

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION AND
DEPARTMENT OF REGULATION : LICENSING ADOPTING RULES
AND LICENSING : (CLEARINGHOUSE RULE 01-068)

ORDER

An order of the Department of Regulation and Licensing to repeal RL 10.04 (2) (b) (intro.); to renumber RL 10.04 (2) (b) 2.; to renumber and amend RL 10.04(2) (b) 1.; and to amend RL 10.03, 10.04 (2) (a) and the Note following RL 10.04 (3), relating to certification of optometrists to use diagnostic pharmaceutical agents.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 227.11 (2), 440.07 and 449.17, Stats.

Statutes interpreted: ss. 440.03 (1m) and 449.17, Stats.

In this rule-making order, the Department of Regulation and Licensing amends ch. RL 10, relating to the certification of optometrists to use diagnostic pharmaceutical agents.

The Note following s. RL 10.01 (1) is being amended to reflect the renumbering of ch. 161, Stats., to ch. 961, Stats.

Section RL 10.03 states, in part, that an application for a certificate shall be granted or denied within 15 business days after receipt of a completed application. The rule is being amended to omit this provision because the department has adopted a standard rule that specifies the number of business days within which the department must review and make a determination on an application. *s. 440.03 (1m), Stats., s. RL 4.03, Wis. Adm. Code.* Section RL 4.03 (1) states that an authority shall review and make a determination on an original application for a credential within 60 business days after a completed application is received by the authority unless a different period for review and determination is specified by law.

Section RL 10.04 (2), provides that in order to obtain a DPA certificate, an optometrist must submit evidence to the department showing that the optometrist has successfully completed one of the examinations identified in pars. (a) and (b). Depending upon when an application is filed with the department, before or after April 1, 1994, applicants must submit evidence of successful completion of the pharmacology examination administered prior to 1994 by the National Board of Examiners in Optometry; parts I and II of the examination administered after 1986 by the National Board of Examiners in Optometry or an examination approved by the Department of

Regulation and Licensing and the Optometry Examining Board. The rule is being amended to delete the references to the April 1, 1994 date because the references are no longer applicable.

TEXT OF RULE

SECTION 1. The Note following RL 10.01 (10) is amended to read:

Note: Section ~~461.39~~ 961.39, Stats., contains certain limitations relating to the prescribing and administering of controlled substances by optometrists certified under section 449.18, Stats.

SECTION 2. RL 10.03 is amended to read:

RL 10.03 Statement of approval required. A licensed optometrist may not use diagnostic pharmaceutical agents in the practice of optometry unless the optometrist has completed an application form and received a DPA certificate from the department. ~~An application for a certificate shall be granted or denied within 15 business days after receipt of a completed application.~~ A licensed optometrist may not use therapeutic pharmaceutical agents in the practice of optometry unless the optometrist has completed an application form, met the requirements under s. 449.18, Stats., and received a TPA certificate from the optometry examining board.

SECTION 3. RL 10.04 (2) (a) is amended to read:

RL 10.04 (2) (a) ~~If application was made to the department prior to or on April 1, 1994, obtained~~ Obtained a score of not less than 75 on the pharmacology section of the examination administered prior to 1994 by the national board of examiners in optometry.

SECTION 4. RL 10.04 (2) (b) (intro.) is repealed.

SECTION 5. RL 10.04 (2) (b) 1. is renumbered RL 10.04 (2) (b) and amended to read:

RL 10.04 (2) (b) Obtained passing scores on parts I and II of the examination administered after 1986 by the national board of examiners in optometry; ~~or.~~

SECTION 6. RL 10.04 (2) (b) 2. is renumbered RL 10.04 (2) (c).

SECTION 7. The Note following RL 10.04 (3) is amended to read:

Note: ~~The department of regulation and licensing does not administer the pharmacology examination.~~ The required score of “not less than 75” relates only to the pharmacology section of the national examination. Therefore, if all sections of the national examination ~~are~~ were taken

at once, the 75 score minimum applies only to the pharmacology section and not to the other sections of the examination.

(END OF TEXT OF RULE)

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated: November 16, 2001

Agency _____
Oscar Herrera, Secretary
Department of Regulation and Licensing

g:\rules\r110.doc
11/8/01