

**STATE OF WISCONSIN
OPTOMETRY EXAMINING BOARD**

**IN THE MATTER OF RULE-MAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : ON CLEARINGHOUSE RULE 06-116
OPTOMETRY EXAMINING BOARD : (s. 227.19 (3), Stats.)**

I. THE PROPOSED RULE:

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

II. REFERENCE TO APPLICABLE FORMS:

No new or revised forms are required by these rules.

III. FISCAL ESTIMATES:

The Department of Regulation and Licensing estimates that this rule will require staff time in the Divisions of Management Services and Professional Counseling. The one-time salary and fringe costs in the Divisions of Management Services and Professional Counseling are estimated at \$747. The department finds that this rule has no significant fiscal effect on the private sector.

IV. STATEMENT EXPLAINING NEED:

This proposed rule-making is required to fulfill the implementation of 2005 Wisconsin Act 297 relating to the regulation of optometry. Additional changes will further clarify existing provisions in the rules by adding adequate definitions and correct errors in the continuing education rules due to a third party association changing their terminology. In regards to supervision, the board finds that requirements for immediate supervision is not current with the modern practice of optometry, given easy to use and safe technologies incorporated into the practice of optometry, and in light of the recent additions of delegated authority, provided by 2005 Wisconsin Act 297, which requires a more flexible and reasonable definition of supervision.

By 2005 Wisconsin Act 297, the legislature made changes and additions to Wis. Stats. ch 449, relating to the regulation of optometry: authority and definitions; examination approval; delegation; licensure by endorsement; continuing education; conduct; usage of therapeutic pharmaceutical agents and diagnostic pharmaceutical agents; and certificate of registration. Also, the board is making changes relating to an outdated list of COPE approved courses, defines what constitutes an electronic signature, changes immediate supervision as it is outdated and may be better as direct or indirect supervision, and defines electronic signatures.

V. NOTICE OF PUBLIC HEARING:

A public hearing was held on December 7, 2006. Peter Theo with the Wisconsin Optometric Association, appeared and spoke in favor of the proposed rules. There were no other appearances and no written comments were received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 3. Section RL 10.02 (1) (a) refers to s. Opt 6.04, which is being repealed and recreated by this rule-making order. The department should review whether the reference is still correct.

Response: After the proposed rules are promulgated, the correct reference will be to ch. Opt 8. Since ch. RL 10 was promulgated by the Department of Regulation and Licensing, not the Optometry Examining Board, the department will need to revise s. RL 10.02 (1) (a) to change the current reference from s. Opt 6.04 to ch. Opt 8.

All of the other recommendations suggested in the Clearinghouse Report were accepted in whole.

VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:

These rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats.