

Regulatory Analysis
LSA Document #23-737**I. Description of Rule**

a. History and Background of the Rule – In 2021, the Optometry Board noticed that its continuing education rules were very restrictive. Specifically, those rules demanded that portions of a practitioner's 20 hours of continuing education be dedicated to certain topics, and limited the number of hours that could be obtained virtually. Due to changes in technology and optometry practice, the Board desired to loosen these restrictions.

In the process of reviewing the continuing education rules, the Board noted that its pre-licensure education requirements were unclear and that it lacked control over applicants with numerous exam failures. The Board desired to add clarity and guardrails to improve passage rates.

b. Scope of the Rule – This proposed rule makes changes to the Optometry Board's primary education, examination, and continuing education requirements. Specifically, this proposed rule: (1) defines the accreditation body for optometry education programs; (2) clarifies and tightens examination requirements to assist graduates with multiple failures; (3) expands practitioner discretion in the manner and type of continuing education that may be received; and (4) removes duplicative and gender-specific language from existing rules.

c. Statement of Need – The proposed rule addresses confusion by potential students regarding the types of educational programs that will ultimately qualify for licensure. PLA frequently receives applications from individuals with degrees from unaccredited and foreign institutions. By specifying the correct accreditation body, the proposed rule ensures students who choose those programs understand how it will affect their eligibility for licensure.

The proposed rule clarifies and adds procedures for examination requirements. Applicants must pass an examination for licensure as an optometrist. A small portion of the applicants fail the examination on multiple occasions or are unable to pass a part of the examination. The proposed rule requires that all parts of the examination be passed within 2 years of one another within 4 attempts. This prevents applicants from sitting on passing scores for several years while failing another part. The proposed rule also permits the Board to order a refresher course for applicants who fail a part of the examination in 4 attempts or go beyond the 2-year mark for all 4 parts of the examination.

The proposed rule expands practitioner discretion in terms of their continuing education. Practitioners were previously required to obtain two hours of continuing education each cycle in medical administration (billing, compliance, etc.). Changes in the profession have decreased the need for continuing education in these areas. The proposed rule makes these categories discretionary. Also, optometrists were previously permitted only eight hours of self-study (virtual) continuing education. Changes in technology permit greater access to virtual continuing education. The proposed rule expands the allowable virtual hours to fifteen. To facilitate these changes, the Board will require additional information from prospective CE providers.

d. Statutory Authority for the Proposed Rule – [IC 25-24-1-1](#)

e. Fees, Fines, and Civil Penalties – The proposed rule will not add any additional fees, fines, or penalties. It will likely lead to a slight decrease in the amount of civil penalties assessed by the Board.

II. Fiscal Impact Analysis

This section should include a discussion of the impact of the proposed rulemaking on State and local government expenditures and revenues. Topics to address include (as applicable):

a. Anticipated Effective Date of the Rule – January 1, 2024

b. Estimated Fiscal Impact on State and Local Government – The proposed rule will have an insignificant fiscal impact on the state or agency. While there may be providers interested in becoming a continuing competency sponsoring organization, the Board already has an extensive list of sponsors. New sponsors will

be added infrequently, and the administrative costs of doing so will not change significantly. Any additional costs will be absorbed by the agency.

c. Sources of Expenditures or Revenues Affected by the Rule – To the extent the proposed rule adds any expenditures, those minimal expenditures will affect PLA's General Fund allocation starting in FY24. With the additional freedom in continuing education, the Board anticipates fewer optometrists will be noncompliant with their continuing education requirements. This may lead to fewer civil penalties, which would flow into the General Fund.

III. Impacted Parties

The following parties will be affected by the proposed rule: (1) licensed Indiana optometrists; (2) Indiana optometry students; (3) applications for Indiana optometry licenses; (4) optometry continuing education providers; and (5) optometry pre-licensure education programs.

IV. Changes in Proposed Rule

Attached with submission.

V. Benefit Analysis

The proposed rule carries three primary benefits. First, it clarifies the correct accrediting body for optometry pre-licensure programs. Second, it will lead to improved rates of patient harm. Third, it will increase compliance with continuing education requirements by simplifying those requirements and increasing access.

