



OPTOMETRY EXAMINING BOARD
Room N206, 4822 Madison Yards Way, Madison
Contact: Thomas Ryan (608) 266-2112
October 11, 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 – June 18, 2018 (4-5)

C. Conflicts of Interest

D. Administrative Updates (6-7)

- 1) Department and Staff Updates
- 2) Appointment of Liaisons
- 3) Board Member – Board Member Status
 - a. Ann Meier Carli – 7/1/2014
 - b. Richard Foss – 7/1/2017
 - c. Mark Jenkins – 7/1/2016
 - d. Robert Schulz – 7/1/2020 (*reappointed, not yet confirmed*)
 - e. Peter Sorce – 7/1/2018
 - f. John Sterling – 7/1/2021 (*appointed, not yet confirmed*)

E. Legislative and Administrative Rule Matters – Discussion and Consideration (8-28)

- 1) Opt 8, Relating to Continuing Education, Preliminary Rule Draft
- 2) Opt 4, Relating to Licensure by Endorsement, Preliminary Rule Draft
- 3) 2017 Wisconsin Act 262: Review Draft Report on Opioid Abuse Due November 1, 2018
- 4) Part II, TMOD Examination Discussion – Ss. 449.04 And 449.055, Stats., and Opt 3 and 7
- 5) 2017 Wisconsin Act 108: Review Administrative Rules for Report Due March 31, 2019
- 6) Update on Legislation and Pending or Possible Rulemaking Projects

F. Speaking Engagement(s), Travel, or Public Relation Request(s), and Reports (29-32)

- 1) ARBO Annual Meeting Travel Report – Peter Sorce

G. 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

H. Future Agenda Items

I. Public Comments

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.).

J. Division of Legal Services and Compliance (DLSC) Matters

K. Deliberation on Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) Division of Legal Services and Compliance (DLSC) 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 Final Decisions and Orders
- 11) Matters Relating to Costs
- 12) Case Closings
- 13) Petition(s) for Extension of time
- 14) Proposed Interim Orders
- 15) Petitions for Assessments and Evaluations
- 16) Petitions to Vacate Orders

- 17) Remedial Education Cases
- 18) Motions
- 19) Petitions for Re-Hearing
- 20) Appearances from Requests Received or Renewed

L. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

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

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

ADJOURNMENT

MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held at 4822 Madison Yards Way, Madison, Wisconsin, unless otherwise noted. In order to confirm a meeting or to request a complete copy of the board's agenda, please call the listed contact person. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Interpreters for the hearing impaired provided upon request by contacting the Affirmative Action Officer, 608-266-2112.

**OPTOMETRY EXAMINING BOARD
MEETING MINUTES
June 18, 2018**

PRESENT: Ann Meier Carli (*via GoToMeeting*), Richard Foss, Mark Jenkins, Robert Schulz, John Sterling

EXCUSED: Peter Sorce

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

CALL TO ORDER

Ann Meier Carli, Chair, called the meeting to order at 9:02 a.m. A quorum of five (5) members was confirmed.

ADOPTION OF AGENDA

Amendments to the Agenda

- Open Session – Under item “D. Administrative Updates; 3) Board Member – Board Member Status” **REMOVE** “c. Brian Hammes – 7/1/2019”
- Open Session (Following Closed Session) **REMOVE** item “N. Credentialing Liaison Training”

MOTION: Mark Jenkins moved, seconded by Ann Meier Carli, to adopt the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES

Amendments to the Minutes

- Page 3 of the Minutes: Add a reference to “Credentialing Liaison Training” immediately above the header “Delegation of Ratification of Examination Results and Ratification of Licenses and Certificates”.

MOTION: Ann Meier Carli moved, seconded by Mark Jenkins, to approve the minutes of May 31, 2018 as amended. Motion carried unanimously.

LEGISLATIVE AND ADMINISTRATIVE RULE MATTERS

ACOE List of Optometry Accreditation Schools – Review Board Rules

MOTION: Ann Meier Carli moved, seconded by John Sterling, to approve the Scope Statement revising Opt 4, relating to licensure by endorsement, for submission to the Department of Administration and Governor’s Office and for publication. Additionally, the Board authorizes the Chair to approve the Scope Statement for implementation no less than 10 days after publication. Motion carried unanimously.

Update on Legislation and Pending or Possible Rulemaking Projects

MOTION: Mark Jenkins moved, seconded by Richard Foss, to request DSPS staff schedule an additional public hearing for Opt 8, relating to continuing education, to consider the May 31, 2018 proposed amendment to require continuing education relating to prescribing controlled substances for the 2019/2021 biennium. Motion carried unanimously.

MOTION: Robert Schulz moved, seconded by Richard Foss, to authorize the Chair (or other member), or highest-ranking officer, or longest serving member of the board, to approve the preliminary rule draft incorporating the requirement for continuing education relating to prescribing controlled substances for the 2019/2021 biennium into Opt 8, relating to continuing education, for submission to the Clearinghouse. Motion carried unanimously.

DELEGATION OF RATIFICATION OF EXAMINATION RESULTS AND RATIFICATION OF LICENSES AND CERTIFICATES

MOTION: Mark Jenkins moved, seconded by Ann Meier Carli, to delegate ratification of examination results to DSPS staff and to ratify all licenses and certificates as issued. Motion carried unanimously.

ADJOURNMENT

MOTION: Richard Foss moved, seconded by Robert Schulz, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:09 a.m.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Dr. Ann Meier Carli		2) Date When Request Submitted: 7/10/18 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: Optometry Examining Board			
4) Meeting Date: 10/11/2018	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Appointment of Liaisons	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Appoint an alternate liaisons.			
11) Authorization			
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.			

2018 Election and Liaison Appointment Results

2018 ELECTION RESULTS	
Board Chair	Ann Meier Carli
Vice Chair	Robert Schulz
Secretary	Mark Jinkins
2018 LIAISON APPOINTMENTS	
Credentialing Liaison(s)	Ann Meier Carli <i>Alternate: Richard Foss as of 9/25/18</i>
Education and Exams Liaison(s)	Richard Foss
Monitoring Liaison	John Sterling
Professional Assistance Procedure (PAP) Liaison(s)	Mark Jinkins
Legislative Liaison	Peter Sorce <i>Alternate: Ann Meier Carli</i>
Travel Liaison	Ann Meier Carli <i>Alternate: Brian Hammes <u>Mark Jinkins</u></i>
Occupational License Study Liaison	Ann Meier Carli <i>Alternate: John Sterling</i>
Prescription Drug Monitoring Program Liaison (PDMP)	Robert Schulz

2018 SCREENING PANEL APPOINTMENTS	
January-December 2017	<u>Richard Foss</u> , Mark Jinkins, Robert Schulz, Brian Hammes

NOTE: Appointments updated 5/31/18 due to resignation of Hammes

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Helen Leong, Administrative Rules Coordinator		2) Date When Request Submitted: October 1, 2018 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: Optometry Examining Board			
4) Meeting Date: October 11, 2018	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Legislative and Administrative Rule Matters – Discussion and Consideration 1) Opt 8, relating to continuing education, Preliminary Rule Draft 2) Opt 4, relating to Licensure by Endorsement, Preliminary Rule Draft 3) 2017 Wisconsin Act 262: Review Draft Report on Opioid Abuse due November 1, 2018 4) Part II, TMOD Examination Discussion – ss. 449.04 and 449.055, Stats., and Opt 3 and 7 5) 2017 Wisconsin Act 108: Review Administrative Rules for Report due March 31, 2019 6) Updated on Legislation and Pending or Possible Rulemaking Projects	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Application for Optometrist License: https://dsps.wi.gov/Credentialing/Health/fm598.pdf			
11) Authorization			
Signature of person making this request <i>Helen Leong</i>		Date <i>October 1, 2018</i>	
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 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 8.02 (4), (8), (9) and (10); to amend Opt 8.02 (1), (2), and (3); to repeal and recreate Opt 8.03 and 8.03 (Note); and to create Opt 8.01 (4), Opt 8.02 (1m), (3e), (3m), and (3s), 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...”

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 on the available topics of continuing education for licensees.

Section 3 requires that licensees obtain two hours of continuing education related to responsible prescribing of controlled substances for the 2019/2021 biennium.

Section 4 clarifies that licensees who are not authorized to use diagnostic and therapeutic agents may not use continuing education courses on the removal of superficial foreign bodies from an eye or from an appendage to the eye to satisfy the minimum of 20 of 30 continuing education hours on ocular health, conditions, or disease management requirement.

Section 5 creates three new sections for Opt 8.02. Section Opt 8.02 (3e) provides that at least 20 hours must be completed in person, allowing for an increase from the previous rule to 10 hours which may be completed by 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 (3m) allows for additional hours to be completed by methods other than in person for cases of hardship. Section Opt 8.02 (3s) provides a clearer standard of what continuing education is required for a new licensee's first renewal.

Section 6 repeals provisions relating to topics which have been clarified by new provisions in this rule project. The revision in Section 2 eliminates the need for Section Opt 8.02 (4). Section Opt 8.02 (3s) 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 (3e).

Section 7 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. There are no specific continuing education requirements on prescribing controlled substances.

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. There are no specific continuing education requirements on prescribing controlled substances.

Michigan: Michigan requires 40 hours of continuing education every two years. A licensee who holds a certification to administer topical 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. 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. Beginning with the 2018 renewal cycle, and all renewal cycles thereafter, licensees are required to complete 2 hours of board approved continuing education in pain and symptom management.

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. There are no specific continuing education requirements on prescribing controlled substances. However, the Board may, when compelled by an emerging public health issue, require all optometrists to attend specified subjects of continuing education for a biennium.

Summary of factual data and analytical methodologies:

The Optometry Examining Board reviewed and updated the rule. A public hearing was held on May 31, 2018. Following the public hearing, on May 31, 2018, the Board moved unanimously to further amend Opt 8 to require all licensees to obtain two hours of continuing education for the 2019/2021 biennium and to sunset the requirement after the end of the 2019/2021 biennium. At the June 18, 2018 meeting, the Board moved to hold

a second public hearing on the new amendments to the rule made after the first public hearing.

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

The proposed rules were 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. No comments were received.

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, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-2112; 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, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before 9:00 am on October 11, 2018 to be included in the record of rule-making proceedings.

TEXT OF RULE

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

(4) "Hour" means a minimum of 50 minutes 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 (1m) is created to read:

(1m) During the biennial registration period commencing December 15, 2019 and ending December 14, 2021, unless granted a hardship waiver in accordance with sub. (3m), the 30 required hours of continuing education shall include 2 hours on the topic of responsible prescribing of controlled substances.

SECTION 4. Opt 8.02 (2) and (3) are amended to read:

(2) ~~Except as provided in sub. (4), approved~~ A minimum of 20 of the 30 hours of approved continuing education hours, as specified in sub. (1), required for optometrists who are allowed to use diagnostic and therapeutic pharmaceutical agents shall relate to ~~the diagnosis and management of eye disease~~ ocular health, conditions, or disease management, 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~~ A minimum of 20 of the 30 hours of approved continuing education hours, as specified in sub. (1), required for optometrists who are not allowed to use diagnostic and therapeutic pharmaceutical agents shall relate to ~~the diagnosis and management of eye disease~~ ocular health, conditions, or disease management.

SECTION 5. Opt 8.02 (3e), (3m), and (3s) are created to read:

(3e) 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).

(3m) In cases of hardship, a licensee may apply to the board for any of the following:

(a) Approval of less than the 20 hours of in person continuing education required under sub. (3e).

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

(3s) 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.

SECTION 6. Opt 8.02 (4), (8), (9) and (10) are repealed.

SECTION 7. 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.

(4) In cases of hardship under s. 8.02 (1n), the board may waive any requirement under this section or s. 8.02 (1c) as deemed appropriate by the board.

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 8. EFFECTIVE DATE. The rules adopted in this order shall take effect on December 15, 2019.

(END OF TEXT OF RULE)

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 4.01 (Note), Opt 4.02 (1) (c) (Note 1) and (Note 2), Opt 4.02 (1) (e) (Note), and Opt 4.03 (Note); amend Opt 4.01 (1), Opt 4.01 (2), Opt 4.01 (6), Opt 4.02 (2), and Opt 4.03 (2) (a) and (b); repeal and recreate Opt 4.02 (1) (d) and (Note); and create Opt 4.02 (3).

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 449.055, Stats.

Statutory authority: ss. 15.08 (5) (b), 227.11 (2) (b), Stats.

Explanation of agency authority:

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

Section 227.11 (2) (b), Stats., sets forth the parameters of an agency’s rule-making authority, stating an agency, “may prescribe forms and procedures in connection with any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute, but this paragraph does not authorize the imposition of a substantive requirement in connection with a form or procedure.”

Related statute or rule:

s. 449.04, Stats., and Opt 3, relating to Licensure

Plain language analysis:

In order to clarify licensure by endorsement, this rule revision inserts cross-references into s. Opt 4.02 for relevant statutes to implement 2017 Act 278, removes unnecessary notes, and simplifies the program approval process. The Board recognizes that programs that are accredited by the Accreditation Council on Optometric Education are approved

for Wisconsin licensees. In order to prevent delays in the process of recognizing accredited programs, the Board is amending chapter Opt 4 to conform with chapter Opt 3 and remove the annual review of accredited programs.

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

None.

Comparison with rules in adjacent states:

Illinois:

For licensure by endorsement, an applicant must submit proof of graduation from an accredited program, or a program recommended by the Illinois Optometric Licensing and Disciplinary Board to the Department of Financial and Professional Regulation-Division of Professional Regulation for approval. The applicant may also be required to submit proof of five or ten years of practice, depending on when they graduated; education or practice related to pharmaceutical agents, depending on when they graduated; and proof of passage of Parts I, II, and III, including the TMOD, of the National Board of Examiners in Optometry exam. The Board may waive examination requirements after consideration of additional evidence of education, training, and experience.

Iowa:

For licensure by endorsement, an applicant must have been licensed in another jurisdiction for three years. This requirement may be waived under specific circumstances. The application must include a transcript from an accredited program, successful completion of the National Board of Examiners in Optometry exam in effect at the time of initial licensure, and verification from other jurisdictions of any disciplinary action taken against the licensee. Additionally, the application must provide information of any civil litigation relating to the practice of optometry. If an applicant is certified by the Council on Endorsed Licensure Mobility for Optometrists (CELMO), then the applicant has fulfilled the education requirement. If an applicant is not CELMO certified, the Board will review the transcript to determine if the education meets specific requirements as outlined in rule.

Michigan:

For licensure by endorsement, an applicant must have graduated from a program accredited by the Accreditation Council on Optometric Education and successfully completed an examination that assesses the diagnosis, treatment, and management of ocular diseases with pharmaceutical agents. The applicant must submit proof of license in another jurisdiction with any disciplinary action imposed or pending; achieve a minimum score of 75 on Michigan's laws and rules related to optometry; and certification to use therapeutic pharmaceutical agents.

Minnesota:

For licensure by endorsement, an applicant must have been licensed in another jurisdiction for three years. The applicant must have graduated from a board approved school or college of optometry, pass the required exams of the state where licensed, successfully pass an exam on Minnesota laws, be in good standing both with continuing education requirements and other license requirements. Additionally, the applicant must meet the requirements to prescribe legend drugs, including having completed education, experience, and exam requirements, in accordance with s. 148.575, MN Stats. The applicant may use CELMO documentation to verify these requirements.

Summary of factual data and analytical methodologies:

The Board reviewed their rules to ensure statutory compliance and that the rules are consistent with current practices.

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 department is soliciting information and advice from businesses, local government units and individuals in order to prepare the Economic Impact Analysis.

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 NathnielL.Ristow@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, 4822 Madison Yards Way, 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, 4822 Madison Yards Way, 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 4.01 (1), (2), and (6) are amended to read:

Opt 4.01 (1) Has graduated from ~~an accredited school or college of optometry approved and recognized by the board~~ a program accredited by the Accreditation Council on Optometric Education.

Opt 4.01 (2) Has passed the examination of the ~~national board~~ National Board of examiners Examiners in optometry Optometry as required under s. Opt 4.03 (2).

Opt 4.01 (6) ~~Is not aware of~~ Does not have any pending complaints against the applicant or investigations of the applicant that relate to the practice of optometry.

SECTION 2. Opt 4.01 (Note) is repealed.

SECTION 3. Opt 4.02 (1) (c) (Note 1) and (Note 2) are repealed.

