Wisconsin Department of Safety and Professional Services
Division of Policy Development
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Scott Walker, Governor
Laura Gutiérrez, Secretary

OPTOMETRY EXAMINING BOARD
Room 121A, 1400 East Washington Avenue, Madison
Contact: Thomas Ryan (608) 266-2112
February 15, 2018

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a record of the actions of the Board.

AGENDA

9:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1-3)

B. Approval of Minutes – October 5, 2017 (4-5)

C. Conflicts of Interest

D. Administrative Updates (6-12)
1) Department and Staff Updates
2) Election of Officers
3) Appointment of Liaisons and Alternates
4) Delegation of Authorities
5) Board Member – Board Member status
   a. Ann Meier Carli – 07/01/2014
   b. Richard Foss – 07/01/2017
   c. Brian Hammes – 07/01/2019 *(reappointed, not yet confirmed)*
   d. Mark Jinkins – 07/01/2016
   e. Robert Schulz – 07/01/2020 *(reappointed, not yet confirmed)*
   f. Peter Sorce – 07/01/2018
   g. John Sterling – 07/01/2021 *(appointed, not yet confirmed)*

E. Legislative and Administrative Rule Matters – Discussion and Consideration
1) Review of the Preliminary Rule Drafts of OPT 6 and SPS 10, Relating to the Use of Pharmaceutical Agents by Licensed Optometrists **(13-41)**
2) Update on OPT 8, Relating to Continuing Education **(42-48)**
3) Update on Budget Provision, 2017 Wisconsin Act 59 **(49-50)**
4) Position Statement, Review and Discussion **(51-59)**
5) Update on Legislation and Pending or Possible Rulemaking Projects

F. New Technology – Potential for Practice and Safety Concerns -John Sterling (60-67)

G. Association of Regulatory Boards of Optometry (ARBO) Matters – Discussion and Consideration

1) Announcement on Council on Optometric Practitioner Education (COPE) Equivalency Decision, COPE Accreditation Deemed Substantially Equivalent to American Council for Continuing Medical Education (ACCME) Accreditation Program **(68-69)**

2) 99th ARBO Annual Meeting on June 17-19, 2018 in Denver, Colorado – Board Consideration of Attendance and Scholarship Offer **(70-71)**

H. Speaking Engagement(s), Travel, or Public Relation Request(s) – Discussion and Consideration

I. Informational Items

J. Items Added After Preparation of the Agenda:

1) Introductions, Announcements and Recognition
2) Nominations, Elections, and Appointments
3) Board Liaison Training and Appointment of Mentors
4) Administrative Updates
5) Education and Examination Matters
6) Credentialing Matters
7) Practice Matters
8) Legislation/administrative Rule Matters
9) Liaison, Panel, and Committee Report(s)
10) Informational Item(s)
11) Disciplinary Matters
12) Presentations of Petition(s) for Summary Suspension
13) Presentation of Proposed Stipulation(s), Final Decision(s) and Order(s)
14) Presentation of Proposed Decisions
15) Presentation of Interim Order(s)
16) Petitions for Re-Hearing
17) Petitions for Assessments
18) Petitions to Vacate Order(s)
19) Petitions for Designation of Hearing Examiner
20) Requests for Disciplinary Proceeding Presentations
21) Motions
22) Petitions
23) Appearances from requests Received or Renewed
24) Speaking Engagement(s), Travel, or Public Relation Request(s), and Reports

K. Public Comments

L. Future Agenda Items

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85(1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.).

M. Division of Legal Services and Compliance (DLSC) Matters (72-79)

1) Case Closing
   a. 16 OPT 012

N. Deliberation on Items Added After Preparation of the Agenda

1) Education and Examination Matters
2) Credentialing Matters
3) DLSC/Disciplinary Matters
4) Monitoring Matters
5) Professional Assistance Procedure (PAP) Matters
6) Board Liaison Training
7) Petition(s) for Summary Suspension
8) Proposed Stipulations, Final Decision and Orders
9) Administrative Warnings
10) Proposed Decisions
11) Matters Relating to Costs
12) Complaints
13) Case Closings
14) Case Status report
15) Petition(s) for Extension of time
16) Proposed Interim Orders
17) Petitions for Assessments and Evaluations
18) Petitions to Vacate Orders
19) Remedial Education Cases
20) Motions
21) Petitions for Re-Hearing
22) Appearances from Requests Received or Renewed

O. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

P. Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

Q. Delegation of Ratification of Examination Results and Ratification of Licenses and Certificates

R. Open Session Items Noticed Above Not Completed in the Initial Open Session

ADJOURNMENT

NEXT SCHEDULED MEETING: MAY 31, 2018

OPTOMETRY EXAMINING BOARD
MEETING MINUTES
March 16, 2017

PRESENT: Ann Meier Carli, Richard Foss, Brian Hammes, Mark Jinkins, Robert Schulz, John Sterling

EXCUSED: Peter Sorce

STAFF: Thomas Ryan, Executive Director; Laura Smith, Bureau Assistant; Helen Leong, Administrative Rules Coordinator and other DSPS Staff

CALL TO ORDER

Ann Meier Carli, Chair, called the meeting to order at 9:06 A.M. A quorum of six (6) members was confirmed.

ADOPTION OF AGENDA

MOTION: Richard Foss moved, seconded by Mark Jinkins, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: Mark Jinkins moved, seconded by Richard Foss, to approve the minutes of March 16, 2017 as published. Motion carried unanimously.

LEGISLATIVE AND ADMINISTRATIVE RULE MATTERS

Review of the Preliminary Rule Draft of OPT 8 Relating to Continuing Education

MOTION: Mark Jinkins moved, seconded by Brian Hammes, to authorize the Chair to advise the Department on the drafting of Opt 8 relating to continuing education. Motion carried unanimously.

REVIEW OF APPROVED OPTOMETRY COLLEGES

MOTION: Mark Jinkins moved, seconded by John Sterling, to approve all educational institutions that are accredited by the Accreditation Council on Optometric Education (ACOE). Motion carried unanimously.

CLOSED SESSION

MOTION: Mark Jinkins moved, seconded by Robert Schulz, to convene to Closed Session to deliberate on cases following hearing (§ 19.85(1) (a), Stats.); to consider licensure or certification of individuals (§ 19.85 (1) (b), Stats.); to consider closing disciplinary investigations with administrative warnings (§ 19.85 (1) (b), Stats. and § 440.205, Stats.); to consider individual histories or disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.). The Chair read the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: Ann Meier Carli-yes;

Richard Foss-yes; Brian Hammes-yes; Mark Jinkins-yes; Robert Schulz-yes; John Sterling-yes. Motion carried unanimously.

The Board convened into Closed Session at 11:11 a.m.

RECONVENE TO OPEN SESSION

MOTION: Ann Meier Carli moved, seconded by Robert Schulz, to reconvene in Open Session at 11:14 a.m. Motion carried unanimously.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION, IF VOTING IS APPROPRIATE

MOTION: Mark Jinkins moved, seconded by Ann Meier Carli, to affirm all motions made and votes taken in Closed Session. Motion carried unanimously.

(Be advised that any recusals or abstentions reflected in the closed session motions stand for the purposes of the affirmation vote.)

DIVISION OF LEGAL SERVICES AND COMPLIANCE MATTERS

Case Closing

16 OPT 001

MOTION: Ann Meier Carli moved, seconded by Mark Jinkins to close DLSC case number 16 OPT 001 for Insufficient Evidence. Motion carried unanimously.

ADJOURNMENT

MOTION: Ann Meier Carli moved, seconded by Brian Hammes, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:20 A.M.

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Laura Smith, Bureau Assistant, on behalf of Tom Ryan, Executive Director	11/22/17 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting

3) Name of Board, Committee, Council, Sections:

Optometry Examining Board

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
2/15/2018	☒ Yes ☐ No	Administrative Matters/Updates 1) Election of Officers 2) Appointment of Liaisons and Alternates 3) Delegation of Authorities

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session	☐ Yes ☒ No	N/A

10) Describe the issue and action that should be addressed:

1) The Board should conduct Election of its Officers for 2018
2) The new Chairperson should review and appoint/reappoint Liaisons and Alternates as appropriate
3) The Board should review and then consider continuation or modification of previously delegated authorities

11) Authorization

Laura Smith *11/22/2017*

Signature of person making this request Date

Supervisor (if required) Date

Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date

Directions for including supporting documents:
1. This form should be attached to any documents submitted to the agenda.
2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director.
3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.

2017 Optometry Examining board

Election Results, Liaison Appointments, and Delegated Authorities

2017 ELECTION RESULTS	
Board Chair	Ann Meier Carli
Vice Chair	Robert Schulz
Secretary	Mark Jinkins
2017 LIAISON APPOINTMENTS	
Professional Assistance Procedure (PAP) Liaison(s)	Mark Jinkins
Monitoring Liaison	Mark Jinkins
Credentialing Liaison(s)	Ann Meier Carli
Education and Exams Liaison(s)	Richard Foss
Prescription Drug Monitoring Program Liaison (PDMP) Liaison(s)	Robert Schulz
2017 SCREENING PANEL APPOINTMENTS	
January-December 2017	Richard Foss, Mark Jinkins, Robert Schulz

MOTION: Richard Foss moved, seconded by Peter Sorce, to affirm the Chair's appointment of liaisons for 2017. Motion carried unanimously.

Delegation of Authority

Delegated Authority for Urgent Matters

MOTION: Ann Meier Carli moved, seconded by Robert Schulz, that, in order to facilitate the completion of assignments between meetings, the Board delegates its authority by order of succession to the Chair, highest ranking officer, or longest serving member of the Board, to appoint liaisons to the Department to act in urgent matters, make appointments to vacant liaison, panel and committee positions, and to act when knowledge or experience

in the profession is required to carry out the duties of the Board in accordance with the law. Motion carried unanimously.

Delegated Authority for Telehealth Legislation

MOTION: Brian Hammes moved, seconded by Ann Meier Carli, to designate the Chair as the legislative liaison regarding telehealth and to speak on behalf of the Board regarding this matter. Motion carried unanimously.

Delegated Authority for Application Denial Reviews

MOTION: Ann Meier Carli moved, seconded by Peter Sorce, that the Board counsel or another department attorney is formally authorized to serve as the Board's designee for purposes of Wis. Admin Code § SPS 1.08(1). Motion carried unanimously.

Document Signature Delegation

MOTION: Ann Meier Carli moved, seconded by Richard Foss, to delegate authority to the Chair or chief presiding officer, or longest serving member of the Board, by order of succession, to sign documents on behalf of the Board. In order to carry out duties of the Board, the Chair, chief presiding officer, or longest serving member of the Board, has the ability to delegate this signature authority for purposes of facilitating the completion of assignments during or between meetings. The Chair, chief presiding officer, or longest serving member of the Board delegates the authority to Executive Director or designee to sign the name of any Board member on documents as necessary and appropriate. Motion carried unanimously.

Credentialing Authority Delegations

MOTION: Ann Meier Carli moved, seconded by Peter Sorce, to delegate authority to the Credentialing Liaisons to make all credentialing decisions. Motion carried unanimously.

MOTION: Ann Meier Carli moved, seconded by Robert Schulz, to delegate credentialing authority to DSPS for those submitted applications that meet the criteria of Rule and Statute and thereby would not need further Board or Board liaison review. Motion carried unanimously.

Monitoring Delegation

MOTION: Ann Meier Carli moved, seconded by Robert Schulz, to adopt the 'Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor; document as presented. Motion carried unanimously.

PDMP Delegation

MOTION: Ann Meier Carli moved, seconded by Peter Sorce, to delegate authority to the Prescription Drug Monitoring Program (PDMP) Liaison for all matters relating to PDMP. Motion carried unanimously.

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Ashley Ayres Monitoring and Intake Supervisor Division of Legal Services and Compliance	December 18, 2017 Items will be considered late if submitted after 4:30 p.m. and less than: ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others

3) Name of Board, Committee, Council, Sections:
Optometry Examining Board

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
February 15, 2018	☒ Yes ☐ No	Appointment of Monitoring Liaison and Delegated Authority Motion

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session ☐ Both	☐ Yes (Fill out Board Appearance Request) ☒ No	

10) Describe the issue and action that should be addressed:

Adopt or reject the Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor document as presented in today's agenda packet.

11) Authorization

Ashley Ayres — December 18, 2017

Signature of person making this request — Date

Supervisor (if required) — Date

Executive Director signature (indicates approval to add post agenda deadline item to agenda) — Date

Directions for including supporting documents:
1. This form should be attached to any documents submitted to the agenda.
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3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.

Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor

The Monitoring Liaison ("Liaison") is a Board/Section designee who works with department monitors to enforce Board/Section orders as explained below.

Current Authorities Delegated to the Monitoring Liaison

The Liaison may take the following actions on behalf of the Board/Section:

1. Grant a temporary reduction in random drug screen frequency upon Respondent's request if he/she is unemployed and is otherwise compliant with Board/Section order. The temporary reduction will be in effect until Respondent secures employment in the profession. The Department Monitor ("Monitor") will draft an order and sign on behalf of the Liaison.

2. Grant a stay of suspension if Respondent is eligible per the Board/Section order. The Monitor will draft an order and sign on behalf of the Liaison.

3. Remove the stay of suspension if there are repeated violations or a substantial violation of the Board/Section order. In conjunction with removal of any stay of suspension, the Liaison may prohibit Respondent from seeking reinstatement of the stay for a specified period of time. The Monitor will draft an order and sign on behalf of the Liaison.

4. Grant or deny approval when Respondent proposes continuing/remedial education courses, treatment providers, mentors, supervisors, change of employment, etc. unless the order specifically requires full-Board/Section approval.

5. Grant a maximum of one 90-day extension, if warranted and requested in writing by Respondent, to complete Board/Section-ordered continuing education.

6. Grant a maximum of one extension or payment plan for proceeding costs and/or forfeitures if warranted and requested in writing by Respondent.

7. Grant full reinstatement of licensure if Respondent has fully complied with all terms of the order without deviation. The Monitor will draft an order and obtain the signature or written authorization from the Liaison.

8. Grant or deny a request to appear before the Board/Section in closed session.

9. *(Except Pharmacy)* Accept Respondent's written request to surrender credential. If accepted by the Liaison, Monitor will consult with Board Counsel to determine if a stipulation is necessary. If a stipulation is not necessary, Monitor will draft an order and sign on behalf of the Liaison. If denied by the Liaison, the request to surrender credential will go to the full Board for review.

10. *(Except Pharmacy)* Grant Respondent's petition for a reduction in drug screens per the standard schedule, below. If approved, Monitor will draft an order and sign on behalf of the Liaison.

    a. Year 1: 49 screens (including 1 hair test, if required by original order)
    b. Year 2: 36 screens (plus 1 hair test, if required by original order)
    c. Year 3: 28 screens plus 1 hair test
    d. Year 4: 28 screens plus 1 hair test
    e. Year 5: 14 screens plus 1 hair test

11. *(Dentistry only)* – Ability to approve or deny all requests from a respondent.

Current Authorities Delegated to the Department Monitor

The Monitor may take the following actions on behalf of the Board/Section, draft an order and sign:

1. Grant full reinstatement of licensure if CE is the sole condition of the limitation and Respondent has submitted the required proof of completion for approved courses.

2. Suspend the license if Respondent has not completed Board/Section-ordered CE and/or paid costs and forfeitures within the time specified by the Board/Section order. The Monitor may remove the suspension and issue an order when proof completion and/or payment have been received.

3. Suspend the license (or remove stay of suspension) if Respondent fails to enroll and participate in an Approved Program for drug and alcohol testing within 30 days of the order, or if Respondent ceases participation in the Approved Program without Board approval. This delegated authority only pertains to respondents who must comply with drug and/or alcohol testing requirements.

Proposed (New) Delegations to the Monitoring Liaison

The Monitoring Unit is proposing the following additions to the Monitoring Liaison's authority:

1. Board Monitoring Liaison may determine whether Respondent's petition is eligible for consideration by the full Board/Section.

2. Board Monitoring Liaison may approve or deny Respondent's request to be excused from drug and alcohol testing for work, travel, etc.

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Helen Leong, Administrative Rules Coordinator	February 5, 2018 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting

3) Name of Board, Committee, Council, Sections:

Optometry Examining Board

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
February 15, 2018	☒ Yes ☐ No	Legislative and Administrative Rule Matters – Discussion and Consideration 1) Review of the Preliminary Rule Drafts of Opt 6 and SPS 10, relating to the use of pharmaceutical agents by licensed Optometrists

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session	☐ Yes (Fill out Board Appearance Request) ☒ No	

10) Describe the issue and action that should be addressed:

In 2007, the Optometry Examining Board amended chapter Opt 6 to incorporate statutory changes included in 2005 Wisconsin Act 297. The legislation shifted to the Optometry Examining Board from DSPS the authority to issue certificates to use diagnostic pharmaceutical agents by optometrists licensed before 2006. However, the authority to determine which pharmaceutical agents may be used by optometrists remains with DSPS. This rule project amends SPS 10 accordingly, and reflects those changes in the Opt 6 preliminary rule draft.

