



PROPOSED RULE MAKING

CR-102 (June 2024) (Implements RCW 34.05.320) Do NOT use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: August 26, 2024

TIME: 10:09 AM

WSR 24-18-030

Agency: Department of Health – Board of Optometry

Original Notice

Supplemental Notice to WSR

Continuance of WSR

Preproposal Statement of Inquiry was filed as WSR 24-06-033 ; 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); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) Licensed Optometrist Continuing education (CE) and licensure requirements - Reducing Barriers.

In order to comply with Section 8 of Second Substitute House Bill (2SHB) 1724 (chapter 425, Laws of 2023) codified as RCW 18.130.077 and reduce barriers for optometrists to enter and remain in the health care workforce, the Board of Optometry (board) is proposing to remove the jurisprudence (JP) exam requirement from initial licensure in WAC 246-851-490, and add the JP exam as a requirement for a licensed optometrist's first full continuing education (CE) reporting period in WAC 246-851-090 to be included within the existing CE hour requirement. As a result of this proposed amendment, out-of-state optometrists applying under WAC 246-851-500 will no longer have to complete the JP exam prior to licensure by endorsement.

Additionally, the board is proposing amendments to the CE rule to clarify the minimum number of CE credit hours that must be obtained through synchronous and in-person learning and the maximum number of CE hours that may be earned through asynchronous learning.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
10/11/24	9:05 a.m.	Physical location Labor & Industries 7273 Linderson Way S.W., Room S119 Tumwater, WA 98501 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%2F%2Fmeetup-join%2F19%253ameeting_ZDBINjlyZDYtNzU4Ny00MDYxLWE3ZDctZGJmM2lzODJlOTBk%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%7	The rule hearing will be hybrid. Individuals may attend either virtually or in-person.

	C638578734690938419%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCi6Mn0%3D%7C0%7C%7C%7C&sdata=CCr0uilk2FsqquhGFVOTtuEYsITbiY1RRMnkJnSYD10%3D&reserved=0	
Date of intended adoption: <u>10/11/24</u> (Note: This is NOT the effective date)		

Submit written comments to: Name Kristina Bell Address PO Box 47852 Olympia, WA 98504-7852 Email https://fortress.wa.gov/doh/policyreview Fax 360-236-4841 Other Beginning (date and time) Date and time of this filing By (date and time) 10/03/24, 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 Other By (date) 10/01/24
---	---

Purpose of the proposal and its anticipated effects, including any changes in existing rules: To implement RCW 18.130.077, the Board of Optometry is proposing to remove the jurisprudence (JP) exam requirement from initial licensure in WAC 246-851-490, and add the JP exam as a requirement for a licensed optometrist's first full CE reporting period in WAC 246-851-090. As a result of this proposed amendment, out-of-state optometrists applying under WAC 246-851-500 will no longer have to complete the JP exam prior to licensure by endorsement. The board is proposing a maximum of three hours be allotted for the JP exam within the existing CE hour requirement.

The board is also proposing to clarify how CE credit hours may be obtained setting a maximum number of CE credit hours that may be obtained through asynchronous learning and a minimum number of CE credit hours that must be obtained through synchronous and in-person learning.

Reasons supporting proposal: RCW 18.130.077 directs all disciplining authorities for licensed professionals to waive education, training, experience, and exam requirements for applicants who have been credentialed in another state or states with substantially equivalent standards for at least two years immediately preceding their application with no interruption in licensure for longer than 90 days.

The intent of the bill is to make disciplining authorities review and adjust licensure requirements to remove barriers to entering and remaining in the health care workforce, and to streamline and shorten the credentialing process. Rulemaking is necessary to amend licensure requirements in WAC 246-851-490 to align and comply with RCW 18.130.077.

Additionally, the current CE rule has contradicting language in regards to the number of CE credit hours that may be completed through asynchronous learning. The proposed language will clarify the maximum number of CE credit hours that may be obtained through asynchronous learning and the minimum number of CE credit hours that must be obtained through synchronous and in-person learning.

Statutory authority for adoption: RCW 18.54.070, and 2SHB 1724 (chapter 425, Laws of 2023) codified as RCW 18.130.077

Statute being implemented: RCW 18.130.077

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) Board of Optometry
Type of proponent: Private. Public. Governmental.