SECTION 4. Opt 4.02 (1) (d) and (Note) are repealed and recreated to read:

Opt 4.02 (d) A certified transcript of the coursework completed by the applicant submitted directly to the board from a program accredited by the Accreditation Council on Optometric Education.

Note: Application forms for licensure and information on examinations may be obtained from dsps.wi.gov. An otherwise qualified applicant with a disability shall be provided with reasonable accommodations.

SECTION 5. Opt 4.02 (1) (e) (Note) is repealed.

SECTION 6. Opt 4.02 (2) is amended to read:

Opt 4.02 (2) Applicants who have a pending criminal charge or have been convicted of any crime shall provide the board all related information necessary for the board to determine whether the circumstances of the pending criminal charge or conviction are substantially related to the circumstances of the licensed activity, subject to ss. 111.321, 111.322, and 111.335, Stats.

SECTION 7. Opt 4.02 (3) is created to read:

Opt 4.02 (3) An application may not be considered by the board until the application is complete, including the requisite verification of licensure from other state licensing agencies in accordance with subsection (1) (e), verification of examination scores from the National Board of Examiners in Optometry in accordance with s. Opt 4.03, or any other required information under this chapter.

SECTION 8. Opt 4.03 (2) (a) and (b) are amended to read:

Opt 4.03 (2) (a) Parts I and II of the ~~national board examination~~ National Board of Examiners in Optometry, if the applicant has engaged in the practice of optometry for at least 5 years prior to January 1, 1996.

(b) Parts I, II, and III of the ~~national board examination~~ National Board of Examiners in Optometry, if the applicant has engaged in the practice of optometry for less than 5 years prior to January 1, 1996, or if the applicant graduated from an approved college of optometry a program accredited by the Accreditation Council on Optometric Education after December 1, 1995.

SECTION 9. Opt 4.03 (Note) is repealed.

SECTION 10. 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)

Ann Meier Carli
Chairperson

Robert Schulz
Vice Chairperson

Mark Jinkins
Secretary

**WISCONSIN OPTOMETRY EXAMINING
BOARD**



1400 E Washington Ave
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Wisconsin Optometry Examining Board Report on Opioid Abuse – October 2018

Scope and purpose of the report: 2017 Wisconsin Act 262 requires the Optometry Examining Board to annually submit a report related to the issue of opioid abuse to the Legislature and Governor's Office. This preliminary report must include proactive efforts taken by the Board to address the issue of opioid abuse and goals for addressing the issue of opioid abuse as it relates to the practice of optometry in Wisconsin. Future reports must also include actions taken by the Board to achieve the goals identified in previous reports, and whether those goals have been achieved.

Proactive efforts taken by the Board to address the issue of opioid abuse:

Limited Prescribing Authority

Optometrists have limited prescribing authority for controlled substances. Optometrists licensed prior to August 1, 2006 must obtain certificates to prescribe diagnostic pharmaceutical agents and therapeutic pharmaceutical agents. Those who are licensed after August 1, 2006 or have certificates to prescribe pharmaceutical agents may prescribe Schedule III, IV, or V controlled substances in accordance with ss. 449.18 and 961.39, Stats., and SPS 10, Admin. Code, and may also prescribe one Schedule II controlled substance:

- a. Not more than 300 milligrams of hydrocodone per 100 milliliters or per 100 grams or not more than 15 milligrams per dosage unit, with a four-fold or greater quantity of an isoquinoline alkaloid of opium.
- b. Not more than 300 milligrams of hydrocodone per 100 milliliters or per 100 grams or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

Controlled Substances Prescribing Guidelines

The Board adopted the Best Practices for Prescribing Controlled Substances Guidelines on March 16, 2017, in response to 2015 Act 269. The Guidelines were developed using the Centers for Disease Control and Prevention's Guideline for Prescribing Opioids for Chronic Pain; the Wisconsin Medical Examining Board's Opioid Prescribing Guideline; National Transportation Safety Board recommendations; and other states' guidelines. The Best Practices for Prescribing

Controlled Substances Guidelines are available at www.dsps.wi.gov and were emailed to all licensees in June 2017.

Education on National Trends

The Board annually sends at least one member to the Association of Regulatory Boards of Optometry, Inc. Annual Meeting to interact with regulatory colleagues and discuss the hot topics and shared concerns in the regulatory community.

Continuing Education Related to Prescribing Controlled Substances

On May 31, 2018, the Board unanimously moved to amend Opt 8, relating to continuing education, to require licensees to complete 2 hours of continuing education relating to prescribing controlled substances in the 2019/2021 biennium. This requirement has been added to the on-going rule project for Opt 8, which is expected to take effect on December 15, 2019.

Goals for addressing the issue of opioid abuse as it relates to the practice of optometry in Wisconsin:

Education on the issue of opioid abuse

The Board is working with PDMP staff to learn what data is available from the Prescription Drug Monitoring Program (PDMP) in order to learn how extensively the database is being used by licensees. Additionally, the Board is working with the Department of Safety and Professional Services to review the therapeutic pharmaceutical agents specified in SPS 10 to ensure the rule is up to date with minimum standards of care.

Enforcement Action

Currently, if an investigation of an optometrist's prescriptive practices occurs, it is done in response to a complaint filed against the optometrist. The Board's goal is to, in partnership with the Controlled Substances Board, begin proactively investigating optometrists whose prescriptive practices with controlled substances appear excessive relative to other medical professionals. The Controlled Substances Board will use reports generated from the Prescription Drug Monitoring Program to refer optometrists to the Board for possible investigation.

Communications to Licensees

The Board will disseminate updates to licensees relating to new continuing education requirements on prescribing controlled substances, changes relating to enforcement actions, and additional information relating to what the Board determines after examining the data available from the PDMP.

CHAPTER 449

OPTOMETRY EXAMINING BOARD

449.01 Definitions.
 449.015 Discrimination prohibited.
 449.02 Licenses; exemptions.
 449.03 Enforcement.
 449.04 Examination and licensure.
 449.055 Endorsement.
 449.06 Renewal; continuing education.
 449.065 Display of registration.
 449.07 Denial, limitation, suspension, revocation, reprimand.
 449.08 Unprofessional conduct.

449.09 Investigations.
 449.10 Advertising.
 449.11 Penalties.
 449.12 Interpretation.
 449.17 Use of diagnostic pharmaceuticals.
 449.18 Removals from eyes; use of therapeutic pharmaceuticals.
 449.19 Referral to other health care professionals.
 449.20 Civil immunity.
 449.25 Informed consent.

Cross-reference: See definitions in s. 440.01.
Cross-reference: See also *Opt*, Wis. adm. code.

449.01 Definitions. (1) OPTOMETRY. (a) The practice of the profession of optometry is defined as:

1. The employment of any optometric means, including topical ocular diagnostic pharmaceutical agents under s. 449.17, 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.

2. The diagnosis and treatment of the refractive and functional ability of the visual system and enhancement of visual performance by any of the following:

a. Prescribing, furnishing, fitting or employing ophthalmic lenses, contact lenses, frames, aids or prosthetic materials.

b. Administering visual training, orthoptics, visual therapy or any other optometric means.

c. Prescribing or administering drugs for ocular therapeutic purposes, dispensing contact lenses that deliver a therapeutic pharmaceutical agent under s. 449.18 (6) (am) 2. b., or removing superficial foreign bodies from the eye or an appendage to the eye under s. 449.18.

3. Examining into the fact, condition or cause of ocular health or disease, or treating or rendering advice regarding a condition or cause of ocular health or disease, by any optometric means or instrumentality.

4. Applying principles or techniques of optometric sciences in the diagnosis, prevention or treatment of a condition or cause of ocular health or disease.

(b) Except as provided in par. (a), the practice of the profession of optometry does not include surgery or medical treatment.

(2) DISPENSING OPTICIANS. A dispensing optician is one who practices optical dispensing. The practice of optical dispensing comprises the taking of necessary facial measurements and the processing, fitting and adjusting of mountings, frames, lenses and kindred products in the filling of prescriptions of duly licensed physicians or optometrists for ophthalmic lenses. Duplications, replacements or reproductions not requiring optometric service may be done without prescription. Nothing herein contained shall change the responsibility of physician to patient, or optometrist to patient.

(4) EXAMINING BOARD. In this chapter, “examining board” means optometry examining board.

History: 1977 c. 83, 280; 1979 c. 32; 1989 a. 31; 1999 a. 85; 2009 a. 168.

449.015 Discrimination prohibited. Any agency of the state, county, municipality or school district shall accept the optometric services of optometrists licensed under this chapter, on the same basis as those of any other person authorized by law to render optometric services.

History: 1999 a. 85 s. 105.

449.02 Licenses; exemptions. (1) No person shall practice optometry within the meaning of this chapter without a license to do so and a valid certificate of registration issued by the examining board, except that a dispensing optician need not be so licensed for the practice of optical dispensing.

(2) This section shall not apply to physicians and surgeons duly licensed as such in Wisconsin nor shall this section apply to the sale of spectacles containing simple lenses of a plus power only at an established place of business incidental to other business conducted therein, without advertising other than price marking on the spectacles, if no attempt is made to test the eyes. The term “simple lens” shall not include bifocals.

(3) This section does not apply to a person who practices optometry under the supervision of an optometrist licensed under this chapter. The examining board shall promulgate rules specifying the conditions for supervision required under this subsection.

History: 2005 a. 297.

Cross-reference: See also ch. *Opt* 4, Wis. adm. code.

An ophthalmic assistant performing functions within the definition of optometry delegated and supervised by an ophthalmologist is not engaged in the unlawful practice of optometry. A certified optometric technician who performs services within the definition of optometry delegated and supervised by a licensed optometrist is engaged in the unlicensed practice of optometry. 74 *Atty. Gen.* 146.

449.03 Enforcement. (1) No rule made by the examining board shall expand the practice of optometry or affect the practice of dispensing opticians, nor shall the examining board enact rules which forbid the employment of an optometrist or declare such employment unprofessional conduct, or prohibit the operation of an optometric department by optometrists in a mercantile establishment.

(2) The chairperson or the secretary of the examining board shall cause actions to be instituted for violations of this chapter. The district attorney of the county in which the offense has been committed shall promptly prosecute upon being informed thereof from any source.

History: 1979 c. 162 s. 38 (10); 2005 a. 297; 2011 a. 257 s. 55.

Cross-reference: See also *Opt*, Wis. adm. code.

Under sub. (1), the board is prohibited from enacting rules that affect the practice of dispensing opticians or forbidding the employment by them of optometrists or declaring such employment unprofessional conduct. *Feinberg v. Hasler*, 63 *Wis.* 2d 268, 217 *N.W.2d* 334 (1974).

449.04 Examination and licensure. (1) The examining board may grant a license to engage in the practice of optometry only to a person who satisfies all of the following conditions:

(a) The person presents proof satisfactory to the examining board that, subject to ss. 111.321, 111.322, and 111.335, he or she does not have an arrest or conviction record.

(b) The person has graduated from an accredited college of optometry approved and recognized by the examining board.

(c) The person passes an examination approved or conducted by the examining board.

(d) The person pays the fee specified in s. 440.05 (1).

(2) The examination shall reasonably relate to the skills likely to be needed for an applicant to practice optometry in this state at the time of examination and shall seek to determine the applicant's preparedness to exercise such skills. **The examination shall test knowledge regarding general and ocular pharmacology as it relates to optometry with particular emphasis on the use of topical ocular diagnostic pharmaceutical agents and therapeutic pharmaceutical agents, including the treatment of adverse reactions to such pharmaceutical agents, and knowledge regarding the removal of foreign bodies from an eye or from an appendage to the eye.** The examination shall also test knowledge of state laws and administrative rules regarding the practice of optometry. The examining board may do any of the following:

(a) Prepare, administer, and grade the examination.

(b) 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 examining board.

(c) 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 examining board.

History: 1977 c. 29, 418; 1991 a. 39; 2005 a. 297; 2013 a. 114 ss. 19, 20, 22, 23.
Cross-reference: See also ch. Opt 3, Wis. adm. code.

449.055 Endorsement. The examining board may issue a license and certificate of registration to a person who is licensed in good standing to practice optometry in another state that has substantially similar requirements if all of the following conditions are satisfied:

(1) **The person has passed an examination in pathology** and practical optometry.

(2) The person passes an examination that tests knowledge of state and federal laws and administrative rules and regulations regarding the practice of optometry.

(3) The person pays the fee specified in s. 440.05 (1).

(4) The person submits satisfactory evidence that the person has actually practiced in the other state for 5 years.

(5) The person satisfies the requirements under s. 449.04 (1) (a) and (b).

(6) The person has completed the study specified in ss. 449.17 (1m) (b) and 449.18 (2) (a) 2. and passes the examinations specified in ss. 449.17 (1m) (c) and 449.18 (2) (a) 3.

History: 2005 a. 297, ss. 16 to 19; 2013 a. 114.

449.06 Renewal; continuing education. (1) Persons practicing optometry shall, on or before the applicable renewal date specified under s. 440.08 (2) (a), register with the department, pay the applicable renewal fee determined by the department under s. 440.03 (9) (a), and provide evidence satisfactory to the examining board that he or she has complied with the rules promulgated under sub. (2m).

(2m) The examining board shall promulgate rules requiring a person who is issued a license to practice optometry to complete, during the 2-year period immediately 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 from an eye or from an appendage to the eye under s. 449.18.

History: 1977 c. 29; 1991 a. 39, 207; 2005 a. 297; 2007 a. 20.

Cross-reference: See also ch. Opt 7, Wis. adm. code.

449.065 Display of registration. Every practicing optometrist shall display in a conspicuous place, at the entrance of his or her office, the name of the person so practicing and shall keep the certificate of registration issued by the examining board conspicuously displayed in that place of business so that it can easily be seen and read.

History: 2005 a. 297, s. 22.

449.07 Denial, limitation, suspension, revocation, reprimand. (1) The examining board, by order, may reprimand and may deny, limit, suspend or revoke any license or certificate of registration if the licensee or registrant:

(a) Obtained the license or certificate through error or fraud;

(b) Is grossly incompetent;

(c) Is habitually drunk or addicted to the use of habit-forming drugs;

(d) Has been convicted in a court of competent jurisdiction, either within or without this state, of any violation of any law governing the practice of optometry or of any felony, subject to ss. 111.321, 111.322 and 111.335, a certified copy of the record of conviction to be conclusive evidence of such conviction;

(e) Has obtained or sought to obtain anything of value by fraudulent representation in the practice of optometry;

(f) Is guilty of immoral or unprofessional conduct;

(fm) Violates s. 449.17, 449.18 or 449.19;

(g) Continued practice, knowingly having an infectious or contagious disease; or

(h) If the applicant or registrant maintains a professional connection or association with any other person continuing to violate this chapter after 10 days' notice in writing by the examining board.

(3) Upon application and satisfactory proof that the cause of such revocation or suspension no longer exists, the examining board may reinstate any license or registration by it suspended or revoked. This subsection does not apply to a license or registration that is suspended under s. 440.13 (2) (c) or that is revoked under s. 440.12.

History: 1975 c. 39, 199; 1977 c. 29, 125, 280; 1977 c. 418 ss. 851, 853; 1979 c. 162; 1981 c. 334 s. 25 (1); 1983 a. 289; 1989 a. 31; 1991 a. 39; 1997 a. 191, 237.

449.08 Unprofessional conduct. (1) Unprofessional conduct includes without limitation because of enumeration:

(a) Any conduct of a character likely to deceive or defraud the public;

(b) Loaning of an optometric license or certificate to anyone;

(d) Splitting or dividing any fee for optometric service with any person, except an associate licensed optometrist; or

(e) Engaging in conduct unbecoming a person licensed to practice.

(2) Unprofessional advertising includes advertising professional superiority or the performance of professional services in a superior manner.

History: 1977 c. 362; 1979 c. 337; 2005 a. 297.

Cross-reference: See also ch. Opt 5, Wis. adm. code.

449.09 Investigations. Subject to the rules promulgated under s. 440.03 (1), the examining board may make investigations and conduct hearings in regard to the conduct of any licensed optometrist or any person who, it has reason to believe, is acting or has acted in such capacity within the state. The person complained against may proceed to review such action of the examining board under ch. 227.

History: 1977 c. 418.

449.10 Advertising. No rule of the examining board, unless intended to regulate false or misleading advertising, may restrict advertising on products and nonvariable services. In this section, "nonvariable services" means services for which a fee can be objectively determined prior to the time the services are rendered.

