

STATEMENT OF SCOPE

Optometry Examining Board

Rule No.: Chapters OPT 1, 5 and 6

Relating to: Telehealth

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

The objective of the proposed rule is to provide clarity for licensees regarding the use of telehealth to provide optometric health practice, which may include revisions to Chs. OPT 1, 5 and 6.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Current administrative rules of the Optometry Examining Board do not address virtual delivery of optometric telehealth services. The proposed rule will establish standards of practice and professional conduct when delivering optometric telehealth services. Reviewing and updating these requirements will enhance clarity regarding current technological methods of delivery and ensure they also accurately reflect the current practice of optometry. The alternative to not updating the rules would be that licensees would not have clear guidance regarding virtual optometric delivery care service and current professional conduct requirements.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 15.08 (5) (b), Stats., states that the examining board, “shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Section 227.11 (2) (a), Stats., states in part, that an agency, “may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.”

Section 449.25, Stats., provides that the examining board shall promulgate rules relating to informed consent, stating that, “[a]ny optometrist who treats a patient shall inform the patient about the availability of reasonable alternate modes of treatment and about the benefits and risks of these treatments...”

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

80 hours

6. List with description of all entities that may be affected by the proposed rule:

Licensed optometrists practicing telehealth and their patients.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

None.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The proposed rule is not likely to have a significant economic impact on small businesses.

Contact Person: Dana Denny, Administrative Rules Coordinator, DSPSAdminRules@wisconsin.gov, (608) 287-3748.