



**TO:** The Professional Practice Committee

**FROM:** Douglas E. Lentivech

**SUBJECT:** Proposed Amendment to Section 66.6 of the Regulations of the Commissioner of Education Relating to the Continuing Education Requirements for Optometrists Certified to Use Therapeutic Pharmaceutical Agents

**DATE:** May 11, 2015

**AUTHORIZATION(S):**

## SUMMARY

### Issue for Decision

Should the Board of Regents amend subdivision (b) of section 66.6 of the Regulations of the Commissioner of Education relating to the continuing education requirements for optometrists certified to use therapeutic pharmaceutical agents?

### Reason(s) for Consideration

Review of Policy.

### Proposed Handling

The proposed amendment will be presented to the Professional Practice Committee for recommendation and to the Full Board for adoption at the May 2015 meeting of the Board of Regents. A copy of the proposed amendment is attached. Supporting materials for the proposed amendment are available upon request from the Secretary of the Board of Regents.

### Procedural History

The proposed amendment was discussed by the Professional Practice Committee at the February 2015 Board of Regents meeting. A Notice of Proposed Rulemaking was published in the State Register on March 11, 2015 for a 45-day public

comment period. The Department received no public comment on the proposed amendment. Therefore, an Assessment of Public Comment is not required and no changes to the proposed amendment are recommended at this time.

### **Background Information**

Pursuant to Education Law §7101-a(7), optometrists, who are certified to use therapeutic pharmaceutical agents, must complete a minimum of 36 hours of continuing education during each triennial registration period. There is no continuing education requirement for optometrists who do not have this certification. Section 66.6 of the Regulations of the Commissioner of Education was added in 2007, to, inter alia, establish a standard regarding what methods of study would be acceptable to the Department for continuing education purposes. Under the current regulation, 27 hours of such continuing education must consist of live in-person instruction and up to 9 hours of such continuing education may consist of live instruction in a formal course of study offered through audio, audio-visual, written, on-line, and other media during which the student must be able to communicate and interact with the instructor.

The proposed amendment provides optometrists, who are certified to use therapeutic pharmaceutical agents, with more flexibility in satisfying their continuing education requirements by expanding the list of methods of study that the Department will consider acceptable for continuing education purposes. The proposed amendment requires that at least 27 hours of the required 36 hours of continuing education in a triennial registration period must consist of live in-person instruction in a formal course of study and/or live instruction in a formal course of study offered through audio, audio-visual, written, on-line, and other media, during which the student must be able to communicate and interact with the instructor and other students. Since the 2007 adoption of section 66.6, live webinars that include communication and interaction between the student and the instructor and/or other students have become the norm for most professions with continuing education requirements. The proposed amendment recognizes this development by permitting optometrists to use such webinars to satisfy some or all of their continuing education requirements. These webinars will have to satisfy the same requirements as live in-person instruction in a formal course of study, which include the requirements that all courses taken to satisfy continuing education requirements must be in appropriate subject matters and offered by approved providers.

In addition, the proposed amendment permits up to 9 hours of the required continuing education to be completed through a self-study program, meaning structured study, provided by a Department approved sponsor of continuing education, that is based on audio, audio-visual, written, on-line, and other media, and does not include live instruction, transmitted in person or otherwise, during which the student may communicate and interact with the instructor and other students. Several other professions, including, but not limited to, dentistry, ophthalmic dispensing, physical therapy, chiropractic, respiratory therapy, and massage therapy, already permit their licensees to use some form of self-study to satisfy their respective continuing education requirements. The proposed amendment will provide optometrists with the same opportunities, as the licensees in many other professions, to use self-study programs to satisfy a limited portion of their continuing education requirement.

### **Recommendation**

It is recommended that the Board of Regents take the following action:

VOTED: That subparagraph (i) of paragraph (1) of subdivision (b) of section 66.6 of the Regulations of the Commissioner of Education be amended, as submitted, effective June 3, 2015.

### **Timetable for Implementation**

If adopted at the May 2015 Regents meeting, the proposed amendment will take effect on June 3, 2015.

## AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6507, 7101 and 7101-a of the Education Law.

Subparagraph (i) of paragraph (1) of subdivision (b) of section 66.6 of the Regulations of the Commissioner of Education is amended, effective June 3, 2015, to read as follows:

66.6 Continuing education for licensed optometrists certified to use phase one and/or phase two therapeutic pharmaceutical agents.

(a) . . .

(b) Mandatory continuing education requirement.

(1) General requirements.

(i) During each triennial registration period, meaning a registration period of three years duration, an applicant for registration shall complete at least 36 hours of formal continuing education acceptable to the department as define in paragraph (2) of this subdivision. At least [three-quarters] 27 hours of such continuing education in a registration period shall consist of live in-person instruction in a formal course of study and/or live instruction in a formal course of study offered through audio, audio-visual, written, on-line, and other media, during which the student must be able to communicate and interact with the instructor and other students. Up to [one-quarter] 9 hours of such continuing education in a registration period may [consist] be completed through a self-study program, meaning structured study, provided by a sponsor approved pursuant to subdivision (g) of this section, that is based [of live instruction in a formal course of study offered through] on audio, audio-visual, written, on-line, and other media, and does not include live instruction, transmitted in person or otherwise, during which the student [must be able to] may communicate and interact with the instructor and other students.