First, the proposed rule clarifies the correct accrediting body for optometry pre-licensure programs. The previous rule did not specify an accrediting body. The proposed rule identifies the Accreditation Council on Optometric Education (ACOE) as the sole accrediting body. This benefits prospective applicants for Indiana licensure by allowing them to identify programs that will not make them eligible for licensure – thereby avoiding unnecessary time and expense. It also benefits the Board and PLA staff by making it easier to deny applicants from disreputable programs. It will avoid the significant time cost associated with evaluating course syllabi and educational quality for those programs.

Second, the proposed rule will lead to improved rates of patient harm. The current rule only requires that all four parts of the examination must be passed. Some applicants have difficulty passing the examination but would pass after repeatedly failing one or more part of the examination over the course of several years. This led to inexperienced individuals obtaining optometry licensure without having studied or engaged with necessary parts of the required coursework for several years. The proposed rule permits the Board to require such individuals obtain additional education or testing – usually in the form of a refresher course – prior to obtaining licensure. By ensuring proper knowledge at the time of licensure, the proposed rule will reduce patient harm.

Third, the proposed rule will increase compliance with continuing education requirements by simplifying those requirements and increasing access. The current rules require optometrists to obtain two hours of continuing education each cycle in medical administration (billing, compliance, etc.). The proposed rule eliminates this requirement, thereby simplifying the necessary continuing education for optometrists. The current rule also limits the number of self-directed (virtual) continuing education hours to eight. The proposed rule expands that limit to fifteen hours. By making it easier for optometrists to comply with their continuing education requirements, the proposed rule will increase overall compliance. This will decrease costs and time of obtaining continuing education for practitioners, decrease the costs of delivery for continuing education providers, and decrease PLA's costs associated with disciplining non-complaint practitioners.

Increasing the number of self-directed continuing education requirements by seven will result in cost savings for Indiana optometrists. Optometry continuing education credits generally cost around \$30 per hour, whereas self-directed continuing education is generally free. This change will save each Indiana optometrist roughly \$210 per license renewal cycle. The remaining benefits cannot be monetized or quantified because information regarding current levels of compliance costs, delivery costs, and patient harm are not readily available. Further, PLA's business structure mixes duties related to multiple professions. It is difficult to estimate how these changes will affect work hours for staff or how those hours will change.

VI. Cost Analysis

The proposed rule will not meaningfully increase costs to the state. PLA may require additional work to approve continuing education providers but will experience less work processing continuing education violations. This workload will likely balance. To the extent PLA's workload does increase as a result of the proposed rule, any costs will be absorbable.

The proposed rule may negatively impact General Fund revenues through the loss of civil penalties related to continuing education noncompliance. During FY22 & FY23 PLA collected \$4000.00 in such penalties. PLA anticipates a 30% reduction continuing education noncompliance. This will lead to a reduction in revenue of \$1200.00 per biennium.

The proposed rule may negatively impact unaccredited educational programs. None of these programs are located in Indiana.

The proposed rule increases costs related to audit approval – requiring additional documentation and audit. The documentation requirements are minimal. It requires production to the Board of presentation materials already in existence. Audit costs will largely be borne by PLA and will be absorbable.

VII. Sources of Information

An independent review was performed by PLA staff and Board members, by reviewing other state and jurisdictions statutes and rules as well as an online search of CE/CC providers to determine the average cost of CC/CE hours; this information was relied upon in determining the benefits and policy rationale of this proposed rule. Administrative rules regarding continuing competency from other Indiana professions as well as The American Optometric Association (AOA) were also reviewed. The Indiana Optometric Association's website was reviewed to determine costs of continuing education.

VIII. Regulatory Analysis

The proposed rule carries only minimal costs, most of which accruing only to PLA. The benefits will be felt by both the entire regulatory community in the form of simplified, less expensive, and more accessible licensure requirements. Accordingly, the benefits of the proposed rule outweigh any costs.

First Notice of Public Comment Period with Proposed Rule: [20231115-IR-852230737FNA](#)

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