed 2/26/91, effective 3/29/91. Statutory Authority: RCW 18.54.070(2). WSR 89-10-030 (Order PM 839), § 308-53-175, filed 4/27/89.]