11) Authorization

Signature of person making this request	Date
Helen Leong	February 5, 2018
Supervisor (if required)	**Date**
Executive Director signature (indicates approval to add post agenda deadline item to agenda)	**Date**

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STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULEMAKING PROCEEDINGS BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES	:	PROPOSED ORDER OF THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES ADOPTING RULES (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Department of Safety and Professional Services to repeal and recreate ch. SPS 10, relating to use of pharmaceutical agents by licensed optometrists.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Sections 449.17, 449.18, and 961.39, Stats.

Statutory authority:

Sections 449.17 (5), 449.18 (6) (cm), and 961.39, Stats.

Explanation of agency authority:

Section 448.17 (5), Stats., provides that the department, "shall, after consultation with the examining board, the medical examining board and the pharmacy examining board, promulgate rules specifying the topical ocular diagnostic pharmaceutical agents which optometrists may utilize in this state."

Section 449.18 (6) (cm), Stats., provides that the department, "shall, after consultation with the examining board, the medical examining board and the pharmacy examining board, promulgate rules specifying those therapeutic pharmaceutical agents that may or may not be prescribed or administered."

Section 961.39, Stats., limits optometrists authorization to use therapeutic agents, to "controlled substances included in schedules III, IV, and V that are permitted for prescription or administration under the rules promulgated…"

Related statute or rule:

Chapter Opt 6, relating to use of diagnostic and therapeutic pharmaceutical agents and removal of superficial foreign bodies from eye or from an appendage to the eye

Plain language analysis:

Summary of, and comparison with, existing or proposed federal regulation:

The federal government schedules therapeutic pharmaceutical agents through the Controlled Substances Act, which categorizes optometrists as mid-level practioners under Title 21, Code of Federal Regulations, Section 1300.01.

Comparison with rules in adjacent states:

Illinois:

Under Illinois law, optometrists may prescribe Schedule II (hydrocodone products only), III, IV, and V controlled substances and ocular pharmaceutical agents to patients without consulting a physician unless the patient is under 5 years of age. Ocular pharmaceutical agents include topical anesthetics, topical mydriatics, topical cycloplegics, topical miotics and mydriatic reversing agents, anti-infective agents, anti-allergy agents, anti-glaucoma agents (except oral carbonic anhydrase inhibitors, which may be prescribed only in a quantity sufficient to provide treatment for up to 30 days), anti-inflammatory agents (except oral steroids, which may be prescribed only in a quantity sufficient to provide treatment for up to 7 days), over-the-counter agents, analgesic agents, anti-dry eye agents, and agents for the treatment of hypotrichosis. The authority to prescribe a Schedule III, IV, or V controlled substance shall include analgesic agents only in a quantity sufficient to provide treatment for up to 72 hours. The prescription of a Schedule II controlled substance is prohibited, except for Dihydrocodeinone (Hydrocodone) with one or more active, non-narcotic ingredients only in a quantity sufficient to provide treatment for up to 72 hours, and only if such formulations of Dihydrocodeinone are reclassified as Schedule II by federal regulation. The Illinois Optometric Licensing and Disciplinary Board may recommend additional pharmaceutical agents approved by the FDA to the Department of Financial and Professional Regulation, and the Department shall promulgate rules to allow for the prescribing or administering pharmaceutical agents. See 225 ILCS 80/15.1.

Illinois designates Optometrists to meet specific requirements to prescribe or distribute each type of pharmaceutical agents, depending on when they graduated from an approved school, including Diagnostic Ocular Phamaceuticals (TN-D-OPT), Topical Therapeutics (TN-T-OPT) and Oral Therapeutic Medications (TN-T-OPT Oral Therapeutics). Illinois also requires a separate Controlled Substance license to prescribe controlled substances, and it must be renewed annually. Illinois's administrative rules relating to the practice are found in Title 68: Professions and Occupations, Chapter VII: Department of Financial and Professional Regulation Part 1320, Optometric Practice Act of 1987.

Iowa:

Under Iowa law, the Board of Optometry Examiners is part of the Department of Public Health. An optometrist licensed by the Board of Optometry Examiners may employ all diagnostic and therapeutic pharmaceutical agents for the purpose of diagnosis and treatment of conditions of the human eye and adnexa, excluding the use of injections other than to counteract an anaphylactic reaction, and may without charge supply any of the above pharmaceuticals to commence a course of therapy. Iowa Code § 154.1 3. and 4. Optometrists can prescribe oral medications including antibiotics, antivirals, and DMARDs, prescribe Schedule II, III, IV, and V drugs, and prescribe oral steroids (for a maximum of 14 days without consultation of a physician). The Board of Pharmacy reviews requests for additions to the controlled substances schedules, and the Board's decision will amend Iowa Code section 124.201, subs. 4. 657-10.37, Iowa Admin. Code.

The requirements for licensure and certification to use diagnostic and therapeutic pharmaceutical agents in Iowa are substantially similar to the requirements in Wisconsin. Both Iowa and Wisconsin require applicants to complete specialized course work relating to the use of diagnostic and therapeutic pharmaceutical agents and to pass a qualifying examination. In reference to continuing education, Iowa and Wisconsin require licensees to complete course work every two years in order to renew their credentials. Iowa requires optometrists who are not certified to use therapeutic pharmaceutical agents to complete 30 hours of continuing education, and optometrists who are certified to use therapeutic pharmaceutical agents to complete 50 hours of continuing education. Iowa's administrative rules relating to the practice of optometry are found in their chapters 179 to 183.

Michigan:

In Michigan, the Board of Optometry requires optometrists to be certified to administer topical ocular diagnostic pharmaceutical agents and to prescribe therapeutic pharmaceutical agents. R 338.315 and R 338.317. The requirements are very similar to those in Wisconsin. The authority to prescribe or administer pharmaceutical agents includes Schedule III, IV, and V drugs and dihydrocodeinone combination drugs. See 333.17401 (f), Michigan Stats. A controlled substances license is required to prescribe controlled substances. A management and emergency plan is also required. See Article 7 of Public Act 3.68 of 1978, as amended.

The requirements for licensure and certification to use diagnostic and therapeutic pharmaceutical agents in Michigan are substantially equivalent to the requirements in Wisconsin. In addition, both Michigan and Wisconsin require applicants to complete specialized course work relating to the use of diagnostic and therapeutic pharmaceutical agents and to pass a qualifying examination. In reference to continuing education, Michigan and Wisconsin require licensees to complete course work every two years in order to renew their credentials. Wisconsin requires 30 hours of continuing education. Michigan requires 40 hours of continuing education. Michigan's administrative rules relating to the practice of Optometry are found in their sections R. 338.211 to 338.279 (General Rules) and R 338.291 (Ethical and Unprofessional Conduct).

Minnesota:

Optometrists may prescribe or administer FDA approved drugs to aid in the diagnosis, cure, mitigation, prevention, treatment, or management of disease, deficiency, deformity, or abnormality of the human eye and adnexa included in the curricula of accredited schools or colleges of optometry, and as limited by Minnesota statute and adopted rules by the Board of Optometry. § 148.56 (a), Minn. Stats. Optometrists may not prescribe or administer Schedule II and III oral FDA approved drugs and oral steroids; oral antivirals to be prescribed for more than ten days; or oral carbonic anhydrase inhibitors to be prescribed or administered for more than seven days. § 148.56 (b), Minn. Stats. The Board of Pharmacy schedules substances. § 152.02, Minn. Stats.

The requirements for licensure and certification to use diagnostic and therapeutic pharmaceutical agents in Minnesota are substantially equivalent to the requirements in Wisconsin. Both states require applicants to be a graduate of an accredited college of optometry and to pass a qualifying examination in order to obtain a license. Both states allow for applicants holding equivalent licensure from another jurisdiction to apply for licensure. In addition, both Minnesota and Wisconsin require applicants to complete specialized course work relating to the use of diagnostic and therapeutic pharmaceutical agents and to pass a qualifying examination. In reference to experience required in order to obtain a certification to use therapeutic pharmaceutical agents, Minnesota requires 2 years of supervised clinical experience in differential diagnosis of eye disease or disorders as part of optometric training or one year of that experience and ten years of actual clinical experience as a licensed optometrist. Other than experience or training required in conjunction with an initial optometry degree program, Wisconsin does not require an applicant to complete experience in order to obtain a certificate to use therapeutic pharmaceutical agents. In reference to continuing education, Minnesota and Wisconsin require licensees to complete course work every two years in order to renew their credentials. Wisconsin requires 30 hours of continuing education. Minnesota requires 40 hours of continuing education. Minnesota's administrative rules relating to the practice of optometry are under their Chapter 6500.

Summary of factual data and analytical methodologies:

Opt 6, relating to the Use of Diagnostic and Therapeutic Pharmaceutical Agents and Removal of Superficial Foreign Bodies From an Eye or From an Appendage to the Eye, was amended in 2007 to implement 2005 Wisconsin Act 297. The legislation shifted to the Optometry Examining Board from the Department of Safety and Professional Services the authority to determine which licensed optometrists may use pharmaceutical agents. The Department is also amending SPS 10 in order to fully enact 2005 Wisconsin Act 297. Staff have opened Opt 6 and SPS 10 concurrently to accurately and consistently implement this legislative shift. Revisions were reviewed by the Optometry Examining Board and DSPS staff to ensure accuracy.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Kirsten.Reader@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Helen Leong, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-0797; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Helen Leong, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before _____ to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Chapter SPS 10 is repealed and recreated to read:

CHAPTER SPS 10
USE OF PHARMACEUTICAL AGENTS BY LICENSED OPTOMETRISTS

SPS 10.01 Authority. The rules in ch. SPS 10 are adopted under the authority in ss. 449.17 (1), 449.18 (6) (cm), and 961.39, Stats., to define the pharmaceutical agents for use by licensed optometrists in Wisconsin.

Note: To determine whether a licensed optometrist is eligible to use pharmaceutical agents under this chapter, refer to ch. Opt 6, relating to diagnostic and therapeutic pharmaceutical agents and removal of superficial foreign bodies from any eye or from an appendage to the eye.

SPS 10.02 Diagnostic pharmaceutical agents. (1) A licensed optometrist, authorized in accordance with ch. Opt 6, may use topical ocular diagnostic pharmaceutical agents to determine the visual efficiency of the human visual system, including refractive and

functional abilities, or to diagnose the presence of ocular disease or ocular manifestations of system disease and other departures from normal.

(2) Diagnostic pharmaceutical agents include:

(a) Mydriatics.

1. Phenylephrine 2.5%.
2. Hydroxyamphetamine 1%.

(b) Cycloplegics.

1. Tropicamide 1%.
2. Cyclopentolate 1%.

(c) Topical anesthetics.

1. Benoxinate 0.4%.
2. Proparacaine 0.5%.
3. Tetracaine 0.5%.
4. Benoxinate 0.4% - Fluorescein 0.25% Combination.

(d) Dyes.

1. Fluorescein 0.25% - Benoxinate 0.4% Combination.
2. Rose Bengal.

(e) Miotics.

1. Dapiprazole HCl.
2. Pilocarpine .125%.

(f) Any drug that is used for an ophthalmic diagnostic purpose and that is the subject of a new drug application approved by the food and drug administration under section 505 (c) (1) of the federal food, drug and cosmetic act, 21 USC 355, as amended.

(g) Any drug that is used for an ophthalmic diagnostic purpose and that is generally exempt from the new drug application approval requirement contained in section 505 of the federal food, drug and cosmetic act, 21 USC 355, as amended.

SPS 10.03 Therapeutic pharmaceutical agents. (1) A licensed optometrist, authorized in accordance with Opt 6, may prescribe or administer a drug, as specified in sub. (2), for ocular therapeutic purposes.

(2) For the purposes of this chapter, therapeutic pharmaceutical agents are limited to:

(a) Oral analgesics.

1. Acetaminophen.
2. Aspirin.
3. Salicylates.
4. Schedule III, IV and V narcotic analgesics.

(b) Controlled substances in schedule II with limitations, as specified in s. 961.39 (2m), Stats.

(c) Topical decongestant agents and decongestant combinations.

1. Epinephrine HCl.
2. Hydroxyamphetamine HBr.
3. Naphazoline HCl.
4. Oxymetazoline HCl.
5. Phenylephrine HCl.
6. Tetrahydrozoline HCl.

7. Combinations of the above agents with antihistamines or zinc sulfate.

(d) Antiallergy agents.

1. Topical and oral antihistamine agents in the following drug categories.
    a. Alkyamines.
    b. Ethanolamines
    c. Ethylenediamines.
    d. Phenothiazines.
    e. Piperazines.
    f. Piperidines.
    g. Terfenadines.
2. Cromolyn sodium, a mast cell stabilizing agent.

(e) Artificial tear solutions, ophthalmic irrigants and ocular lubricants.

(f) Hypertonic sodium chloride, a topical hyperosmotic agent.

(g) Yellow mercuric oxide, a miscellaneous preparation and product.

(h) Topical anesthetics.

1. Benoxinate HCl.
2. Benoxinate HCl and sodium fluorescein.
3. Proparacaine HCl.
4. Tetracaine HCl.

(i) Antibiotics.

1. Topical antibiotics.
    a. Aminoglycosides.
    b. Bacitracin.
    c. Cephalosporins.
    d. Ciprofloxacin HCl.
    e. Erythromycin.
    f. Gramicidin.
    g. Norfloxacin
    h. Penicillins.
    i. Polymyxin B.
    j. Sulfonamides.
    k. Tetracyclines.
    L. Trimethoprim.
    m. Zinc sulfate.
2. Oral antibiotics.
    a. Erythromycin.
    b. Tetracycline.
3. Topical antiviral agents.
    a. Acyclovir.
    b. Idoxuridine.
    c. Trifluridine.
    d. Vidarabine.
4. Acyclovir, an oral antiviral agent.

(j) Anti-inflammatory agents.

1. Oral non-steroidal anti-inflammatory agents.
    a. Fenoprofen.

b. Ibuprofen.
c. Ketoprofen.
d. Naproxen.

2. Topical corticosteroid agents.
a. Dexamethasone.
b. Fluoromethalone.
c. Medrysone.
d. Prednisolone.
e. Prednisolone and atropine combinations.
f. Topical corticosteroid and antibiotic combinations.
g. Topical corticosteroid and mydriatic combinations.

3. Topical non-steroidal agent, diclofenac sodium.

(k) Topical anticholinergic agents.

1. Atropine.
2. Atropine sulfate.
3. Cyclopentolate.
4. Homatropine.
5. Homatropine hydrogen bromide.
6. Scopolamine.
7. Tropicamide.

(L) Antiglaucomatous agents.

1. Sympathomimetics.
a. Dipivefrin.
b. Epinephrine.

2. Miotics, direct acting.
a. Acetylcholine.
b. Carbachol.
c. Pilocarpine.

3. Miotics, cholinesterase inhibitors.
a. Demecarium bromide.
b. Echothiophate.
c. Isoflurophate.
d. Physostigmine.

4. Topical beta-adrenergic blocking agents.
a. Betaxolol.
b. Carteolol HCl.
c. Levobunolol.
d. Metipranolol HCl.
e. Timolol.

5. Oral carbonic anhydrase inhibitors.
a. Acetazolamide.
b. Dichlorphenamide.
c. Methazolamide.

(m) Any drug that is used for an ophthalmic therapeutic purpose and that is the subject of a new drug application approved by the food and drug administration

under section 505 (c) (1) of the federal food, drug and cosmetic act, 21 USC 355, as amended.

(n) Any drug that is used for an ophthalmic therapeutic purpose and that is generally exempt from the new drug application approval requirement contained in section 505 of the federal food, drug and cosmetic act, 21 USC 355, as amended.

(o) Any drug that is used for an ophthalmic therapeutic purpose and that is certified by the food and drug administration pursuant to section 507 (a) of the federal food, drug and cosmetic act, 21 USC 357, or is exempt from certification under section 507 (c) of the act, as amended.

(3) A licensed optometrist authorized to use therapeutic pharmaceutical agents may dispense a contact lens that delivers therapeutic pharmaceutical agents that are permitted under sub. (2).

SECTION 2. EFFECTIVE DATE. 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.

(END OF TEXT OF RULE)

Current Rule Language	Revision	Comments
SPS 10.01 (1) "Adverse drug reaction" means an adverse, physical or psychological reaction experienced by a person resulting from diagnostic or therapeutic pharmaceutical agents administered by an optometrist which occurs within 24 hours after the drug is administered. An adverse drug reaction may be indicated by symptoms which include, but are not limited to, the following: red eye, painful eye, decrease in vision, pale or red swelling of the periocular or periorbital tissues, nausea, vomiting, fainting, mental confusion or cessation of respiration.	Moved to Opt 6.02, Definitions	No longer referenced in SPS 10, therefore, there is no need to keep it in the rule. Due to drafting standards, this definition was reformatted, but the content is the same.
SPS 10.01 (2) "Adverse drug reaction referral plan" means a plan submitted to the department on an approved form in which the optometrist agrees to: a) refer patients who notify the optometrist of an adverse drug reaction to appropriate medical specialists or facilities; b) routinely advise the patient to immediately contact the optometrist if the patient experiences adverse reactions; and c) place in a patient's permanent record information describing any adverse drug reactions experienced by the patient and the date and time that any referral was made. Such plan shall include the names of at least 3 physicians, physician clinics or hospitals to whom the optometrist agrees to refer patients who experience an adverse drug reaction. At least one of these physicians shall be skilled in the diagnosis and treatment of diseases of the eye.	Moved to Opt 6.025	No longer referenced in SPS 10, therefore, there is no need to keep it in the rule. Due to the substantive nature of the definition, it is re-drafted as a new section of Opt 6, which also captures the content of *(former)* SPS 10.02 (2) (a) and (b). [see below]
SPS 10.01 (3) "Approved institution" means a college of optometry accredited by the American council on optometric education approved by the optometry examining board which offers a course of study in general and ocular pharmacology meeting the requirements of s. 449.17 (1m) (b), Stats., or a course of study relating to the use of therapeutic pharmaceutical agents and the removal of superficial foreign bodies from an eye or from an appendage to the eye meeting the requirements of s. 449.18 (2), Stats. **Note:** The optometry examining board annually reviews for approval the colleges of optometry accredited by the council on optometry education of the American optometric association or other accrediting bodies. A list of board approved colleges of optometry is available from the board upon request.	Moved to Opt 6.02, Definitions Moved the Note with the definition.	No longer referenced in SPS 10. Re-drafted the definition and Note to reflect the meaning provided in s. 449.17 and 449.18, Stats.
SPS 10.01 (4) "Classroom hour": For the purpose of determining whether a course of study meets the requirements of s. 449.17 (1m) (b), Stats., "classroom hour" means a 50-60 minute period of lecture, group discussion or laboratory directly associated with a course in pharmacology; time spent working in a clinic other than as part of a laboratory directly associated with a course in pharmacology does not qualify as a "classroom hour".	Moved to Opt 6.02, Definitions	Re-drafted the definition to remove the parts specific to, "a course in pharmacology." This allows the definition to be more widely applicable within the new chapter Opt 6.

Current Rule Language	Revision	Comments
SPS 10.01 (5) "Course of study in pharmacology" means a course of study completed in an approved institution after 1973 in general and clinical pharmacology as it relates to optometry with the characteristics described in s. 449.17 (1m) (b), Stats. For courses, such as continuing education courses, which do not lead to a degree in optometry to qualify as part of a course of study in pharmacology, the courses must include at least one examination on course content.	Moved to Opt 6.02, Definitions	Content in the new Opt 6.02 is identical, except the tense in the last sentence was changed from plural to singular.
SPS 10.01 (6) "DPA certificate" means a certificate issued by the department to an optometrist approving an adverse reaction referral plan submitted by the optometrist and as evidence that the optometrist has completed all requirements in s. SPS 10.03 and is entitled to use diagnostic pharmaceutical agents in accordance with ss. 449.17 and 449.19, Stats.	Removed from SPS 10	This definition is not relied upon in the new SPS 10 nor Opt 6, therefore, it was not moved.
SPS 10.01 (8) "Diagnostic pharmaceutical agent" means any topical ocular diagnostic pharmaceutical agent which is an optometric means used to determine the visual efficiency of the human visual system, including refractive and functional abilities, or to diagnose the presence of ocular disease or ocular manifestations of systemic disease and other departures from normal. "Diagnostic pharmaceutical agents" include but are not limited to:	Repealed and recreated as SPS 10.03	Drafting rules prohibit substantive provisions being listed as definitions, therefore, the content was moved from definition list into a substantive provision.
SPS 10.01 (9) "TPA certificate" means a certificate granted by the optometry examining board to an optometrist as evidence that the optometrist is certified to use therapeutic pharmaceutical agents in accordance with s. 449.18, Stats.	Removed from SPS 10	This definition is not relied upon in the new SPS 10 nor Opt 6, therefore, it was not moved.
SPS 10.01 (10) "Therapeutic pharmaceutical agent" means a drug which is prescribed or administered for ocular therapeutic purposes. Except as provided in par. (am), therapeutic pharmaceutical agents include all of the following:	Repealed and recreated as SPS 10.02	Drafting rules prohibit substantive provisions being listed as definitions, therefore, the content was moved from definition list into a substantive provision. Some items were renumbered when the definition was repealed and the section recreated. In the *(former)* SPS 10, certain paragraphs had been added to the definition, and were listed as (am), for example. Those have been renumbered to avoid the use of insertion letters.

Current Rule Language	Revision	Comments
SPS 10.02 Restrictions and reports. **(1)** RESTRICTIONS. **(a)** *Certification and education.* Therapeutic pharmaceutical agents may be prescribed or administered by an optometrist who holds a current TPA certificate and who satisfies the continuing education requirements specified in s. Opt 6.04. Diagnostic pharmaceutical agents may be administered by an optometrist who holds a current DPA certificate and who successfully completes biennially a minimum of 1 hour of continuing education approved by the optometry examining board relating to new drugs which are used for ophthalmic diagnostic purposes and which are approved by the food and drug administration, or other topics as designated by the optometry examining board. **Note:** Completion of the continuing education required in s. Opt 6.04 for TPA certification satisfies the continuing education requirement under this section for an optometrist who holds both a DPA and a TPA certificate. **(b)** *Prescribing.* Therapeutic pharmaceutical agents may be prescribed or administered by an optometrist only for the ocular therapeutic purposes for which the drugs are intended. These drugs shall be prescribed or administered in accordance with minimum standards and procedures established in the optometric profession. An optometrist shall not prescribe or administer a therapeutic pharmaceutical agent which is not allowed under s. SPS 10.01 (10). Approved agents may be used in combination only with other approved agents when appropriate. Prior to prescribing beta blockers or carbonic anhydrase inhibitors for the treatment of glaucoma, or any oral antiviral, or any other therapeutic pharmaceutical agent, as may be identified and designated in the future by the optometry examining board, which might prove to have significant systemic adverse reactions, the optometrist shall inform the patient's primary physician of his/her treatment plans and document that contact on the patient's chart. If the patient does not identify a primary physician, the patient shall be referred to a physician to determine the presence or absence of any systemic contraindications to the intended therapeutic agent. Following that assessment, and prior to prescribing, the prescribing optometrist shall contact the examining physician, documenting that contact on the patient's chart. Closed-angle glaucoma shall be considered an emergency in which the treating optometrist shall make immediate referral directly to a physician who specializes in the treatment of diseases of the eye and shall institute such emergency procedures as are directed by that physician. **(2)** REPORTING REQUIRED.	Removed from SPS 10: Section (1) (a) is incorporated into Opt 6.03 (4) and Opt 6.04 (4), as required by s. 449.06 (2m), Stats. Section (1) (b) is recreated as Opt 6.05. Sections (2) (a) and (b) were incorporated as the new Opt 6.025 (3) and (4).	Section 449.06 (2m), Stats., states that rules shall include CE requirements for optometrists who are able to use DPA and TPA. Therefore, CE on TPA/DPA is restricted to count towards renewal only for those optometrists able to use TPA/DPA in Opt 6.03 (4) and Opt 6.04 (4).

Current Rule Language	Revision	Comments
(a) Any optometrist certified to use therapeutic pharmaceutical agents shall file with the department within 10 working days of its occurrence a report on any adverse reaction resulting from the optometrist's administration of such agents. This report shall include the optometrist's name, address and license number, the patient's name, address and age, the patient's presenting problem, the diagnosis, the agent administered and the method of administration, the reaction and the subsequent action taken. **(b)** Any optometrist certified to use diagnostic or therapeutic pharmaceutical agents shall file a revised adverse drug reaction plan with the department within 10 working days after the optometrist designates a new physician, physician clinic or hospital to which he or she agrees to refer patients who experience adverse drug reactions.		
SPS 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. 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.	Removed from SPS 10	The requirements in this rule are addressed in the new Opt 6.03 and Opt 6.04.
SPS 10.04 Application for certificate. To obtain a DPA certificate, an optometrist must submit evidence to the department showing that the optometrist has: **(1)** Completed a course of study in pharmacology. **(2)** Successfully completed one of the following examination requirements: **(a)** 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. **(b)** Obtained passing scores on parts I and II of the examination administered after 1986 by the national board of examiners in optometry. **(c)** Obtained a passing score on an examination approved by the department of safety and professional services and the optometry examining board. **(3)** Established an adverse reaction referral plan.	Removed from SPS 10	The authority for the issuance of such a certificate has now shifted to the Optometry Examining Board, and is incorporated into the new Opt 6.03 (2)

STATE OF WISCONSIN
OPTOMETRY EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	OPTOMETRY EXAMINING BOARD
OPTOMETRY EXAMINING BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Optometry Examining Board to repeal Opt 6.02 (1m);.to amend Opt 6.01 and Opt 6.02 (1), (3), and (6); to repeal and recreate Opt 6.03 and 6.04; and to create Opt 6.01 (Note), 6.02 (1g) and (1r), and 6.025 and Note, relating to the use of diagnostic and therapeutic pharmaceutical agents and removal of superficial foreign bodies from an eye or from an appendage to the eye.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Sections 449.17, 449.18, and 961.39, Stats.

Statutory authority:

Sections 15.08 (5) (b), 449.06 (2m), 449.17 (1m) (a), 449.18 (2) (a), and 961.39, Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides examining boards, "shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains…"

Section 449.06 (2m), Stats., provides that "the examining board shall promulgate rules ... The rules shall include requirements that apply only to optometrists who are allowed to use topical ocular diagnostic pharmaceutical agents under s. 449.17 or who are allowed to use therapeutic pharmaceutical agents or remove foreign bodies from an eye or from an appendage to the eye under s. 449.18."

Section 449.17 (1m) (a), Stats., provides that the "examining board shall certify an optometrist to use topical ocular diagnostic pharmaceutical agents…"

Section 449.18 (2) (a), Stats., provides the "examining board shall certify an optometrist to use therapeutic pharmaceutical agents and remove foreign bodies from an eye or from an appendage to the eye…"

Section 961.39 (2), Stats., states that an optometrist, "may prescribe, dispense, or administer only those controlled substances in schedules III, IV, and V that are permitted for prescription or administration under the rules promulgated under s. 449.18 (6) (cm)."

Related statute or rule:

Chapter SPS 10, relating to the use of pharmaceutical agents by licensed optometrists

Plain language analysis:

Section 1 is amended to include s. 961.39, Stats., which outlines the limitations on optometrists in the Uniform Controlled Substances Act.

Section 2 adds a note to cross-reference ch. SPS 10, relating to the use of pharmaceutical agents by licensed optometrists.

Section 3 amends the definition section of the chapter, amending to accommodate the revisions of ch. SPS 10, relating to the use of pharmaceutical agents by licensed optometrists, a concurrent rule project. The definition for "adverse drug reaction" is being repealed from ch. SPS 10, so the content is being created in ch. Opt 6.

Section 4 repeals the definition for "adverse drug reaction referral plan" because the content of the definition, which was previously included in ch. SPS 10, is being recreated as s. Opt 6.025.

Section 5 amends the definitions for "DPA" and "TPA" to correct the reference to the revised ch. SPS 10.

Section 6 creates two new definitions for "classroom hour" and "course of study in pharmacology", which were previously in ch. SPS 10.

Section 7 creates a new section in ch. Opt 6 for the Adverse Drug Reaction Referral Plan, this information is moved from ch. SPS 10.

Section 8 adds a note to s. Opt 6.025 to state where a user can get the forms necessary to comply with s. Opt 6.025, Adverse Drug Reaction Referral Plan.

Section 9 repeals s. Opt 6.03 and s. Opt 6.04 and recreates them. Section Opt 6.03 was a repeat of s. 449.17, Stats. The recreated s. Opt 6.03 distills the statutory language to the process and procedure used by the Optometry Examining Board and the Department in certifying optometrists for DPA. Section Opt 6.04 was a repeat of s. 449.18, Stats. The recreated s. Opt 6.04 distills the statutory language to the process and procedure used by the Optometry Examining Board and the Department in certifying optometrists for TPA and to remove foreign bodies from eyes.

Summary of, and comparison with, existing or proposed federal regulation:

The federal government schedules therapeutic pharmaceutical agents through the Controlled Substances Act, which categorizes optometrists as mid-level practitioners under Title 21, Code of Federal Regulations, Section 1300.01.

Comparison with rules in adjacent states:

Illinois:

Under Illinois law, optometrists may prescribe Schedule II (hydrocodone products only), III, IV, and V controlled substances and ocular pharmaceutical agents to patients without consulting a physician unless the patient is under 5 years of age. Ocular pharmaceutical agents include topical anesthetics, topical mydriatics, topical cycloplegics, topical miotics and mydriatic reversing agents, anti-infective agents, anti-allergy agents, anti-glaucoma agents (except oral carbonic anhydrase inhibitors, which may be prescribed only in a quantity sufficient to provide treatment for up to 30 days), anti-inflammatory agents (except oral steroids, which may be prescribed only in a quantity sufficient to provide treatment for up to 7 days), over-the-counter agents, analgesic agents, anti-dry eye agents, and agents for the treatment of hypotrichosis. The authority to prescribe a Schedule III, IV, or V controlled substance shall include analgesic agents only in a quantity sufficient to provide treatment for up to 72 hours. The prescription of a Schedule II controlled substance is prohibited, except for Dihydrocodeinone (Hydrocodone) with one or more active, non-narcotic ingredients only in a quantity sufficient to provide treatment for up to 72 hours, and only if such formulations of Dihydrocodeinone are reclassified as Schedule II by federal regulation. The Illinois Optometric Licensing and Disciplinary Board may recommend additional pharmaceutical agents approved by the FDA to the Department of Financial and Professional Regulation, and the Department shall promulgate rules to allow for the prescribing or administering pharmaceutical agents. See 225 ILCS 80/15.1.

The requirements for licensure and certification to use diagnostic and therapeutic pharmaceutical agents in Illinois are substantially equivalent to the requirements in Wisconsin. Both Illinois and Wisconsin require applicants to complete specialized course work relating to the use of diagnostic and therapeutic pharmaceutical agents and to pass a qualifying examination. In reference to continuing education, Illinois requires licensees to complete 24 hours of continuing education. Optometrists who are certified to use therapeutic ocular pharmaceuticals are required to complete an additional 6 hours of continuing education in the treatment of ocular disease. Illinois's administrative rules relating to the practice are found in Title 68: Professions and Occupations, Chapter VII: Department of Financial and Professional Regulation Part 1320, Optometric Practice Act of 1987.

Iowa:

Under Iowa law, the Board of Optometry Examiners is part of the Department of Public Health. An optometrist licensed by the Board of Optometry Examiners may employ all

diagnostic and therapeutic pharmaceutical agents for the purpose of diagnosis and treatment of conditions of the human eye and adnexa, excluding the use of injections other than to counteract an anaphylactic reaction, and may without charge supply any of the above pharmaceuticals to commence a course of therapy. Iowa Code § 154.1 3. and 4. Optometrists can prescribe oral medications including antibiotics, antivirals, and DMARDs, prescribe Schedule II, III, IV, and V drugs, and prescribe oral steroids (for a maximum of 14 days) without consultation of a physician. The Board of Pharmacy reviews requests for additions to the controlled substances schedules, and the Board's decision will amend Iowa Code section 124.201, subs. 4. 657-10.37, Iowa Admin. Code.

The requirements for licensure and certification to use diagnostic and therapeutic pharmaceutical agents in Iowa are substantially similar to the requirements in Wisconsin. Both Iowa and Wisconsin require applicants to complete specialized course work relating to the use of diagnostic and therapeutic pharmaceutical agents and to pass a qualifying examination. In reference to continuing education, Iowa and Wisconsin require licensees to complete course work every two years in order to renew their credentials. Iowa requires optometrists who are not certified to use therapeutic pharmaceutical agents to complete 30 hours of continuing education, and optometrists who are certified to use therapeutic pharmaceutical agents to complete 50 hours of continuing education. Iowa's administrative rules relating to the practice of optometry are found in their chapters 179 to 183.

Michigan:

In Michigan, the Board of Optometry requires optometrists to be certified to administer topical ocular diagnostic pharmaceutical agents and to prescribe therapeutic pharmaceutical agents. R 338.315 and R 338.317. The authority to prescribe or administer pharmaceutical agents includes Schedule III, IV, and V drugs and dihydrocodeinone combination drugs. See 333.17401 (f), Michigan Stats. A controlled substances license is required to prescribe controlled substances. A management and emergency plan is also required. See Article 7 of Public Act 3.68 of 1978, as amended.

The requirements for licensure and certification to use diagnostic and therapeutic pharmaceutical agents in Michigan are substantially equivalent to the requirements in Wisconsin. Both Michigan and Wisconsin require applicants to complete specialized course work relating to the use of diagnostic and therapeutic pharmaceutical agents and to pass a qualifying examination. In reference to continuing education, Michigan and Wisconsin require licensees to complete course work every two years in order to renew their credentials. Michigan requires 40 hours of continuing education. Michigan's administrative rules relating to the practice of Optometry are found in their sections R. 338.211 to 338.279 (General Rules) and R 338.291 (Ethical and Unprofessional Conduct).

Minnesota:

Optometrists may prescribe or administer FDA approved drugs to aid in the diagnosis, cure, mitigation, prevention, treatment, or management of disease, deficiency, deformity, or abnormality of the human eye and adnexa included in the curricula of accredited schools or colleges of optometry, and as limited by Minnesota statute and adopted rules by the Board of Optometry. § 148.56 (a), Minn. Stats. Optometrists may not prescribe or administer Schedule II and III oral FDA approved drugs and oral steroids; prescribe oral antivirals for more than ten days; or prescribe or administer oral carbonic anhydrase inhibitors for more than seven days. § 148.56 (b), Minn. Stats. The Board of Pharmacy schedules substances. § 152.02, Minn. Stats.

The requirements for licensure and certification to use diagnostic and therapeutic pharmaceutical agents in Minnesota are substantially equivalent to the requirements in Wisconsin. Both states require applicants to be a graduate of an accredited college of optometry and to pass a qualifying examination in order to obtain a license. Both states allow for applicants holding equivalent licensure from another jurisdiction to apply for licensure. In addition, both Minnesota and Wisconsin require applicants to complete specialized course work relating to the use of diagnostic and therapeutic pharmaceutical agents and to pass a qualifying examination. In reference to experience required in order to obtain a certification to use therapeutic pharmaceutical agents, Minnesota requires 2 years of supervised clinical experience in differential diagnosis of eye disease or disorders as part of optometric training or one year of that experience and ten years of actual clinical experience as a licensed optometrist. Other than experience or training required in conjunction with an initial optometry degree program, Wisconsin does not require an applicant to complete experience in order to obtain a certificate to use therapeutic pharmaceutical agents. In reference to continuing education, Minnesota and Wisconsin require licensees to complete course work every two years in order to renew their credentials. Minnesota requires 40 hours of continuing education. Minnesota's administrative rules relating to the practice of optometry are under their Chapter 6500.

Summary of factual data and analytical methodologies:

Opt 6, relating to the Use of Diagnostic and Therapeutic Pharmaceutical Agents and Removal of Superficial Foreign Bodies From an Eye or From an Appendage to the Eye, was amended in 2007 to implement 2005 Wisconsin Act 297. The legislation shifted to the Optometry Examining Board from the Department of Safety and Professional Services the authority to determine which licensed optometrists may use pharmaceutical agents. The Department is also amending SPS 10 in order to fully enact 2005 Wisconsin Act 297. Staff have opened Opt 6 and SPS 10 concurrently to accurately and consistently implement this legislative shift. Revisions were reviewed by the Optometry Examining Board and DSPS staff to ensure accuracy.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Kirsten.Reader@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Helen Leong, Administrative Rule Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-0797; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Helen Leong, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before _____ to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Opt 6.01 is amended to read:

Opt 6.01 Authority. The rules in this chapter are adopted under authority in ss. 15.08 (5) (b), 227.11 (2), 449.17 ~~and~~ , 449.18, and 961.39, Stats.

SECTION 2. Opt 6.01 (Note) is created to read:

Opt 6.01 Note: To determine what pharmaceutical agents may be used by licensed optometrists, refer to ch. SPS 10, relating to the use of pharmaceutical agents by licensed optometrists.

SECTION 3. Opt 6.02 (1) is renumbered Opt 6.02 (1) (intro.) and amended to read:

(1) "Adverse drug reaction" ~~has the meaning given under s. SPS 10.01.~~ means an adverse, physical, or psychological reaction experienced by a person resulting from diagnostic or therapeutic pharmaceutical agents administered by an optometrist that occurs within 24 hours after the drug is administered. An adverse drug reaction may be indicated by symptoms that include any of the following:

SECTION 4. Opt 6.02 (1) (a) to (i) are created to read:

(a) Red eye.
(b) Painful eye.
(c) Decrease in vision.
(d) Pale or red swelling of the periocular or periorbital tissues.
(e) Nausea.
(f) Vomiting.
(g) Fainting.
(h) Mental confusion.
(i) Cessation of respiration.

SECTION 5. Opt 6.02 (1m) is repealed.

SECTION 6. Opt 6.02 (1e), (1e) (Note), (1n), and (1s) are created to read:

(1e) "Approved institution" means an institution approved by the board and accredited by a regional or professional accrediting organization which is recognized by the Council for Higher Education Accreditation or its successor or the federal department of education, as described in s. 449.17 (1m) (b) and s. 449.18 (2) (a) 2, Stats.

Note: The board annually reviews for approval colleges of optometry accredited by the Accreditation Council on Optometric Education or other accrediting bodies. A list of board approved colleges of optometry is available from the board upon request.

(1n) "Classroom hour" means a 50 to 60 minute period of lecture, group discussion, or laboratory. "Classroom hour" does not include time spent working in a clinic other than as part of a laboratory directly associated with a course in pharmacology.

(1s) "Course of study in pharmacology" means a course of study completed in an approved institution after 1973 in general and clinical pharmacology as it relates to optometry with the characteristics described in s. 449.17 (1m) (b), Stats. For a course, such as a continuing education course, that does not lead to a degree in optometry to qualify as part of a course of study in pharmacology, the course must include at least one examination on course content.

SECTION 7. Opt 6.02 (3) is amended to read:

(3) "DPA" or "~~diagnostical~~ diagnostic pharmaceutical agent" ~~has the meaning given under s. SPS 10.01.~~ means an agent authorized under s. SPS 10.02.

SECTION 8. Opt 6.02 (4) is repealed.

SECTION 9. Opt 6.02 (6) is amended to read:

(6) "TPA" or "therapeutic pharmaceutical agent" ~~has the meaning given under s. SPS 10.01.~~ means an agent authorized under s. SPS 10.03.

SECTION 10. Opt 6.025 and Opt 6.025 (Note) are created to read:

Opt 6.025 Adverse drug reaction referral plan. (1) An optometrist who wants to use diagnostic pharmaceutical agents in accordance with s. SPS 10.02 or therapeutic pharmaceutical agents in accordance with s. SPS 10.03 shall submit an adverse drug reaction referral plan prior to providing pharmaceutical agents. The plan shall be submitted to the department on an approved form in which the optometrist agrees to do all of the following:

(a) Refer any patient who notifies the optometrist of an adverse drug reaction to appropriate medical specialists or facilities.

(b) Routinely advise all patients to immediately contact the optometrist if the patient experiences adverse reactions.

(c) Place in a patient's permanent record information describing any adverse drug reactions experienced by the patient and the date and time that any referral was made.

(2) The plan shall include the names of at least 3 physicians, physician clinics, or hospitals to whom the optometrist agrees to refer patients who experience an adverse drug reaction. At least one of these physicians shall be skilled in the diagnosis and treatment of diseases of the eye.

(3) An optometrist authorized to use diagnostic or therapeutic pharmaceutical agents shall file a revised adverse drug reaction referral plan with the department within 10 working days after the optometrist designates a new physician, physician clinic, or hospital to which the optometrist agrees to refer patients who experience adverse drug reactions.

(4) An optometrist authorized to use therapeutic pharmaceutical agents shall file with the department within 10 working days of its occurrence a report on any adverse reaction resulting from the optometrist's administration of the agents. This report shall include all of the following:

(a) The optometrist's name, address, and license number.

(b) The patient's name, address, and age.

(c) The patient's presenting problem, the diagnosis, the agent administered and the method of administration, the reaction, and the subsequent action taken.

Note: The TPA Adverse Reaction Report and DPA/TPA Certification Application can be obtained from dsps.wi.gov, calling 1-877-617-1565, or by writing to the Optometry Examining Board, c/o Department of Safety and Professional Services, P.O. Box 8935, Madison, WI 53708.

SECTION 11. Opt 6.03 and Opt 6.04 are repealed and recreated to read:

Opt 6.03. Certificate to use diagnostic pharmaceutical agents. (1) A licensed optometrist who has submitted an adverse drug reaction referral plan in accordance with s. Opt 6.025 is authorized to use diagnostic pharmaceutical agents if any of the following applies:

(a) The board initially issued a license to practice optometry to the optometrist on or after August 1, 2006.

(b) The department issued a certificate to the optometrist under s. 449.17, 2003 Stats.

(c) The board issued a certificate under sub. (2) to an optometrist issued a license to practice optometry before August 1, 2006.

(2) An optometrist licensed prior to August 1, 2006 shall be certified by the board to use diagnostic pharmaceutical agents if all of the following are completed:

(a) The optometrist submits an application to the department.

(b) The optometrist submits satisfactory evidence of 60 classroom hours of a course of study that is in accordance with sub. (3) and was completed prior to entering the examination required in par. (c).

(c) The optometrist submits satisfactory evidence of passing one of the following:

1. Basic Science: Pharmacology, National Board of Medical Examiners (NBME®).
2. Parts I and II, National Board of Examiners in Optometry administered only after 1986.
3. An exam administered as part of the course of study under par. (b) that, as determined by the board, satisfactorily assesses competency in the subject matter described in sub. (3). The board may require additional evidence to approve the exam.

(3) A satisfactory course of study under par. (2) (b) at an approved institution includes at least 30 classroom hours of a course of study in pharmacology and emphasizes the systemic effects of and reactions to pharmaceutical agents, including the treatment of any adverse reactions that may occur, in accordance with s. 449.17 (1m) (b), Stats.

Opt 6.04. Certificate to use therapeutic pharmaceutical agents and remove foreign bodies from eyes. (1) A licensed optometrist who has submitted an adverse drug reaction referral plan in accordance with s. Opt 6.025 is authorized to use therapeutic pharmaceutical agents and remove foreign bodies from an eye or from an appendage to the eye if any of the following applies:

(a) The board initially issued a license to practice optometry to the optometrists on or after August 1, 2006.

(b) The board issued a certificate to the optometrist under s. 449.18, 2003 Stats.

(c) The board issued a certificate under sub. (2) to an optometrist issued a license to practice optometry before August 1, 2006.

(2) An optometrist licensed prior to August 1, 2006 shall be certified by the board to use therapeutic pharmaceutical agents under this section if all of the following are completed:

(a) The optometrist has a certificate to use diagnostic pharmaceutical agents in accordance with s. Opt 6.03.

(b) The optometrist submits an application to the department.

(c) The optometrist has completed all of the following:

1. One hundred classroom hours of study in the use of therapeutic pharmaceutical agents and the removal of superficial foreign bodies from an eye or from an appendage to the eye, on or after January 1, 1987 at an approved institution and achieved a minimum passing score.

2. Passed the Treatment and Management of Ocular Disease, TMOD®, National Board of Examiners in Optometry exam with a minimum score of 75, or a minimum passing score as determined by the board.

(3) An optometrist authorized under this section may not remove a foreign body from an eye or from an appendage to an eye if the foreign body is deeper than Bowman's layer of the cornea or deeper than the conjunctiva, in accordance with s. 449.18 (5), Stats.

SECTION 12. Opt 6.05 is created to read:

Opt 6.05. Prescribing therapeutic pharmaceutical agents. Therapeutic pharmaceutical agents may be prescribed or administered by an optometrist only for the ocular therapeutic purposes for which the drugs are intended. These drugs shall be prescribed or administered in accordance with minimum standards and procedures established in the optometric profession. An optometrist may not prescribe or administer a therapeutic pharmaceutical agent which is not allowed under s. SPS 10.03. Approved agents may be used in combination only with other approved agents when appropriate. Prior to prescribing beta blockers or carbonic anhydrase inhibitors for the treatment of glaucoma, any oral antiviral, or any other therapeutic pharmaceutical agent under ch. SPS 10 that may have significant systemic adverse reactions, the optometrist shall inform the patient's primary physician of the treatment plan and document that contact on the patient's chart. If the patient does not identify a primary physician, the patient shall be referred to a physician to determine the presence or absence of any systemic contraindications to the intended therapeutic agent. Following that assessment, and prior to prescribing, the prescribing optometrist shall contact the examining physician, documenting that contact on the patient's chart. Closed-angle glaucoma shall be considered an emergency in which the treating optometrist shall make immediate referral directly to a physician who specializes in the treatment of diseases of the eye and shall institute such emergency procedures as are directed by that physician.

SECTION 13. EFFECTIVE DATE. 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.

(END OF TEXT OF RULE)

Current Rule Language	Revision	Comments
Opt 6.01 Authority. The rules in this chapter are adopted under authority in ss. 15.08 (5) (b), 227.11 (2), 449.17 and 449.18, Stats.	Amended to include s. 961.39, Stats. A note is added to cross-reference SPS 10, similar to the note in SPS 10 referencing Opt 6.	Section 961.39, Stats., is the section of the Uniform Controlled Substances Act which applies to optometrists.
Opt 6.02 (1) "Adverse drug reaction" has the meaning given under s. SPS 10.01.	This definition is amended to incorporate the content of SPS 10.01 (1).	This has been amended to incorporate drafting standards: replaced "which" with "that," replaced "but are not limited to" with "any of," and the list of symptoms is itemized as (a) through (i).
Opt 6.02 (1m) "Adverse drug reaction referral plan" has the meaning given under s. SPS 10.01.	This definition is repealed, and the content is incorporated into the new Opt 6.025.	Due to the substantive nature of this definition in SPS 10.01 (2), drafting standards require a new section. The new Opt 6.025 includes this definition and sections from the old SPS 10.02 (2). Some nonsubstantive changes were made to add "any of the following" twice, itemize elements in Opt 6.025 (4), and change the tense of a few sentences from plural to singular.
	Created "Approved institution" definition and Note, adapted from SPS 10.01 (3)	The definition is taken from ss. 449.17 and 449.18, Stats.
	Created "Classroom hour" definition, adapted from SPS 10.01 (4)	The definition was amended to remove "associated with a course in pharmacology" to make the

Current Rule Language	Revision	Comments
		definition more useful in the chapter.
	Created "Course of study in pharmacology" definition, taken from SPS 10.01 (5)	This definition was kept intact, with a change in tense from plural to singular in the second sentence and replaced "which" with "that."
Opt 6.02 (3) "DPA" or "diagnostical pharmaceutical agent" has the meaning given under s. SPS 10.01.	Amended to correct the cross-reference to reflect the revision of SPS 10.	
Opt 6.02 (4) "100 hours of approved study" means a course of study offered on or after January 1, 1987 by an institution approved by the board in accordance with s. 449.18, Stats.	Removed.	Since this definition was only used once in the chapter, the content was directly incorporated into Opt 6.04 (2) (c) 1.
Opt 6.02 (6) "TPA" or "therapeutic pharmaceutical agent" has the meaning given under s. SPS 10.01.	Amended to correct the cross-reference to reflect the revision of SPS 10.	
	Created Opt 6.025 and Note, which incorporates the old Opt 6.02 (1m) and SPS 10.02 (2).	Some drafting changes to: itemize the list in (4), addition of "any of the following," and changing the plural tense to singular.
Opt 6.03 Use of diagnostic pharmaceutical agents. **(1)** APPLICABILITY. An optometrist may use topical ocular diagnostic pharmaceutical agents only if the optometrist establishes an adverse reaction plan, as provided under sub. (3), and if one of the following applies: **(a)** The board initially issues a license to practice optometry to the optometrist on or after August 1, 2006. **(b)** The department issued a certificate to the optometrist under s. 449.17, 2003 Stats. **(c)** The board issues a certificate under sub. (2) to an optometrist issued a license to practice optometry before August 1, 2006. **(2)** LICENSES ISSUED BEFORE AUGUST 1, 2006. **(a)** The board shall certify an optometrist to use topical ocular diagnostic pharmaceutical agents if the optometrist was issued a license to practice optometry before August 1, 2006, and the optometrist satisfies the education	This section is repealed and recreated.	Drafting standards recommend against repeating statutory language in administrative rules. Thus, this section is recreated to provide specific procedure to apply for DPA certificates.

Current Rule Language	Revision	Comments
requirements under par. (b) and successfully completes the examination required under par. (c). **(b)** In addition to the requirements under par. (c), the board may issue certificates under par. (a) only to optometrists who successfully complete 60 classroom hours of study in general and ocular pharmacology as it relates to optometry with particular emphasis on the use of topical ocular diagnostic pharmaceutical agents. At least 30 of the 60 classroom hours of study shall be in ocular pharmacology and shall emphasize the systemic effects of and reactions to pharmaceutical agents, including the treatment of any adverse reactions that may occur. The course of study shall be offered by an institution approved by the board and accredited by a regional or professional accrediting organization which is recognized by the Council for Higher Education Accreditation or its successor or the federal department of education, and shall be completed prior to entering the examination required under par. (c). **(c)** The board may issue certificates under par. (a) only to optometrists who successfully complete an examination approved or conducted by the board on the subject of general and ocular pharmacology as it relates to optometry with particular emphasis on the use of topical ocular diagnostic pharmaceutical agents, including the treatment of adverse reactions to such pharmaceutical agents. The examination shall be prepared or approved by the board. The board shall periodically review the validity, reliability, and appropriateness of the examination. The board may do any of the following: **1.** Prepare, administer, and grade the examination. **2.** Approve in whole or in part an examination prepared, administered, and graded by the national board of examiners in optometry or another examination provider approved by the board. **3.** Approve and administer an examination prepared and graded by or under the direction of the national board of examiners in optometry or another examination provider approved by the board. **(d)** No fee may be charged for a certificate issued under this subsection. A certificate issued under this subsection or s. 449.17, 2003 Stats., remains in effect while the optometrist's license to practice optometry remains in effect unless the certificate is suspended or revoked by the board.		

Current Rule Language	Revision	Comments
(3) ADVERSE REACTION PLAN. Topical ocular diagnostic pharmaceutical agents may be used only by optometrists who have established a plan for the referral of patients who experience adverse reactions from the application of those agents to appropriate medical services. **(4)** USE OF DIAGNOSTIC PHARMACEUTICAL AGENTS. An optometrist who is allowed under sub. (1) to use diagnostic pharmaceutical agents may not use any pharmaceutical agent that he or she is prohibited from using under ch. SPS 10.		
Opt 6.04 Use of therapeutic pharmaceutical agents and removal of foreign bodies from eyes. **(1)** APPLICABILITY. No optometrist may use therapeutic pharmaceutical agents or remove foreign bodies from an eye or from an appendage to the eye unless one of the following applies: **(a)** The board initially issues a license to practice optometry to the optometrist on or after August 1, 2006. **(b)** The board issued a certificate to the optometrist under s. 449.18, 2003 Stats. **(c)** The board issues a certificate under sub. (2) to an optometrist issued a license to practice optometry before August 1, 2006. **(2)** LICENSES ISSUED BEFORE AUGUST 1, 2006. **(a)** The board shall certify an optometrist to use therapeutic pharmaceutical agents and remove foreign bodies from an eye or from an appendage to the eye if the optometrist was issued a license to practice optometry before August 1, 2006, and the optometrist satisfies all of the following: **1.** The optometrist is certified under s. 449.17, 2003 Stats., or s. 449.17 (1m) (a), Stats., to use topical ocular diagnostic pharmaceutical agents. **2.** The optometrist has successfully completed 100 hours of approved study in the use of therapeutic pharmaceutical agents and the removal of superficial foreign bodies from an eye or from an appendage to the eye. The course of study shall be offered by an institution approved by the board and accredited by a regional or professional accrediting organization that is recognized by the Council for Higher Education Accreditation or its successor or the federal department of education. **3.** The optometrist has passed an examination conducted or approved by the board. The board shall periodically review the validity, reliability, and	This section is repealed and recreated.	Drafting standards recommend against repeating statutory language in administrative rules. Thus, this section is recreated to provide specific procedure to apply for TPA certificates.

Current Rule Language	Revision	Comments
appropriateness of the examination that it conducts or approves under this subdivision. **(b)** No fee may be charged for the issuance of a certificate under par. (a). **(c)** A certificate issued under par. (a) or s. 449.18, 2003 Stats., remains in effect while the optometrist's license to practice optometry remains in effect unless the certificate is suspended or revoked by the board. **(3)** REMOVALS FROM EYES. An optometrist who is allowed under sub. (1) to remove a foreign body from an eye or from an appendage to the eye may not remove a foreign body from an eye or from an appendage to the eye if the foreign body is deeper than Bowman's layer of the cornea or deeper than the conjunctiva. **(4)** USE OF THERAPEUTIC PHARMACEUTICAL AGENTS. **(a)** An optometrist who is allowed under sub. (1) to use therapeutic pharmaceutical agents may not do any of the following: **1.** Prescribe or administer any therapeutic pharmaceutical agent that he or she is prohibited from prescribing or administering under ch. SPS 10. **2.** Dispense, as defined in s. 450.01 (7), Stats., other than by prescribing or administering. This subdivision does not prohibit the optometrist from providing a complimentary sample of a therapeutic pharmaceutical agent to a patient to whom the optometrist has rendered therapeutic care. **(b)** An optometrist who is allowed under sub. (1) to use therapeutic pharmaceutical agents shall include with each prescription order all of the following: **1.** A statement that he or she is allowed under sub. (1) to use therapeutic pharmaceutical agents. **2.** The indicated use of the therapeutic pharmaceutical agent so prescribed.		
	Created Opt 6.05, which is taken from SPS 10.02 (1) (b).	Drafting changes to: correct references, remove “in the future” phrase, and replace “might prove to” with “that may.”

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Helen Leong, Administrative Rules Coordinator	February 5, 2018 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting

3) Name of Board, Committee, Council, Sections:

Optometry Examining Board

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
February 15, 2018	☒ Yes ☐ No	Legislative and Administrative Rule Matters – Discussion and Consideration 2) Update on Opt 8, relating to continuing education

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session	☐ Yes (Fill out Board Appearance Request) ☒ No	

10) Describe the issue and action that should be addressed:

The attached preliminary rule has been revised and was approved by the Chair on February 5, 2018, in accordance with motions adopted on October 5, 2017 and October 27, 2016.

11) Authorization

Signature of person making this request	Date
Helen Leong	February 5, 2018
Supervisor (if required)	**Date**
Executive Director signature (indicates approval to add post agenda deadline item to agenda)	**Date**

Directions for including supporting documents:

1. This form should be attached to any documents submitted to the agenda.
2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director.
3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.

STATE OF WISCONSIN
OPTOMETRY EXAMINING BOARD

IN THE MATTER OF RULE-MAKING	:	NOTICE OF TIME PERIOD
PROCEEDINGS BEFORE THE	:	FOR COMMENTS FOR THE
OPTOMETRY EXAMINING BOARD	:	ECONOMIC IMPACT ANALYSIS

NOTICE IS HEREBY GIVEN of the time period for public comment on the economic impact of this proposed rule of the Optometry Examining Board relating to continuing education, including how this proposed rule may affect businesses, local government units and individuals. The comments will be considered when the Department of Safety and Professional Services prepares the Economic Impact Analysis pursuant to § 227.137. Written comments may be submitted to:

Helen Leong, Administrative Rules Coordinator
Division of Policy Development
Department of Safety and Professional Services
PO Box 8366
Madison, WI 53708-8935
DSPSAdminRules@wisconsin.gov

The deadline for submitting economic impact comments is February 21, 2018.

PROPOSED ORDER

An order of the Optometry Examining Board to repeal Opt 8.02 (2), (3), (4), (8), (9) and (10); to amend Opt 8.02 (1); to repeal and recreate Opt 8.03 and 8.03 (Note); and to create Opt 8.01 (4), Opt 8.02 (1c), (1g), (1n), and (1w), relating to continuing education.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

s. 449.06 (2m), Stats.

Statutory authority:

ss. 15.08 (5) (b) and 449.06 (2m), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides examining boards, "shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains…"

Section 449.06 (2m), Stats., provides that "the examining board shall promulgate rules requiring a person who is issued a license to practice optometry to complete, during the 2 year period immediate preceding the renewal date specified in s. 440.08 (2) (a), not less than 30 hours of continuing education. The rules shall include requirements that apply only to optometrists who are allowed to use topical ocular diagnostic pharmaceutical agents under s. 449.17 or who are allowed to use therapeutic pharmaceutical agents or remove foreign bodies form an eye or from an appendage to the eye under s. 449.18."

Related statute or rule:

None.

Plain language analysis:

Section 1 adds a definition of "hour" to clarify how to calculate continuing education events for the purposes of this chapter.

Section 2 modifies the designated continuing education topics from 7 hours of glaucoma education to 20 of the 30 hours relating to ocular health, conditions, or disease management. This change expands the subject matter designation.

Section 3 creates five new sections for Opt 8.02. Section Opt 8.02 (1c) provides that at least 20 hours must be completed in person, allowing for an increase to 10 hours which may be completed in alternative methods. Any course which is not in person must be approved by the Council on Optometric Practitioner Education (COPE), Joint Accreditation for Interprofessional Continuing Education, or by the Board. Section Opt 8.02 (1g) allows for additional hours to be completed by methods other than in person for cases of hardship. Section Opt 8.02 (1n) provides a clearer standard of what continuing education is required for a new licensee's first renewal. Sections Opt 8.02 (1r) and (1w) clarify that licensees who are not authorized to use diagnostic and therapeutic agents may not use continuing education courses on those topics to satisfy their renewal requirements.

Section 4 repeals provisions relating to topics which have been clarified by new provisions in Section 3. Sections Opt 8.02 (2) and (3) have been clarified by the new sections Opt 8.02 (1r) and (1w). The revision in Section 2 eliminates the need for Section Opt 8.02 (4). Section Opt 8.02 (1n) simplifies the repealed Section Opt 8.02 (8), which required licensees who are licensed in the middle of a biennium to prorate their continuing education. Lastly, Sections Opt 8.02 (9) and (10), related to alternative delivery methods are repealed as the topic is now addressed in Section Opt 8.02 (1c).

Section 5 lists the organizations which provide approved continuing education. If a continuing education course is provided by an organization not on the approved list then the organization can apply for approval by supplying the listed information. The provider also agrees to provide a certificate of attendance to each participant. A Note is included with information on how to obtain the form referenced in Opt 8.03 (2).

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois: Illinois requires 30 hours of continuing education every two years. At least 12 hours of credit shall be certified by an approved optometry college, osteopathic or medical college, or pharmacy college. The remaining continuing education may be earned through papers published, teaching students at an optometry school, and self-instruction or video teleconferencing that is sponsored by any approved optometry college, institution or national or state optometry association. A program sponsor requesting approval shall submit an application with a list of all courses and programs offered, including a description, location, date and time the course is offered. [Section 1320.80, Illinois Admin Code]

Iowa: Iowa requires 50 hours of continuing education every two years. Only 10 hours of credit is allowed for correspondence or local study group programs. There is also a limit on the number of credit hours in the following topics: practice management courses (limit of 6 hours); dependent adult abuse and child abuse identification (limit of 2 hours) and postgraduate study courses (limit of 20 hours). Continuing education may be taken through programs sponsored by COPE, associations, and optometry schools. [Chapter 181, Iowa Admin. Rules]

Michigan: Michigan requires 40 hours of continuing education every two years. A licensee who holds a certification to administer topic ocular diagnostic pharmaceutical agents or certification to administer and prescribe therapeutic pharmaceutical agents or both shall complete 20 hours of board approved continuing education in pharmacological management of ocular conditions. Each licensee is required to complete at least 1 hour of continuing education in pain and symptom management. Approved continuing education includes courses approved by COPE or other continuing education programs that are approved by the Board. A program sponsor requesting approval shall submit an application with the clinical optometry program content, instructor credentials, description of delivery method and of physical facilities used, number of lecture hours on the content, and attendance monitoring plan. [R 338.319, Mich. Admin. Code]

Minnesota: Minnesota requires 40 continuing education credits every two years. Licensees may acquire up to 15 hours through home study, up to 6 hours on practice management, and up to 7 by providing medical eye care and eyeglasses helping underserved people. Licensees may also obtain continuing education credits for presentation of a lecture or for preparation of articles or books accepted for publication. A program sponsor requesting approval from the Board must submit a program, schedule and course description to the Board. [Minnesota Rules Parts 6500.0900 to 6500.1700]

Summary of factual data and analytical methodologies:

The Optometry Examining Board reviewed and updated the rule.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The proposed rules will be posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Kirsten.Reader@wiscosin.gov, or by calling (608) 267-2435.

Agency contact person:

Helen Leong, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-0797; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. Opt 8.01 (4) is created to read:

(4) "Hour" means a 50 to 60 minute period of lecture.

SECTION 2. Opt 8.02 (title) and (1) are amended to read:

Opt 8.02 Continuing education requirements. (1) A licensee shall complete 30 hours of approved continuing education in each biennial registration period. A minimum of ~~7~~ 20 of the 30 hours shall ~~be approved glaucoma education.~~ relate to ocular health, conditions, or disease management.

SECTION 3. Opt 8.02 (1c), (1g), (1n), (1r), and (1w) are created to read:

(1c) At least 20 of the 30 hours of approved continuing education required under sub. (1) shall be completed by attending programs in person. Any programs not completed in person shall be COPE approved programs or programs approved under s. Opt 8.03 (2).

(1g) In cases of hardship, a licensee may apply to the board for any of the following:

(a) Approval of less than 20 hours of in person continuing education under sub (1g).

(b) Approval of a continuing education program under s. Opt 8.03 (2).

(1n) An optometrist who by the renewal date has been licensed for one year or less from the date issued shall not be required to report continuing education for the first renewal of the license. An optometrist who by the renewal date holds a license for more than one year and less

than 2 years shall be required to report 15 hours of approved continuing education for the first renewal of the license.

(1r) An optometrist who is not authorized to use therapeutic pharmaceutical agents may not satisfy the continuing education requirements with programs relating to the use of therapeutic pharmaceutical agents or the removal of foreign bodies from any eye or from an appendage to the eye.

(1w) An optometrist who is not authorized to use diagnostic pharmaceutical agents may not satisfy the continuing education requirements with programs relating to the use of diagnostic pharmaceutical agents.

SECTION 4. Opt 8.02 (2), (3), (4), (8), (9) and (10) are repealed.

SECTION 5. Opt 8.03 and Opt 8.03 (Note) are repealed and recreated:

Opt 8.03 Continuing education approval. (1) The board shall accept the following in satisfaction of continuing education for each biennium:

(a) Any continuing education program approved by COPE or Joint Accreditation for Interprofessional Continuing Education™.

(b) Any in person continuing education program relevant to the practice of optometry provided by one of the following organizations:

1. Wisconsin Optometric Association.
2. American Optometric Association.
3. American Academy of Optometry.
4. Optometric Extension Program Foundation.
5. Neuro-Optometric Rehabilitation Association.
6. College of Optometrists in Vision Development.
7. A school or college of optometry accredited by the Accreditation Council on Optometric Education.

(2) The board may approve a continuing education program not accepted under sub. (1). To apply for approval of a continuing education program, a provider shall submit to the board an application on forms provided by the department at least 30 days prior to the program. An application filed under this subsection or s. Opt 8.02 (1c) or (1g) (b) shall include all of the following:

(a) Title of the program.

(b) Date of the program.

(c) General description and timed outline of the program.

(d) Name and qualifications of the instructor.

(e) Sponsoring organization of the program.

(f) Category of the program relevant to the practice of optometry.

(g) Approved number of continuing education program hours requested.

(h) Delivery method of the program.

(3) The provider of the continuing education program under sub. (1) (b) or (2) agrees to monitor the attendance and furnish a certificate of attendance to each participant. The certificate of attendance shall certify successful completion of the program.

Note: An application for continuing education program approval may be obtained from the board office at the Department of Safety and Professional Services, Office of Education and Examinations, P.O. Box 8366, Madison, Wisconsin 53708, or from the department's website at: http://dsps.wi.gov.

SECTION 6. EFFECTIVE DATE. 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.

(END OF TEXT OF RULE)

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Helen Leong, Administrative Rules Coordinator	February 5, 2018 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting

3) Name of Board, Committee, Council, Sections:

Optometry Examining Board

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
February 15, 2018	☒ Yes ☐ No	Legislative and Administrative Rule Matters – Discussion and Consideration 3) Update on budget, 2017 Wisconsin Act 59

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session	☐ Yes (Fill out Board Appearance Request) ☒ No	

10) Describe the issue and action that should be addressed:

SECTION 1904. 440.03 (4m) of the statutes is created to read:
(4m) Except as otherwise permitted in chs. 440 to 480, the department may require a credential holder to submit proof of the continuing education programs or courses that he or she has completed only if a complaint is made against the credential holder.

11) Authorization

Signature of person making this request **Date**

Helen Leong February 5, 2018

Supervisor (if required) **Date**

Executive Director signature (indicates approval to add post agenda deadline item to agenda) **Date**

Directions for including supporting documents:
1. This form should be attached to any documents submitted to the agenda.
2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director.
3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.

Chapter Opt 8

CONTINUING EDUCATION

Note: Chapter Opt 8 was created as an emergency rule effective November 8, 2006.

Opt 8.01 Definitions. As used in this chapter:

(1) "Biennium" means a 2−year period beginning December 16 of odd−numbered years.

(2) "COPE" means the council on optometric practitioner education.

(3) "Hardship" means serious illness, as determined by a licensed health care provider, or some other personal adversity, as determined by the board.

History: CR 06−116: cr. Register May 2007 No. 617, eff. 6−1−07.

Opt 8.02 Continuing education. (1) A licensee shall complete 30 hours of approved continuing education in each biennial registration period. A minimum of 7 of the 30 hours shall be approved glaucoma education.

(2) Except as provided in sub. (4), approved continuing education hours required for optometrists who are allowed to use diagnostic and therapeutic pharmaceutical agents shall relate to the diagnosis and management of eye disease or the removal of superficial foreign bodies from an eye or from an appendage to the eye.

(3) Except as provided in sub. (4), approved continuing education hours required for optometrists who are not allowed to use diagnostic and therapeutic pharmaceutical agents shall relate to the diagnosis and management of eye disease.

(4) No more than a combined total of 6 hours of continuing education per biennium may be claimed for course work that relates to one or more of the following subject matter:

(a) Contact lens.

(b) Functional vision.

(c) General optometry.

(d) Low vision.

(e) Jurisprudence.

(f) Practice management.

(5) Except for purposes of obtaining continuing education in order to satisfy the requirements for late renewal under s. Opt 7.05, continuing education hours may be applied only to the biennial registration period in which the continuing education hours are acquired.

(6) To obtain credit for completion of continuing education hours, an optometrist shall, at the time of each renewal of registration, sign a statement certifying that the course work has been completed. If audited, an optometrist shall submit certificates of attendance issued by each course provider or other evidence of attendance satisfactory to the board.

(7) An optometrist who fails to meet the continuing education requirements by the renewal date may not engage in the practice of optometry until his or her registration is renewed under s. Opt 7.05.

(8) Optometrists initially licensed within a biennium shall complete one hour of board approved continuing education per month or partial month of licensure reported on or before December 15 of the second year of the biennium. A minimum of one−quarter of the continuing education hours shall be in the diagnosis and management of glaucoma.

(9) Except as provided in sub. (10), no more than a combined total of 6 hours of continuing education per biennium may be claimed for course work obtained through alternative delivery methods such as home−study courses, self−study packages, computer courses, televideo conferencing, or other delivery methods approved by the board under s. Opt 8.03 (4).

(10) The board may permit a certificate holder to claim more than 6 hours of continuing education per biennium for course work obtained through alternative delivery methods such as home−study courses, self−study packages, computer courses, televideo conferencing, or other delivery methods approved by the board, if the credential holder submits evidence satisfactory to the board of hardship.

History: CR 06−116: cr. Register May 2007 No. 617, eff. 6−1−07; correction in (9) made under s. 13.93 (2m) (b) 7., Stats., Register December 2007 No. 624.

Opt 8.03 Approval of continuing education courses. (1) Except as provided in sub. (5), to apply for approval of a continuing education course, a course provider shall submit to the board office an application on forms provided by the department and shall include the title, general description and an outline of the course, the dates, the location, the name and qualifications of the instructor of the course, and the sponsor of the course.

Note: An application for continuing education course approval may be obtained from the board office at the Department of Safety and Professional Services, Office of Education and Examinations, P.O. Box 8366, Madison, Wisconsin, 53708, or from the department's website at: http://dsps.wi.gov.

(2) A continuing education course must meet all of the following criteria to be approved as a continuing education course:

(a) The subject matter of the course pertains to the practice of optometry.

(b) The provider of the continuing education course agrees to monitor the attendance and furnish a certificate of attendance to each participant. The certificate of attendance shall certify successful completion of the course.

(c) The provider of the course is approved by the board.

(d) The course content and instructional methodologies are approved by the board.

(3) Except as provided in sub. (5), a separate application shall be submitted for each continuing education course approval request.

(4) The board may approve alternate delivery method continuing education courses such as home−study courses, self−study packages, computer courses, televideo conferencing and other methods.

(5) A continuing education course approved by COPE, or sponsored by a state optometric association, the American Optometric Association, the American Academy of Optometry, or an accredited school or college of optometry, which satisfies the criteria established under sub. (2), shall be approved by the board without receipt of a course approval application from the course provider.

Note: The Council on Optometric Practitioner Education (COPE), which is a committee of the Association of Regulatory Boards of Optometry (ARBO), may be contacted at 1750 South Brentwood Boulevard, Suite 503, St. Louis, Missouri 63144, (314) 785−6000. The American Optometric Association may be contacted at 243 N. Lindbergh Blvd., 1st Floor, St. Louis, MO 63141, (800) 365−2219. The American Academy of Optometry may be contacted at 6110 Executive Blvd., Suite 506, Rockville, MD 20852, (301) 984−1441.

History: CR 06−116: cr. Register May 2007 No. 617, eff. 6−1−07.

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Helen Leong, Administrative Rules Coordinator	February 5, 2018 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting

3) Name of Board, Committee, Council, Sections:

Optometry Examining Board

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
February 15, 2018	☒ Yes ☐ No	Position Statement Review and Discussion

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session	☐ Yes (Fill out Board Appearance Request) ☒ No	

10) Describe the issue and action that should be addressed:

The Optometry Examining Board has a link for Position Statements on the website. There are no position statements currently listed on the website: https://dsps.wi.gov/Pages/BoardsCouncils/Optometry/PositionStatements.aspx

11) Authorization

Signature of person making this request	Date
Helen Leong	February 5, 2018
Supervisor (if required)	**Date**
Executive Director signature (indicates approval to add post agenda deadline item to agenda)	**Date**

Directions for including supporting documents:

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STATE OF WISCONSIN
Department of Safety and Professional Services
1400 E Washington Ave.
Madison WI 53703

Mail to:
PO Box 8935
Madison WI 53708-8935

Email: dsps@wisconsin.gov
Web: http://dsps.wi.gov
Phone: 608-266-2112

Governor Scott Walker **Secretary Dave Ross**

Positions Statements Related to Optometry Issued by the Optometry Examining Board

HOW LONG ARE OPTOMETRISTS REQUIRED TO MAINTAIN PATIENT RECORDS?

Optometrists are required to maintain patient records for at least 6 years. Refer to Ch. Opt 5.10, Wis. Adm. Code.

ARE OPTOMETRISTS REQUIRED TO RELEASE A COPY OF A CONTACT LENS PRESCRIPTION TO A PATIENT?

Yes, optometrists are required to release, at no cost to the patient, a copy of the patient's contact lens prescription following release of the patient from contact lens fitting and initial follow-up care. See Ch. Opt 5.16, Wis. Admin Code.

MAY AN INDIVIDUAL, WHO IS NOT A LICENSED OPTOMETRIST, ASSIST IN THE PRACTICE OF OPTOMETRY?

Yes, but in a limited capacity. The scope of practice of an unlicensed assistant to an optometrist is outlined in Chs. Opt 1.03 and Opt 5.12, Wis. Admin Code. Except for the provisions granted in Opt 5.12 (1) and (2), an optometrist may delegate any act that is within the scope of practice of optometry – granted that the delegate has the proper education and training to perform the task. All unlicensed staff must be supervised, as defined in Ch Opt 1.02(6), meaning the optometrist must be available to coordinate, direct, and inspect the practice of the unlicensed person on a regular basis, as determined by the supervising optometrist.

DOES AN OPTOMETRIST NEED A SEPARATE CREDENTIAL, IN ADDITION TO A LICENSE TO PRACTICE OPTOMETRY, IN ORDER TO USE DIAGNOSTIC PHARMACEUTICAL AGENTS?

Wis. Stats. 449 changed the Optometrist License dependent upon the date the license was first issued, see below:
Optometrists licensed by the Board **before** August 1, 2006 who elect to use diagnostic pharmaceutical agents must obtain a certification under s. 449.17, Wis. Stats.

Optometrists licensed by the Board **on or after** August 1, 2006 will automatically be authorized to use diagnostic pharmaceutical agents (DPA) without having to obtain a separate DPA certificate.

Note: the DPA certificates granted by the Department prior to August 1, 2006 no longer expire and will remain in effect while the optometrist's license remains in effect unless suspended or revoked by the Board.

DOES AN OPTOMETRIST NEED A SEPARATE CREDENTIAL, IN ADDITION TO A LICENSE TO PRACTICE OPTOMETRY, IN ORDER TO USE THERAPEUTIC PHARMACEUTICAL AGENTS?

Wis. Stats. 449 changed the Optometrist License dependent upon the date the license was first issued, see below:

Optometrists licensed by the Board **before** August 1, 2006 who elect to use therapeutic pharmaceutical agents must obtain a certification under s. 449.17 and a certification under s. 449.18, Wis. Stats.

Optometrists licensed by the Board **on or after** August 1, 2006 will automatically be authorized to use therapeutic pharmaceutical agents (TPA) without having to obtain a separate TPA certificate.

Note: the TPA certificates granted by the Board prior to August 1, 2006 no longer expire and will remain in effect while the optometrist's license remains in effect unless suspended or revoked by the Board.

CAN OPTOMETRISTS DISTRIBUTE LATISSE?

Ch. SPS 10, Wisc Admin Code regulates the appropriate pharmaceuticals that can be administered by optometrists. Per RL 10.01(10)(L), any ophthalmic therapeutic drug that is approved by the FDA under the drug and cosmetic act will fall into this category. As Latisse has been approved by the FDA it fits the standard of an acceptable therapeutic pharmaceutical. Therefore, optometrists who satisfy the requirements of Wis. Stats 449.18 are able to use Latisse in their offices. The limitations under Wis. Stats. 961.39 do not apply as Latisse is not a controlled substance as listed by the FDA.

ARE THERE MULTIPLE LEVELS OF LICENSURE FOR OPTOMETRISTS IN WI?

No. Prior to 8/1/2006 there were two levels: optometry licensure and a separate certificate for optometrists using diagnostic and therapeutic pharmaceutical agents. Now the optometry license covers the use of diagnostic and therapeutic pharmaceutical agents, so there is only one level of licensure.

CAN OPTOMETRISTS PRESCRIBE FOR THEMSELVES?

Criteria to be met for self-prescribing are outlined below:

- All prescribing by optometrists must be for ocular therapeutic purposes, as noted in 449.01(1)(a)2.c., Wisconsin Statutes.
- Optometrists who are allowed, under 449.18(1), Wisconsin Statutes, to use therapeutic pharmaceutical agents may only prescribe or administer schedule III, IV and V controlled substances as listed in 961.39, Wisconsin Statutes.
- "No practitioner shall prescribe, orally, electronically or in writing, or take without a prescription a controlled substance included in schedule I, II, III or IV for the practitioner's own personal use." 961.38(5), Wisconsin Statutes.

If an optometrist can comply with the above-cited statutes then self-prescribing may be permitted. All record keeping requirements must still be met for self-prescribing. Optometrists should also be mindful in all actions that it is considered "unprofessional conduct" to engage in conduct unbecoming a person licensed to practice as noted in Wis. Stats. 449.08(1)(e).

Position Statement Language	Agreed Changes	Suggested Amendments
Note: *Ignore inconsistencies in citation style, that will be cleaned up for the final drafts.*		
Positions Statements Related to Optometry Issued by the Optometry Examining Board		*Position Statements Related to Optometry Issued by the Optometry Examining Board*
		Add: The contents of this document are not comprehensive. All license holders or applicants are assumed to have read the statutory and code language pertinent to the regulated profession. The following information is intended to emphasize specific provisions of what is established under the law, but it is not a comprehensive review of everything that a licensee or applicant would need to know.
HOW LONG ARE OPTOMETRISTS REQUIRED TO MAINTAIN PATIENT RECORDS? Optometrists are required to maintain patient records for at least 6 years. Refer to Ch. Opt 5.10, Wis. Adm. Code.		
ARE OPTOMETRISTS REQUIRED TO RELEASE A COPY OF A CONTACT LENS PRESCRIPTION TO A PATIENT? Yes, optometrists are required to release, at no cost to the patient, a copy of the patient's contact lens prescription following release of the patient from contact lens fitting and initial follow-up care. See Ch. Opt 5.16, Wis. Admin Code.		Replace: Optometrists are required to release, at no cost to the patient, a copy of the patient's contact lens prescription following release of the patient from contact lens fitting and initial follow-up care. Refer to Opt 5.03 (24), Wis. Admin. Code.
MAY AN INDIVIDUAL, WHO IS NOT A LICENSED OPTOMETRIST, ASSIST IN THE PRACTICE OF OPTOMETRY? Yes, but in a limited capacity. The scope of practice of an unlicensed assistant to an optometrist is outlined in Chs. Opt 1.03 and Opt 5.12, Wis. Admin Code. Except for the provisions granted in Opt 5.12 (1) and (2), an optometrist may delegate any act that is within the scope of practice of		Amend: Yes, but in a limited capacity. The scope of practice of an unlicensed assistant to an optometrist is outlined in ~~Chs.~~ s. Opt 1.03 ~~and Opt 5.12~~, Wis. Admin Code. ~~Except for the provisions granted in Opt 5.12 (1) and (2), an~~ An optometrist may delegate any act that is within the scope of practice of optometry – granted that the delegate has the proper education and training to perform the task. All unlicensed staff must be

Position Statement Language	Agreed Changes	Suggested Amendments
optometry – granted that the delegate has the proper education and training to perform the task. All unlicensed staff must be supervised, as defined in Ch Opt 1.02(6), meaning the optometrist must be available to coordinate, direct, and inspect the practice of the unlicensed person on a regular basis, as determined by the supervising optometrist.		supervised, as defined in ~~Ch~~ Opt 1.02(6), meaning the optometrist must be available to coordinate, direct, and inspect the practice of the unlicensed person on a regular basis, as determined by the supervising optometrist.
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DOES AN OPTOMETRIST NEED A SEPARATE CREDENTIAL, IN ADDITION TO A LICENSE TO PRACTICE OPTOMETRY, IN ORDER TO USE THERAPEUTIC PHARMACEUTICAL AGENTS?		Amend: ~~Wis. Stats. 449 changed the Optometrist License dependent upon the date the license was first issued, see below:~~

Position Statement Language	Agreed Changes	Suggested Amendments
Wis. Stats. 449 changed the Optometrist License dependent upon the date the license was first issued, see below: Optometrists licensed by the Board **before** August 1, 2006 who elect to use therapeutic pharmaceutical agents must obtain a certification under s. 449.17 and a certification under s. 449.18, Wis. Stats. Optometrists licensed by the Board **on or after** August 1, 2006 will automatically be authorized to use therapeutic pharmaceutical agents (TPA) without having to obtain a separate TPA certificate. *Note: the TPA certificates granted by the Board prior to August 1, 2006 no longer expire and will remain in effect while the optometrist's license remains in effect unless suspended or revoked by the Board.*		Optometrists licensed by the Board **before** August 1, 2006 who elect to use therapeutic pharmaceutical agents must obtain a certification under s. 449.17 and a certification under s. 449.18, Wis. Stats. Optometrists licensed by the Board **on or after** August 1, 2006 will automatically be authorized to use therapeutic pharmaceutical agents (TPA) without having to obtain a separate TPA certificate. *Note: the TPA certificates granted by the Board prior to August 1, 2006 no longer expire and will remain in effect while the optometrist's license remains in effect unless suspended or revoked by the Board.* See s. 449.18 (2) (e), Wis. Stats.
CAN OPTOMETRISTS DISTRIBUTE LATISSE? Ch. SPS 10, Wisc Admin Code regulates the appropriate pharmaceuticals that can be administered by optometrists. Per RL 10.01(10)(L), any ophthalmic therapeutic drug that is approved by the FDA under the drug and cosmetic act will fall into this category. As Latisse has been approved by the FDA it fits the standard of an acceptable therapeutic pharmaceutical. Therefore, optometrists who satisfy the requirements of Wis. Stats 449.18 are able to use Latisse in their offices. The limitations under Wis. Stats. 961.39 do not apply as Latisse is not a controlled substance as listed by the FDA.		Amend: ~~Ch.~~ Chapter SPS 10, Wisc Admin Code regulates the appropriate pharmaceuticals that can be administered by optometrists. Per ~~RL 10.01(10)(L)~~ SPS 10.03 (m), any ophthalmic therapeutic drug that is approved by the FDA under the drug and cosmetic act will fall into this category. As Latisse has been approved by the FDA it fits the standard of an acceptable therapeutic pharmaceutical. Therefore, optometrists who satisfy the requirements of Wis. Stats 449.18 are able to use Latisse in their offices. The limitations under Wis. Stats. 961.39 do not apply as Latisse is not a controlled substance as listed by the FDA.
ARE THERE MULTIPLE LEVELS OF LICENSURE FOR OPTOMETRISTS IN WI?		Amend:

Position Statement Language	Agreed Changes	Suggested Amendments
No. Prior to 8/1/2006 there were two levels: optometry licensure and a separate certificate for optometrists using diagnostic and therapeutic pharmaceutical agents. Now the optometry license covers the use of diagnostic and therapeutic pharmaceutical agents, so there is only one level of licensure.		No. Prior to 2005 Act 297, ~~8/1/2006~~ there were two levels of licensure: optometry licensure and a separate certificate for optometrists using diagnostic and therapeutic pharmaceutical agents. ~~Now the optometry license~~ An optometry license issued on or after August 1, 2006 covers the use of diagnostic and therapeutic pharmaceutical agents, so now there is only one level of licensure required.
CAN OPTOMETRISTS PRESCRIBE FOR THEMSELVES? Criteria to be met for self-prescribing are outlined below: • All prescribing by optometrists must be for ocular therapeutic purposes, as noted in 449.01(1)(a)2.c., Wisconsin Statutes. • Optometrists who are allowed, under 449.18(1), Wisconsin Statutes, to use therapeutic pharmaceutical agents may only prescribe or administer schedule III, IV and V controlled substances as listed in 961.39, Wisconsin Statutes. • "No practitioner shall prescribe, orally, electronically or in writing, or take without a prescription a controlled substance included in schedule I, II, III or IV for the practitioner's own personal use." 961.38(5), Wisconsin Statutes. If an optometrist can comply with the above-cited statutes then self-prescribing may be permitted. All record keeping requirements must still be met for self-prescribing. Optometrists should also be mindful in all actions that it is considered "unprofessional conduct" to engage in conduct unbecoming a person licensed to practice as noted in Wis.		Amend: Criteria to be met for self-prescribing are outlined below: • All prescribing by optometrists must be for ocular therapeutic purposes, as noted in s. 449.01 (1) (a) 2. c., Wisconsin Statutes. • Optometrists who are allowed, under s. 449.18 (1), Wisconsin Statutes, to use therapeutic pharmaceutical agents may only prescribe or administer schedule III, IV and V controlled substances as listed in s. 961.39, Wisconsin Statutes. • "No practitioner shall prescribe, orally, electronically or in writing, or take without a prescription a controlled substance included in schedule I, II, III or IV for the practitioner's own personal use." s. 961.38 (5), Wisconsin Statutes. ~~If an optometrist can comply with the above-cited statutes then self-prescribing may be permitted.~~ Self-prescribing is not specifically prohibited, but the standards that apply to optometrists for prescribing apply regardless of the identity of the patient. All record keeping requirements must still be met for self-prescribing. Optometrists should also be mindful in all

Position Statement Language	Agreed Changes	Suggested Amendments
Stats. 449.08(1)(e).		actions that it is considered "unprofessional conduct" to engage in conduct unbecoming a person licensed to practice as noted in Wis. Stats. s. 449.08 (1) (e).
		General Recommendation: *Should we add s. 961 to "Related Statutes and Administrative Code" link on the Optometry Examining Board site?*

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Tom Ryan	11/13/2017
	Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting

3) Name of Board, Committee, Council, Sections:

Optometry Examining Board

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
2/15/2018	☐ Yes ☒ No	'New Technology- Potential for Practice and Safety Concerns'- John Sterling

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session	☐ Yes (Fill out Board Appearance Request) ☒ No	None

10) Describe the issue and action that should be addressed:

11) Authorization

Emily Handel……....11/13/17

Signature of person making this request — Date

Supervisor (if required) — Date

Executive Director signature (indicates approval to add post agenda deadline item to agenda) — Date

Directions for including supporting documents:

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"Trying to shortcut the care provided by doctors of optometry to more than 1.5 million veterans a year places their eye health and vision care at risk. Our veterans have earned and deserve dedicated and quality vision care—and the AOA will fight for them."

Christopher J. Quinn, O.D.

In 2016, the FTC proposed a Contact Lens Rule change that would require every one of the 50,000 U.S. eye doctors to obtain a signed acknowledgement receipt after furnishing a patient's contact lens prescription, and keep that form on file for at least three years. The FTC claims these forms better educate patients about their right to obtain contact lenses from another seller, after seeing "an ongoing pattern of consumer complaints." However, the AOA vehemently argued these changes are unjustified and one-sided.

In fact, a 2017 Freedom of Information Act request showed that in the past five years, only 309 consumers—out of roughly 200 million contact lens prescriptions—have filed an FTC complaint, and half were unrelated to any violation of the law or rule. The AOA noted that while the FTC should investigate and act on legitimate violations, this relatively small percentage of complaints doesn't warrant new—and costly—industry-wide rules. Were the change to take effect, an independent analysis determined that solo practitioners could face up to $18,000 in additional costs in the first year, while multidisciplinary practices could face up to $75,000.

"Our regulatory agencies should take a closer look at those online contact lens retailers who are subverting the current laws instead of supporting more unnecessary bureaucracy that will put further burden on community, small-business health care providers," Dr. Quinn says.

Following AOA on Capitol Hill, nearly 60 House members signed a bipartisan letter led by Reps. Leonard Lance (R-N.J.) and Bobby Rush (D-Ill.) urging the FTC to reconsider the proposal, which was due to the determined advocacy of thousands of AOA doctors and students.

As of August, AOA anticipated FTC action was imminent and continued to educate lawmakers about not only the regulatory burden this change placed on small-business owners, but also the lack of accountability on the part of contact lens sellers who sidestep the law and rule altogether.

"The Federal Relations Committee believes that the FTC has not focused enough on the violations of the Contact Lens Rule by lens sellers," Dr. Newman says. "We will continue to work with the FTC and Congress to make sure this bad idea does not become a final rule."

Upholding 'one standard of care'

Telemedicine can play a beneficial role in supplementing access to in-person, comprehensive eye health and vision care, but when it crosses the bounds of replacing an already high standard of care, patients aren't getting what they're billed. So, when the Department of Veterans Affairs trialed a telehealth vision screening program, the AOA spoke against the subversion of quality care.

Launched at the Atlanta VA Medical Center in 2016, the "Technology-based Eye Care Services" (TECS) program sought to provide vision and eye disease screenings to veterans living outside the footprint of a full-service VA facility as part of their local primary care visit. However, such services were performed

by an ophthalmic technician, and might generate a refractive prescription based solely on an auto-refractor reading.

Although the AOA commends the VA's efforts to expand veterans' access to eye and vision health care, the TECS program falls well short of the VA's guarantee of "one standard of care." And it wasn't only the AOA and the Georgia Optometric Association (GOA) who thought so. Senator Johnny Isakson (R-Ga.), chairman of the Senate Committee on Veterans' Affairs, called into question the program in a letter to VA Acting Secretary Robert Snyder this past February, reinforcing an earlier letter issued from other members of Congress.

"I am concerned that the TECS program is offering a disparate, and, in my opinion, a reduced level of care for some veterans, particularly rural veterans, which does not conform with existing VA policies," Sen. Isakson's letter reads.

"With doctors ready and able, I question why TECS screenings are being deployed in (Georgia), and soon elsewhere, and tested on America's veterans."

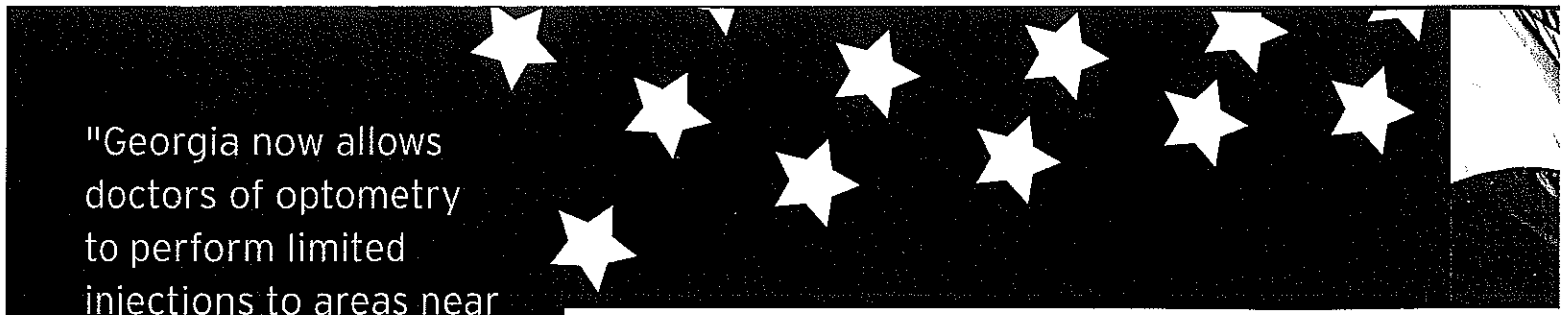
That's precisely the message echoed during a roundtable briefing on the U.S. Capitol grounds on June 21. Titled, "Veteran Vision: A Discussion on the Importance of Eye Health Care for America's Veterans," the briefing included AOA; the Armed Forces Optometric Society; the Association of Schools and Colleges of Optometry; AMVETS; the Blinded Veterans Association; the Vietnam Veterans of America; Sen. John Boozman, O.D., (R-Ark.); and Rep. Julia Brownley (D-Calif.); and featured a brief visit by Sen. Jerry Moran (R-Kan.), chair of the Senate VA appropriations subcommittee.

Overwhelmingly, advocates and thought leaders spoke in support of making sure veterans received the care they had earned, and importantly, that discussion later resurfaced in a hearing of the Senate's VA appropriations subcommittee with VA Secretary David Shulkin. There, Sen. Boozman raised concerns that the TECS program was providing a "Third World experience" to veterans.

"But I really think you ought to look at the way eye care is being delivered and put the technology in the hands of the optometrists, the ophthalmologists," Sen. Boozman commented. "They're in place, and again, give them the support staff and then they will be able to see more patients in an effective manner and cut out all this other stuff. Because we really do have some problems in that area."

Dr. Quinn noted after the roundtable briefing: "Trying to shortcut the care provided by doctors of optometry to more

AOA Executive Director Jon Hymes provides an update on AOA's advocacy efforts during the House of Delegates at the 2017 Optometry's Meeting® in Washington, D.C.



"Georgia now allows doctors of optometry to perform limited injections to areas near the eye, becoming one of a dozen states to currently permit such procedures."

Ben Casella, O.D., Georgia Optometric Association president

than 1.5 million veterans a year places their eye health and vision care at risk. Our veterans have earned and deserve dedicated and quality vision care—and the AOA will fight for them."

State advocacy in review

Optometry is a legislated profession, and as such, those laboratories of democracy—states—prove a bellwether for the advocacy challenges to come. This past year, state affiliates encountered legislative and regulatory trials that might help blaze a path toward increased patient access and safety, solidifying the quality care that doctors of optometry provide. Among states' 2017 legislative sessions, the AOA's State Government Relations Center (SGRC) tracked a total of 891 bills involving optometry; not all came to fruition, but a handful represent significant victories for patients and the profession.

Lessons in scope

Concerted, grassroots advocacy efforts made possible expanded or revised scope of practice laws in three states this session that ushered in more comprehensive, more accessible patient care.

In Alaska, a 2014 upscheduling of hydrocodone by the FDA and Drug Enforcement Agency had the unintended consequence of limiting doctors' of optometry prescribing authority. That simple regulatory action triggered a heated legislative debate, one that ultimately would prompt Alaska's doctors to later roll out a board autonomy bill.

Introduced and signed into law this session, that bill granted the Alaska Board of Examiners in Optometry the authority to independently regulate development of the profession commensurate with what is taught at accredited schools and colleges of optometry, and eliminated the need for optometry to petition the Alaska State Legislature with each advance in optometric education or technology. The law represents a windfall for patient access across the Frontier State.

"Area-wise, Alaska is the largest state in the union—we're very rural—and there are many parts of this state that are not served by ophthalmologists, but by optometry," says Paul Barney, O.D., board chair and 2017 AOA Optometrist of the Year. "This is about accessing care so patients don't have to travel hundreds of miles to get to Anchorage; they can have care delivered by a well-trained optometrist."

Currently, this new law does not change the scope of practice in Alaska, and current regulations governing the practice of optometry are still effective. However, a new law in Georgia did affect scope of practice for patients' benefit.

Georgia now allows doctors of optometry to perform limited injections to areas near the eye, becoming one of a dozen states to currently permit such procedures. Ben Casella, O.D., GOA president, says it's important for state law to progress as the training for doctors of optometry does the same with advancing technologies and care that could greatly benefit patients.

"This measure being signed into law supports our position that Georgia's doctors of optometry are highly skilled, well-trained and experienced medical professionals who are working to give their patients access to much-needed eye care services," Dr. Casella notes.

And in Texas, a new law also granted doctors of optometry greater prescribing privileges, along with several other changes. Per state law, the Texas Optometry Board and several other medical boards came up for routine review under the Texas Sunset Act to remain operating; however, Texas required a special session to consider such approvals before sending these measures to the governor's desk. That signature came on Aug. 11, and with it, approval of the Sunset Commission's recommendations to require doctors of optometry to check the state's Prescription Monitoring Program database before prescribing controlled substances. Additionally, the recommendations require the board to develop guidelines for responsible prescribing of controlled substances.

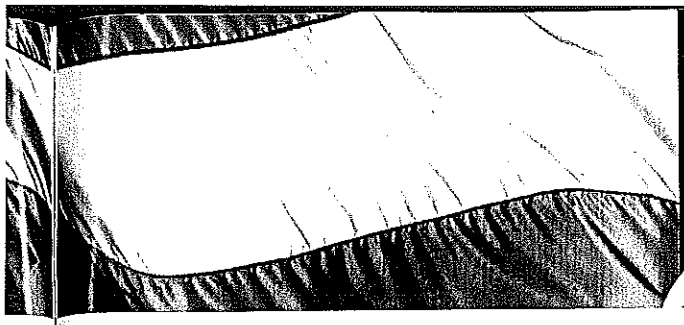
Reining back oversold technology

When it comes to technological advances, the entrepreneurial "because we can" shouldn't take priority over commonsense public health and safety. Optometry must draw a line between technologies that improve patient care and outcomes, and those that ultimately act as a barrier to care.

While nascent devices—such as kiosks, app-based autorefractors or online vision tests—appeal to consumer convenience, AOA and state associations contend there are severe pitfalls in separating refractive tests from regular, in-person comprehensive eye examinations. And states are ensuring these potential hazards go no further.

Four states—Connecticut, New Jersey, Virginia and Wyoming—passed some form of patient protection law this session that upholds the standard of care afforded by an in-person examination and establishes commonsense guardrails for emerging technologies, including telehealth.

"We have seen an increase in patient protection legislation over the past few years with well-funded opposition on the other side," says Deanne Alexander, O.D., chair of the AOA's State Government Relations Committee. "We also are



891

The number of bills that AOA's State Government Relations Center tracked in 2017

continuing to see telehealth legislation being introduced throughout the country. We need to monitor these bills closely to watch for opportunities where optometry can be included safely and appropriately.

"Forward-thinking patient-protection legislation that allows for changes in technology and health care will be important as new apps and technologies are continually popping up—not only are they providing inferior care, but some provide no care at all."

In Connecticut, optometry faced severe opposition over a bill that prohibited the disbursement of a contact lens prescription based solely on a remote refractive test, such as those found on a smartphone app or device. Signed into law and taking effect in October, the law stipulates that an in-person evaluation and eye examination must be conducted before an initial prescription or first renewal can be issued.

Addressing telehealth concerns, the New Jersey Society of Optometric Physicians stood firmly on bill language that specified any health care provider wanting to participate in a telemedicine program must not only be licensed in New Jersey, but also meet the same standard of care as an in-person setting. Furthermore, online apps or services cannot rely solely on refractive results to furnish a prescription as that is only one element of a comprehensive eye exam, and would otherwise violate the standard of care provision.

But it's not only about fighting to pass legislation; it's about defending it, too. That's the position that the Indiana Optometric Association (IOA) found itself taking when its comprehensive telemedicine law—an IOA-backed, 2016 bill that prohibited ophthalmic devices from being prescribed by purely electronic means—came under fire early in the 2017 session.

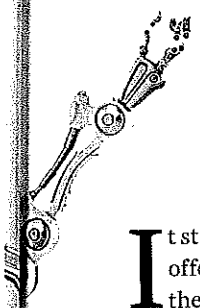
Opponents pushed to overturn those safeguards, but IOA members rallied. Again, they educated lawmakers on the standard of care afforded by an in-person, comprehensive eye exam, and argued that online services couldn't detect serious ocular conditions and diseases, effectively delaying timely care.

"Any legislative battle can be hard on any level, but states need to be prepared," Dr. Alexander says, "The opposition has a lot of money and effort, and optometry must be ready from the grassroots level all the way up to our lobbying efforts."

Will Pinkston is a senior content producer for the AOA, based in St. Louis, Missouri.

DISRUPTING the DISRUPTORS

BY SHEILA QUIRKE



dis-rupt (verb): *to interrupt, by causing a disturbance or problem; to drastically alter the structure of something; upset, obstruct, impede, interfere with, distort.* Strong words, but most optometrists can relate. The word "disruptive" is accurate when describing the growth of online optometric services.

It started as a commerce venue shift- retailers offered discounted eyeglasses and contacts via the Internet. Disruption has now morphed into online refraction being widely available to consumers who can access a new prescription without leaving home. That is some *Star Trek* level technology!

The American Optometric Association takes a strong stance against these innovations due to how they can affect patients' long-term health. "An online eye test that results in a contact lens and eyeglasses prescription may give patients a false sense of security, potentially delaying sight-saving care," says the AOA. "While there may be fine print disclaimers that say these apps do not replace comprehensive eye examinations, they may still misleadingly provide patients with a peace of mind that they received care." Regardless of risk, patients are embracing these services. Disruptive startup technology is here to stay.

So, what to do and how to adapt? ICO-trained doctors are at the forefront of these questions. Former ICO resident **Dr. Ryan Corte** is the founder of IntroWellness.com. This resource website produces short video clips that simplify health and wellness information for consumers. Dr. Corte believes these disruptors clearly understand how their presence impacts optometrists. "They know exactly what they are doing by trying to disrupt the process of refraction. It's not going away. We must educate our patients to the fullest degree about what ODs provide that is different, and be there for them if they discover what they're being provided online falls short."

Dr. Stephanie Messner, Vice President and Dean for Academic Affairs, states, "We must prepare our students for a future in which data collection is not the most important aspect of what they do." Instead, emerging tech tools can be used as one step toward a larger mission- "to solve their patients' problems in the most efficient way."

To do that adequately, it is important to better understand how online disruptors work. Here are the basics for a few, including what they provide, what they don't provide, and who they are targeting with services and marketing.

Opternative "The eye exam has evolved."

Chicago's homegrown disruptor, Opternative, was founded in 2012 and began offering online refraction in 2015. Last year, it established an alliance with 1-800-Contacts. It is currently active in 37 states and provides prescriptions using board certified ophthalmologists. Patients must be between 18-55 years old and state they are in good health via self-report. Online refraction is done at home using a computer and smart phone app, with a prescription then e-mailed to the consumer.

(2)

EyeNetra "Refraction mobilized."

EyeNetra was developed as a med-tech project at the MIT Media Lab. It is a "suite" of portable refraction tools for use by consumers under the "supervision of an eye care professional." The tools are transported to schools, businesses, correctional institutes, missions, rural areas, and mobile clinics. The equipment, including an auto-refractor, auto-lensometer, and handheld phoropter, is powered by a smart phone app. Data is transmitted to a proprietary, cloud-based system. Prescriptions that are generated can then be sent directly to a consumer's phone. More than 150,000 eye exams using the technology have now been logged.

Smart Vision Labs "Grow your business with optical telemedicine."

The objective of Smart Vision Labs is to connect brick and mortar optical stores with ophthalmologists via technology. They advertise a five-minute vision test and prescriptions for customers within 24 hours, accessible to patients via a secure online portal. The vision test uses a smart phone app that scans the eye with "wavefront technology," and includes photos taken of the eyes for remote review by ophthalmologists. All of this is overseen by a "normal employee," which one can assume is not a doctor of optometry. The company's website emphasizes lower costs for eye care professionals and increased sales, improving a return on investment. It boasts that using the technology eliminates the need to find or pay for doctors on-site.

Warby Parker "...founded with a rebellious spirit..."

Packaging itself as the disruptor with a heart of gold, Warby Parker hit the internet in 2010. They have carved out a market by offering affordable and fashionable frames that customers can select online, then try on in the comfort of their own home. The company both designs and produces their product. Ironically, the brand now has a growing brick and mortar footprint, with 58 locations across the US. This year, a new app has been rolled out called Prescription Check, which provides online refractions and is currently available in ten states. The home-based exam takes twenty minutes using a computer and smart phone, but is only available to consumers who self-report being between 18-50 years of age and who do not require reading glasses or progressives.

2020Now "The doctor is always in."

2020Now offers fifteen-minute exams using HD video conferencing and ophthalmologists. Patients are assisted with onsite devices like auto-refractors, auto-keratometers, and auto-lensometers. The collected data is transmitted to a remote technician who then performs subjective refraction and vision analysis tests, via teleconference. All the collected information is sent electronically to an ophthalmologist, who then sends a signed prescription within minutes. The goal is for any brick and mortar store that engages the company to then capture that patient and sell them eyeglasses.

Disruptors rely heavily on ophthalmologists. Ophthalmologists have the legal capacity to write prescriptions across state lines that optometrists do not, leaving optometrists vulnerable. That regulation is a tough nut to crack. In response, the AOA supports telehealth, "a rapidly-evolving tool for the delivery of health information and services." They believe that "eye and vision telehealth services, when used appropriately, can serve to improve patient coordination and communication among and between doctors of optometry and ophthalmologists, as well as other primary care or specialty care providers."

In addition to following AOA recommendations, ICO alumni are using a three-pronged approach to disrupt the disruptors. They engage in advocacy to lobby for favorable legislation, exercise education and top shelf customer service to attract and retain patients, and provide the latest technologies.

Abby Jakob, OD '14, is the owner/operator of EYES, a practice in Ontario, Canada. Dr. Jakob provides personalized care to patients ranging in age from infants to centenarians. She is passionate about pairing state-of-the-art technology with an awareness of specialized needs. "Technology helps me provide the most thorough exam possible, and by pairing that with patient education, my patients understand they are getting a compassionate and caring doctor."

For Dr. Jakob, that means providing a welcoming and friendly environment, having equipment that is wheelchair accessible, and making certain her patients "feel like gold." She has had tremendous success targeting those patients most readily served by online disruptors - Millennials. She uses social media to highlight her fresh product line and well-appointed office via Instagram and Facebook, which attracts younger patients.

Is Dr. Jakob concerned about the growth of online refraction? No. "There is no way to integrate a patient's lifestyle or habits into an online exam. The prescription provided may be crystal clear, but still not right. There is no substitute for a professional asking the right questions and reading the patient as they are examined." Dr. Jakob acknowledges it may be easier for her to adapt as a new OD who appreciates that older patients require a more traditional approach while her younger patients are comfortable with modern technology and different means to communicate with her. "People need options."

The reality of patients exploring options like online vendors is the elephant in the room **Melissa Spaulding, OD '15,** is never afraid to address with her patients. As a provider at

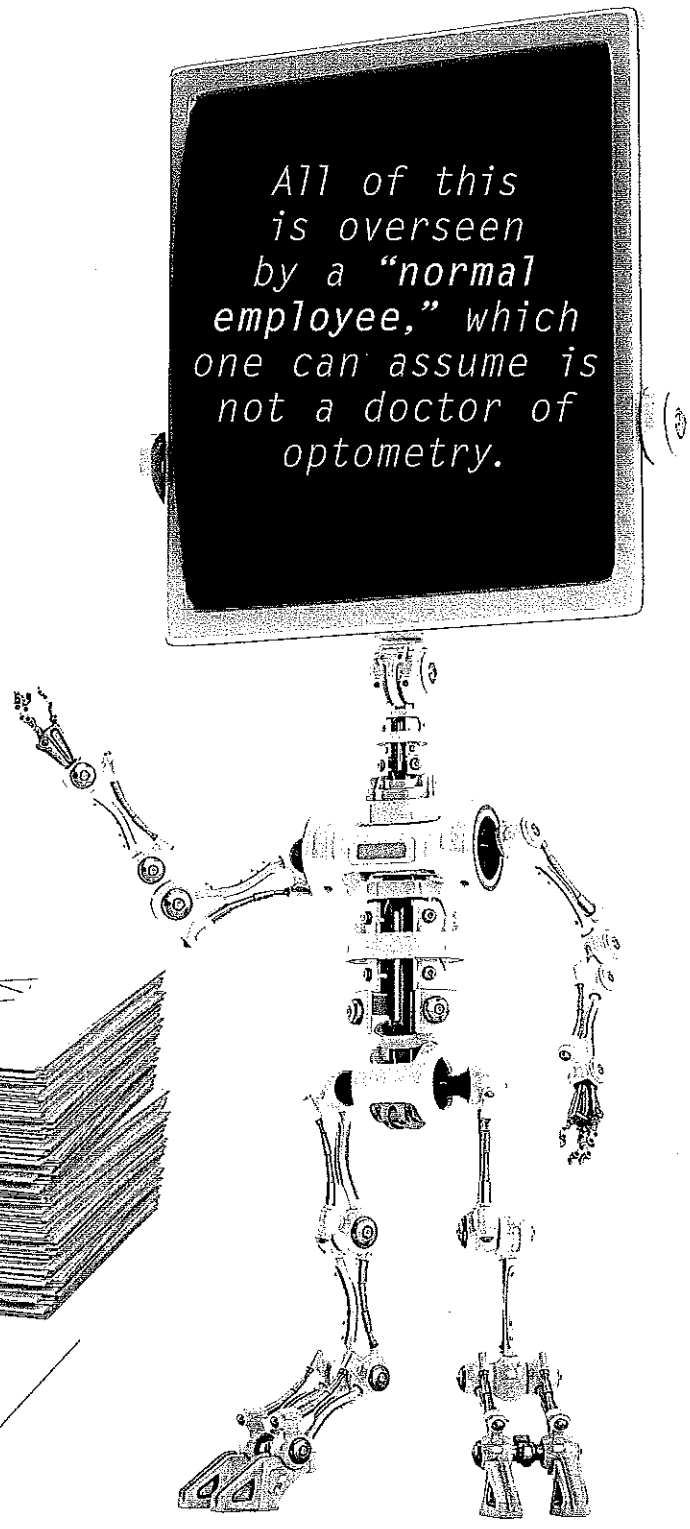
Front Range Eye Health Center in Colorado, Dr. Spaulding never shames a patient who requests a written prescription. "We are doctors of optometry, not salesmen. My number one goal is education. I check for diabetes and glaucoma, and ask about dry eyes and allergies- things many patients never think to bring up, but have a lot of questions about. I want to capture 100% of my patients with a more thorough eye exam."

Dr. Stephanie Messner agrees with this strategy. She hopes ICO students and alumni will "fully participate in medical optometry and vision rehabilitation so that their practices aren't solely dependent on refractive eye care." A practice with multiple services and specialties will adapt and survive when the marketplace changes.

Ryan Ames, OD '07, is a strong advocate for, well, advocacy. Through his work at ForeSight, LLC based in Wisconsin, Dr. Ames has seen the benefits of state and national associations. "Optometrists must get involved. Donations to both the state associations and the American Optometric Association PAC are crucial. If every OD gave just $50 a month, we would have enough funds to fight. Industry forces are coming armed with millions of dollars. We need the same arsenal."

Dr. Ames believes focusing on education and technology enables patients to ultimately become better advocates for themselves. "We must focus on telling patients why they need to see us routinely. As we examine the eye, we need to tell them what we are looking at and why. Then, if the patient does consider an online refraction, they will at least be educated on what is missing when they do it."

Patients take notice of changing technologies, too. Dr. Ames notes, "When we are spinning wheels on the same black instrument from the 1950s, they will start to wonder why we are still using it when other technology is available. Marketing is a matter of perception, not reality. Even if both instruments produce similar results, they look very different. All the patient knows is that when they went to the optometrist, they got a new prescription. And when they did the exam in their kitchen, they got a new prescription."



Optometrists must cast a brighter light on what the profession uniquely provides. The AOA "will continue to hold companies accountable for any claims they make that potentially put patient health at risk." While they do, know your value and don't be shy about sharing it. Use the tools available to you: advocacy, technology, and the expertise to provide patients with the best care available to them. No app in the world can replace that.

State of Wisconsin
Department of Safety & Professional Services

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted: 1/17/2018 Items will be considered late if submitted after 4:30 p.m. and less than: ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others

3) Name of Board, Committee, Council, Sections:

Optometry Examining Board

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
2/15/2018	x Yes ☐ No	Association of Regulatory Boards of Optometry (ARBO) Announcement on Council on Optometric Practitioner Education (COPE) Equivalency Decision: COPE Accreditation Deemed Substantially Equivalent to American Council for Continuing Medical Education (ACCME) Accreditation Program

7) Place Item in:	8) Is an appearance before the Board being scheduled? If yes, who is appearing?	9) Name of Case Advisor(s), if required:
x Open Session ☐ Closed Session ☐ Both	No	

10) Describe the issue and action that should be addressed:

View this email in your browser

I'm really excited to explain more about ARBO's announcement that the COPE accreditation program has been deemed to be substantially equivalent to the Accreditation Council for Continuing Medical Education (ACCME) accreditation program. The ACCME is medicine's continuing medical education system. Having this equivalence now gives optometry equal footing with medicine. This is our (ARBO and its member boards) culmination of many years hard work. At the request of our member boards and the profession, we set out to create a continuing education system for maintenance of licensure in optometry that is equal to medicine.

For the last 20+ years, when optometry went to the legislature for scope of practice expansion, we often heard medicine speak negatively about optometric continuing education which is the primary component of maintenance of licensure. With COPE's designation of being substantially equivalent to ACCME, those days are now over. If your jurisdiction is utilizing COPE to accredit the CE required for license renewal in your jurisdiction, you now have a very

powerful tool available to you.
Some of our optometry colleagues feel that the COPE program should be independent of the regulatory boards. However, keep in mind that COPE was developed by you, our member boards, to establish a program free of commercial influence and designed to improve patient outcomes. The COPE program is defensible in the regulatory arena and meets the gold-standard of professional continuing medical education. COPE is a regulatory tool that only remains sharp under regulatory control. Governance of the COPE program by ARBO and the member boards allows for the most efficient management of conflicts of interest and ensures the integrity of COPE accredited CE.

However, in the wisdom of a few of our profession leaders, the AOA is attempting to start another CE accreditation process. In today's regulatory climate of increased government oversight, is it really a good idea for the regulatory boards to allow a group of CE providers to accredit the CE that they present? This whole idea is redundant, unnecessary, and a waste of time and money. We have bigger issues to address than to create a program where one already exists which meets the gold standard set by medicine.

When your Board meets, I urge you to discuss your requirements for the life-long learning of those that you grant a license to practice in your jurisdiction. The days of grandfathering education meetings without managing conflicts of interest and commercial bias are history. The future with ARBO and COPE is quality CE that is designed to be independent, free from commercial bias, and effective in improving the quality of care that optometrists deliver to their patients. COPE is also continuing to evolve by aligning our requirements with those of other professions' accreditors to allow optometry to participate in collaborative, inter-professional CE that is designed for the healthcare team.

The ARBO staff and Board look forward to further communication with you in the near future.

Sincerely,
Dr. Rick Orgain
ARBO President

11) Authorization

Signature of person making this request **Date**

Supervisor (if required) **Date**

Bureau Director signature (indicates approval to add post agenda deadline item to agenda) **Date**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request:	2) Date When Request Submitted:
Kimberly Wood, Program Assistant Supervisor-Adv.	11/22/17
	Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting

3) Name of Board, Committee, Council, Sections:

Optometry Examining Board

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
2/15/2018	☒ Yes ☐ No	99th ARBO Annual Meeting – June 17-19, 2018 in Denver Colorado – Board Consideration of Attendance and Scholarship Offer

7) Place Item in:	8) Is an appearance before the Board being scheduled?	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session	☐ Yes ☒ No	N/A

10) Describe the issue and action that should be addressed:

1) Consider nomination of one board or DSPS staff member to receive the Dr. John Robinson Founder's Scholarship to Annual meeting, including 3 nights of hotel, and airfare expense.
2) If a member is nominated to receive the Founder's Scholarship, make a motion to designate a member to submit the nomination letter to ARBO by the deadline of March 9, 2018.
3) Consider whether to authorize any other board travelers to attend the 99th ARBO Annual Meeting.

Conference details are still forthcoming, available information regarding the Annual Meeting can be found at this link: https://www.arbo.org/2018_meet.php

11) Authorization

Kimberly Wood — *1/30/2018*

Signature of person making this request — Date

Supervisor (if required) — Date

Executive Director signature (indicates approval to add post agenda deadline item to agenda) — Date

Directions for including supporting documents:
1. This form should be attached to any documents submitted to the agenda.
2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director.
3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.

Association of Regulatory Boards of Optometry

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John D. Robinson Founder's Scholarship

ARBO has established the Founder's Scholarship in honor of Dr. John D. Robinson, former member of the Board of Directors, long-time Secretary, and ARBO Life Member. The scholarship will be given to one person each year from an active ARBO member board who demonstrates the same passion and vision for the regulation of optometry that Dr. Robinson exemplified.

Founder's Scholarship Details:

ARBO Member Boards may nominate one of their Board members or staff for the scholarship. The recipient of the award will receive the following:

- Complimentary registration for the Annual Meeting
- Accommodations for up to three nights at the meeting hotel
- Airfare to the meeting city (coach class, reservation must be made at least 2 weeks in advance of the meeting)

Founder's Scholarship Criteria:

- Must be a Board member or staff person of an ARBO Member Board in good standing for at least 3 years.
- Candidate must be nominated by the leadership of an ARBO Member Board.
- Nominations must be submitted by March 9, 2018.
- Submit a letter on your Board letterhead stating why you feel the candidate should be given the scholarship.
- Include the following in your letter:
    - Background information on your candidate— length of time on your Board, positions held, involvement in ARBO activities, etc.
    - Regulatory Board program support— Briefly explain any programs/projects for which your candidate has made significant contributions to your regulatory Board.
    - Community/Civic Involvement— List any community and/or civic activities your candidate is involved with.
    - Provide any additional information that you would like the committee to know about your candidate.
- The ARBO Annual Meeting Planning Committee will review applications and recommend a recipient to the ARBO Board of Directors for their final approval.
- The recipient will be notified by April 20. 2018.

To be considered for the scholarship for the 2018 ARBO Annual Meeting, please submit your nominations to Lisa Fennell, ARBO Executive Director, by email: lfennell@arbo.org or fax: 888-703-4848 no later than March 9, 2018.