History: 1977 c. 362.

449.11 Penalties. Any person not lawfully authorized to practice optometry, who shall practice optometry or shall hold himself or herself out as a practitioner thereof, or who shall impersonate another practitioner or who shall violate any provisions of this chapter, or any rule or regulation made under authority thereof, shall be punished for the first offense by a fine not less than \$50 nor more than \$200, or by imprisonment for not more than 3 months, or both. And for a subsequent offense by a fine not

Chapter Opt 3

LICENSURE

Opt 3.02 Application.

Opt 3.07 Passing scores.

History: Chapter Opt 3 and 4 as they existed on March 31, 1989 were repealed and a new chapter Opt 3 was created effective April 1, 1989.

Opt 3.02 Application. An applicant for licensure as an optometrist shall submit all of the following:

- (1) An application and required fee under s. 440.05, Stats.
- (2) Official documentation of graduation from a program accredited by the Accreditation Council on Optometric Education (ACOE).
- (3) Verification of passing parts I, II, and III of the National Board of Examiners in Optometry examination.
- (4) Verification of passing the examination assessing knowledge of state laws and administrative rules regarding the practice of optometry.
- (5) If the applicant has an arrest or conviction record, documentation necessary for the board to determine whether the cir-

cumstances substantially relate to the practice of optometry, subject to ss. 111.321, 111.322, and 111.335, Stats.

History: Cr. Register, March, 1989, No. 399, eff. 4-1-89; am. (1) (a), Register, July, 1994, No. 463, eff. 8-1-94; am. (1) (a), Register, April, 1996, No. 484, eff. 5-1-96; am. (1) (intro.) and (a), r. and recr. (1) (b), r. (2), renum. (3) to (5) to be (1) (c), (2) and (3) and am. (1) (c), Register, September, 1997, No. 501, eff. 10-1-97; am. (1) (b), Register, December, 1998, No. 516, eff. 1-1-99; CR 06-116: am. (1) (intro.) Register May 2007 No. 617, eff. 6-1-07; CR 15-078: r. and recr. Register December 2016 No. 732, eff. 1-1-17.

Opt 3.07 Passing scores. The passing score on each examination is determined by the board to represent minimum competence. The board may adopt the recommended passing score of the examination provider.

History: Cr. Register, March, 1989, No. 399, eff. 4-1-89; am. (2) (a), Register, April, 1996, No. 484, eff. 5-1-96; am. (2), Register, September, 1997, No. 501, eff. 10-1-97; r. (2) (a), renum. (2) (b) to be (2) and am., Register, December, 1998, No. 516, eff. 1-1-99; CR 15-078: r. and recr. Register December 2016 No. 732, eff. 1-1-17.

Chapter Opt 7

RENEWAL OF CERTIFICATE OF REGISTRATION

Opt 7.02 Certificate of registration.
Opt 7.03 Renewal of certificate of registration.

Opt 7.05 Late renewal.
Opt 7.06 Reinstatement.

Opt 7.02 Certificate of registration. Persons practicing optometry are required to hold a valid certificate of registration.

History: Cr. Register, January, 1993, No. 445, eff. 2-1-93.

Opt 7.03 Renewal of certificate of registration. Persons practicing optometry shall on or before December 15 of each odd-numbered year renew their certificates of registration by registering with the department, certifying completion of the continuing education hours required under s. Opt 8.02 and paying the renewal fee determined by the department under s. 440.03 (9) (a), Stats. An optometrist who fails to renew a certificate of registration in accordance with this section may not practice optometry until the certificate is renewed under s. Opt 7.05.

History: Cr. Register, January, 1993, No. 445, eff. 2-1-93; CR 06-116: am. Register May 2007 No. 617, eff. 6-1-07; CR 15-078: cons. and renum. 7.03 and 7.04 to 7.03 and am. Register December 2016 No. 732, eff. 1-1-17.

Opt 7.05 Late renewal. (1) RENEWAL WITHIN 5 YEARS. A person may renew his or her certificate of registration by paying the renewal fee determined by the department under s. 440.03 (9) (a), Stats., pay a late renewal fee under s. 440.08 (3), Stats., and attesting to completion of the continuing education required under s. Opt 8.02.

(2) RENEWAL AFTER 5 YEARS. A person who failed to renew a certificate of registration within 5 years after the renewal date holds an expired license and may not reapply for the license using the initial application process. This subsection does not apply to license holders who have unmet disciplinary requirements or whose license or certificate has been surrendered or revoked. A certificate of registration may be renewed after 5 years by complying with all of the following:

(a) Payment of the renewal fee required under s. 440.03 (9) (a), Stats., and the late renewal fee.

(b) Evidence of one of the following:

1. Holding an active license in good standing in another state.
2. Verification of all of the following occurring within the last 2 years:

a. Passing parts I, II, and III of the National Board of Examiners in Optometry examination.

b. Passing the examination assessing knowledge of state laws and administrative rules regarding the practice of optometry.

c. 30 hours of approved continuing education.

History: Cr. Register, January, 1993, No. 445, eff. 2-1-93; am. (1) and (2) (intro.), Register, April, 1996, No. 484, eff. 5-1-96; am. (intro.), (2) (intro.) and (a), Register, September, 1997, No. 501, eff. 10-1-97; CR 06-116: am. (1) and (2) (intro.) Register May 2007 No. 617, eff. 6-1-07; CR 15-078: r. and recr. Register December 2016 No. 732, eff. 1-1-17; correction in (1), (2) (a) made under 35.17, Stats., Register December 2016 No. 732.

Opt 7.06 Reinstatement. A license holder who has unmet disciplinary requirements and failed to renew the certificate of registration within 5 years or whose license or certificate has been surrendered or revoked may apply to have the license or certificate reinstated in accordance with all of the following:

(1) Evidence of completion of the requirements in s. Opt 7.05 (2) if the license has not been active within 5 years.

(2) Evidence of completion of the disciplinary requirements, if applicable.

(3) Evidence of rehabilitation or change in circumstances warranting reinstatement.

History: CR 15-078: cr. Register December 2016 No. 732, eff. 1-1-17; correction in (1) made under 35.17, Stats., Register December 2016 No. 732.

Opt Chapter	Most Recent Project Status	s. 227.29, Stats., Review	Section Notes / Comments
Opt 1, Authority and Definitions	Last Updated: CR 06-116 amended chapters 1, 3, 4, 5, 6, and 7 and created Opt 8, to incorporate the changes made by 2005 Wisconsin Act 297 .		
Opt 3, Licensure	Last Updated: CR 15-078 amended chapters 3, 5, and 7, to incorporate the changes made by 2013 Wisconsin Act 114 and 2013 Wisconsin Act 345 .		
Opt 4, Licensure by Endorsement	Open Project: Draft preliminary rule will be considered at October 11, 2018.		
Opt 5, Unprofessional Conduct	Last Updated: CR 15-078 amended chapters 3, 5, and 7, to incorporate the changes made by 2013 Wisconsin Act 114 and 2013 Wisconsin Act 345 .		Opt 5.11 (2): ANSI Z80.1 – 1995 reference may be unnecessary and obsolete, standard was updated in 2015.
Opt 6, Use of Diagnostic and Therapeutic Pharmaceutical Agents and Removal of Superficial Foreign Bodies from an Eye or from an Appendage to the Eye	Open Project: Draft preliminary rule pending Board recommendations on SPS 10, Use of Pharmaceutical Agents by Licensed Optometrists.		
Opt 7, Renewal of Certificate of Registration	Last Updated: CR 15-078 amended chapters 3, 5, and 7, to incorporate the changes made by 2013 Wisconsin Act		

Opt Chapter	Most Recent Project Status	s. 227.29 , Stats., Review	Section Notes / Comments
	114 and 2013 Wisconsin Act 345 .		
Opt 8, Continuing Education	Open Project: 2 nd Public Hearing scheduled for October 11, 2018.		

Peter I. Sorce

Washington County Supervisor

24th District

N115 W16742 Royal Court

Germantown, WI 53022

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Fax Cover Sheet

Date: 08/22/2018

Page: 1 of 4

Fax #: 608-251-3032

To: Optometry Examining Board

Attn: Kimberly Wood

Here is my 2018 ARBO report.

Again, thank you for the opportunity.

Thanks,

Peter I. Sorce

Washington County Supervisor, 24th District

ARBO REPORT 2018

NBEO: Six tries maximum for each section of NBEO in line with MD/DO/DMD boards

 Laser and Surgical skills a stand alone test

 Injection skills now a stand alone test

OE TRACKER: Four million course entries into OE TRACKER

 Approx. 55,000 ODs now have OE TRACKER number

ARBO new service: ARBO will perform CE audits for states and provinces

 Verify CE requirements

 Send deficiency notices

 Require CE into OE TRACKER

 Fees involved

BOARD TRAINING: Present economic environment constantly asks the question "Do regulators stymie economic growth?"

 Why a Board? Insure protection and well being of citizens of state

 Proper credentialing and education of ODs

 Identify and remove impaired professionals

 Consumer complaints explored and addressed

 National groups exploring barriers to licensure: FTC/Institute for Justice (believe civil system may be enough)/ALEC(cannot use criminal history for denial of license, a felony in one state may not be in another)

ADVICE:

Board mission on all correspondence

Document how many complaints and time to resolve

Document how many new licenses and renewals and how long to process

Board members should have "elevator speech" regarding purpose of board, "protecting the public"
not enough

Visit local optometry meeting yearly

Celebrate new licensees

Look at all Rules and Regulations: can anything be deleted?

Keep copies of applications for 10 yrs.

BREAK OUT SESSIONS/STATE REPORTS: Many states in process of defining telemedicine

CT passed Public Act 2017-115 which prohibits solely "remote refractive device" information for contact lens fitting and prohibits contact lens new or renewal prescription without in person exam.

KY passed bill 191 in which on line safe eye care technology is allowed but must be synchronized with an interaction with licensed OD or MD who signs off on prescription.

WV in 2015 passed Eye Care Consumer Protection Act in which forming a prescription must include a full eye exam and evaluation.

AK requires physical face to face encounter for exam/refraction.

SD license issued within 30 days of application

MN 1800 Contact Lenses filed a complaint regarding 1 year contact lens prescriptions

MD reported problem with local ophthalmologists giving CE lecture for less than 50 mins for 1 hr CE credit and less than 100 mins for 2 hrs CE credit

MISCELLANEOUS:

Washington DC boards under Dept of Health were found in violation of Open Meeting laws

due to discussing issues in closed meeting that should have been discussed in open meeting.

IMLC: Interstate Medical Licensing Compact is a service that allows MD/DO to apply for up to 22 state licenses with one application within 45 days. \$700 fee and info from primary licensing state

CHQI: organization that gives seal of approval to telemedicine entities

CLEAR: national organization that gives regulatory board member training on line and live courses

ARBO BYLAWS: Very long discussion and voting on whether ex-officio members can remain on committees. Vote passed that they are allowed to remain.