

Significant Legislative Rule Analysis
WAC 246-851-090 through WAC 246-851-230
Board of Optometry
Continuing Education Rules
May 12, 2015

Describe the proposed rule, including a brief history of the issue, and explain why the proposed rule is needed.

Licensed optometrists must currently complete 50 hours of continuing education (CE) every two years to renew their license. The proposed rule does not change the required number of CE credit hours. The current Board of Optometry (board) continuing education rules are, however, outdated or unclear. The proposed rules provide an updated framework for optometrists to follow when selecting continuing education courses that complement their practice. The proposed rule establishes the following five categories of allowed CE course types and identifies minimum or maximum number of hours for each category:

- 1) Category 1: Continuing education from optometry-specific organizations – Minimum 25 credit hours
- 2) Category 2: Credit for education from specified non-optometric organizations – Maximum 20 credit hours
- 3) Category 3: Credit for teaching – Maximum 10 credit hours
- 4) Category 4: Credit for publishing and exhibiting – Maximum 10 credit hours
- 5) Category 5: Credit for self-directed study – Maximum 25 credit hours

In addition to the categories above, the propose rule allows optometrists to get up to 10 hours of CE credit for practice management.

The proposed rule also allows optometrists to satisfy the CE requirement by demonstrating that they are certified by one of two national certification programs, with the justification that the national certification programs requirements have comparable CE requirements.

Collectively, the proposed rules provide more options for approved courses and increase the flexibility in how an optometrist can satisfy the CE requirement.

The proposal also repeals WAC 246-851-130 Post-graduate educational program. Initially, the post-graduate seminar filled the need for continuing education courses. Today, there are many entities that provide continuing education in a variety of formats. The board has determined that it is a conflict of interest for it to regulate *and* provide continuing education courses.

Is a Significant Analysis required for this rule?

Yes. The propose rule meets the definition of a legislatively significant rule as defined in RCW 34.05.328.

Clearly state in detail the general goals and specific objectives of the statute that the rule implements.

RCW 18.54.070(2) directs the board to adopt rules and regulations to promote safety, protection and welfare of the public and to aid the board in performance of its powers and duties. The board has adopted CE standards to help promote safety, protection and welfare of the public by requiring optometrist to maintain and expand their practice skills and knowledge. The proposed rules amend existing rules to provide more flexibility and opportunity for optometrists to complete continuing education hours that are specifically related to their practice settings which will increase patient safety.

Explain how the department determined that the rule is needed to achieve these general goals and specific objectives. Analyze alternatives to rulemaking and the consequences of not adopting the rule.

Rulemaking is the best approach because continuing education requirements must be in statute or rule in order to be enforceable. Updated and modernized continuing education rules will provide the licensee clearer direction on the continuing education requirements that must be met to maintain their credential in Washington.

Explain how the department determined that the probable benefits of the rule are greater than the probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented.

The rules package includes seven existing rules that are amended. All of the rules are significant and analyzed below.

1. WAC 246-851-090 Continuing education requirement.

Description of the proposed rule: The proposed rule amends the existing rule and will allow optometrists to satisfy the 50 hours of CE requirement by demonstrating that they are certified by one of two national certification programs, with the justification that the national certification programs require comparable CE requirements. The rule also allows optometrists that solely practice in another state or territory to satisfy CE requirement for a Washington license if they demonstrate that they are in compliance with the CE requirement in the state or territory where they are practicing.

Cost/Benefit Analysis: There are no compliance costs in this section. The benefit of the section is that it removes an unnecessary duplicated administration process for optometrists to document that they have satisfied CE for 1) national accreditation or 2) the state or territory where they are practicing.

2. WAC 246-851-110 Approval of courses

Description of the proposed rule: The existing rule lists organizations that are approved so they may offer CE without getting specific courses approved. This section has been repealed. Language clarifying the board's right to not accept credits if it determines that a course or material did not provide appropriate information or training has been incorporated into WAC 246-851-090.

Cost/Benefit Analysis: There are no compliance costs in repealing this section. Content from this section is incorporated into other sections.

3. WAC 246-851-130 Post-graduate education program.

Description of the proposed rules: This section is repealed. The board has determined that it is a conflict of interest for the board to both regulate and provide continuing education courses.