Name of agency personnel responsible for:			
	Name	Office Location	Phone
Drafting	Kristina Bell	111 Israel Rd SE, Tumwater, WA 98501	360-236-4841
Implementation	Kristina Bell	111 Israel Rd SE, Tumwater, WA 98501	360-236-4841
Enforcement	Kristina Bell	111 Israel Rd SE, 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 Kristina Bell
Address PO Box 47852
Olympia, WA 98504-7852
Phone 360-236-4841
Fax 360-236-2901
TTY 711
Email kristina.bell@doh.wa.gov
Other

No: Please explain:

Regulatory Fairness Act and Small Business Economic Impact Statement
 Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:
 This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). 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:

<input type="checkbox"/> RCW 34.05.310 (4)(b) (Internal government operations)	<input checked="" type="checkbox"/> RCW 34.05.310 (4)(e) (Dictated by statute)
<input type="checkbox"/> RCW 34.05.310 (4)(c) (Incorporation by reference)	<input type="checkbox"/> RCW 34.05.310 (4)(f) (Set or adjust fees)
<input type="checkbox"/> RCW 34.05.310 (4)(d) (Correct or clarify language)	<input type="checkbox"/> 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 19.85.025\(4\)](#). (Does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule: The proposed changes only apply to the credential holder, not the business.

(2) Scope of exemptions: *Check one.*

- The rule proposal: Is fully exempt. (*Skip section 3.*) Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal: Is partially exempt. (*Complete section 3.*) The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal: Is not exempt. (*Complete section 3.*) No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of 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 minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs.
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact 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: 8/26/2024

Name: Melissa Dacumos, OD

Title: Chairperson, Board of Optometry

Signature:



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 50 total hours of continuing education every two years in compliance with WAC 246-12-170 through 246-12-235. Of the 50 total credit hours:

(a) A licensed optometrist shall complete and successfully pass the board-approved jurisprudence examination during their first full continuing education reporting period after initial licensure. Three hours of continuing education will be granted toward the 50-hour requirement.

(b) A minimum of 10 credit hours must be completed through synchronous in-person learning;

~~((b))~~ (c) A maximum of 25 credit hours may be completed through asynchronous learning;

~~((e))~~ (d) The remaining credit hours may be completed through any combination of synchronous virtual ~~((learning and asynchronous))~~ or synchronous in-person learning; and

~~((d))~~ (e) 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.

(4) A licensed optometrist may alternatively meet the continuing education requirements of this section by providing proof that 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

(b) Is practicing solely outside of Washington state and meets the continuing education requirements of the state or territory in which 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; ~~((e))~~
- (b) Health equity in WAC 246-851-225; or
- (c) Jurisprudence examination in this section.

AMENDATORY SECTION (Amending WSR 06-22-104, filed 11/1/06, effective 12/2/06)

WAC 246-851-490 Examination and licensure. To qualify for licensure in this state a candidate must:

(1) Successfully complete Parts I, II, and III of the National Board of Examiners in Optometry (NBEO) examinations; the Part III having been administered and successfully completed after January 1, 1993.

(2) Applicants who completed the NBEO Part II examination prior to January 1, 1993, must successfully complete the International Association of Examiners in Optometry (IAB) examination in treatment and management of ocular disease.

~~(3) ((Successfully complete a jurisprudence questionnaire.~~

~~(4))~~ Be a graduate of a state accredited high school or equivalent.

~~((5))~~ (4) Be a graduate of a school or college of optometry accredited by the Council on Optometric Education of the American Optometric Association and approved by the Washington state board of optometry.

~~((6))~~ (5) Be of good moral character.

~~((7))~~ (6) Effective January 1, 2007, all applicants who receive their initial (first) license in Washington state must meet all the certification requirements of RCW 18.53.010 (2)(a), (b), (c), and (d).

~~((8))~~ (7) Effective January 1, 2009, all optometrists licensed in Washington state must be certified under RCW 18.53.010 (2)(a) and (b).

~~((9))~~ (8) Effective January 1, 2011, all optometrists licensed in Washington state must be certified under RCW 18.53.010 (2)(a), (b), (c), and (d).