Cost/Benefit Analysis: There are no compliance costs in this section.

4. WAC 246-851-120, 140, 150, 155 and 170

Description of the proposed rules: The proposed rules amend WAC 246-851-110, -120, -140, -150 and -170, and establish a new section, WAC 246-851-155. The proposed rules require optometrists to get a specified minimum or maximum number of credit hours, every two year reporting period, in five specific CE categories listed below. These categories and the minimum and maximum hours were developed through stakeholder discussion during one of the board's regular meetings:

- 1) Category 1: Continuing education from optometry-specific organizations – Minimum 25 credit hours. Optometrists can receive an additional 10 credits for remotely attended lives courses if they have opportunity to question the instructor and hear the questions of other attendees.
- 2) Category 2: Credit for education from specified non-optometry-specific organizations – Maximum 20 credit hours
- 3) Category 3: Credit for teaching – Maximum 10 credit hours
- 4) Category 4: Credit for publishing and exhibiting – Maximum 10 credit hours
- 5) Category 5: Credit for self-directed study – Maximum 25 credit hours

Each of the five categories above includes general parameters of what constitutes acceptable coursework.

Cost/Benefit Analysis: The proposed changes eliminate the existing approved courses and instructors, but most providers already fit into the five-category framework. Those that do not will have the ability to reformat their courses to fit into one of the five categories. The board recognizes that some providers may choose not to reformat their courses, and will no longer

provide training. The proposed rule also adds some new CE providers that can offer courses in the five categories. There are no compliance costs in this section. The benefit of the section is that optometrists will receive a well-rounded, accessible continuing educational experience.

5. WAC 246-851-180 Credit for lecturing.

Description of the proposed rules: This section is repealed and incorporated in to WAC 246-851-150.

Cost/Benefit Analysis: There are no compliance costs in this section.

6. WAC 246-851-180 Credit for CPR training.

Description of the proposed rules: This section is repealed and incorporated in to WAC 246-851-140.

Cost/Benefit Analysis: There are no compliance costs in this section.

7. WAC 246-851-230 Credits for practice management

Description of the proposed rule: The proposed rule removes references to rule language that has been removed.

Cost/Benefit Analysis: There are no compliance costs in this section.

Cost Benefit Summary

The proposed rule does not change the existing required 50 hours of CE every two years and therefore adds no additional costs for optometrists to comply with the CE requirement. The proposal makes several structural changes to the CE program. The proposal restructures the CE program by creating five categories of CE course types, with each having either a minimum or maximum number of credit hours allowed. By spreading out the CE hours into different types of CE opportunities, optometrists receive a more balanced educational experience. The multiple categories also create more flexibility in how optometrists can satisfy the CE requirement.

As an alternative to the education categories, the proposal allows licensees to meet the continuing education requirement if they hold a current Optometric Recognition Award from the American Optometric Association or hold a current certification by the American Board of Optometry or other certification program. This alternative eliminates a duplicative administrative function of demonstrating completion of the CE credit hours. Based on this analysis, the total probable benefits of the proposed rule exceed the total probable costs.

Identify alternative versions of the rule that were considered, and explain how the department determined that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives state previously.

The proposed rule does not change the required number of CE credit hours. It does, however, establish a framework that defines minimum and maximum allowable credits across five educational areas. The Board discussed different hour threshold (alternatives) for each of the categories, with the idea that a balanced education experience is optimal. The proposed framework provides more flexibility and opportunity for optometrists to complete continuing education hours in areas that are specifically related to their practice settings. More web-based hours of study are also allowed in the current version. The board determined that the restructured program will result in optometrists receiving a well-rounded, accessible continuing educational experience at no additional costs. Therefore, the proposed rule language is the least burdensome approach to enhancing the educational experiences for optometrists.

Determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law.

The rule does not require those to whom it applies to take an action that violates requirements of another federal or state law.

Determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law.

The rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law.

Determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, determine that the difference is justified by an explicit state statute or by substantial evidence that the difference is necessary.

The rule does not differ from any federal regulation or statute applicable to the same activity or subject matter.

Demonstrate that the rule has been coordinated, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter.

The rule has been coordinated, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter.