

Optometry Examining Board 7/7/2022
Item J. Speaking Engagements, Travel, Public Relation Requests, and Reports

1) Travel Report: Association of Regulatory Boards of Optometry (ARBO) 2022 Annual Meeting, June 12-14, 2022 - Chicago, Illinois -

Mark Jinkins

Association of Regulatory Boards of Optometry

3440 Toringdon Way
Suite 205, PMB #20533
Charlotte, NC 28277
Tel: (704) 970-2710
Fax: (704) 970-2720
Email: arbo@arbo.org

WISCONSIN

1. Members of your Board, including any new appointments: 7
2. Number of Board meetings held: 4/year
 - Number of live meetings: TBD post Covid
 - Number of conference calls or virtual meetings: 2 in 2022
3. Number of complaints registered and resolved in the preceding twelve months:
 - Number of complaints received from January 1, 2021 – December 31, 2021: 14
 - Number of complaints/cases resolved from January 1, 2021 – December 31, 2021: 13
 - *Complaints/cases resolved in 2021 may have been received in previous years.*
4. Any continuing education audits conducted: 2017 Wisconsin Act 59 directly forbade us from conducting audits, so the topic hasn't even been broached since then.
 - Percentage of licensees audited N/A
 - Overall audit results N/A
5. Any new legislation enacted and corresponding actions taken by your Board.
 - Wisconsin Act 143, regarding the requirements for issuing reciprocal credentials to service members, former service members and the spouses of service members and former service members. Implementing rules.
6. Any new rules/regulations enacted and date they became effective.
 - Rules implementing Wisconsin Act 143, noted in #5.
7. Statistics and demographics including:
 - Number of new licensees/registrants: 70 credentials issued in 2021
 - Total number of licensees/registrants practicing in your jurisdiction: 1,155 (in state and out of state active as of 3/31/2022)
8. Fees charged for all levels of licensure:
 - Initial licensure: 60/75 fee for state law exam
 - License renewal: 60

9. License renewal period (number of years): **2 years**

10. Scope of Practice in your jurisdiction: See <https://dsps.wi.gov/Pages/RulesStatutes/Optomtery.aspx>

- Oral medication authority
- Glaucoma treatment authority
- Oral steroid authority
- Injection authority
- Lasers
- Other (please comment)

11. Board website: <https://dsps.wi.gov/Pages/BoardsCouncils/Optomtery/Default.aspx>

12. List the three current issues of greatest concern to your Board and any suggestions on any suggestions of how ARBO can assist you with these issues.

1. The Board has undertaken rule writing to clarify the number of in person, continuing education hours required to renew an optometry license. Reviewing and updating the continuing education requirements will create clarity, utilize current technological methods of delivery of continuing education, and ensure required topics reflect the current practice of optometry.
2. The Board has passed a motion to communicate with the state legislature about the need for additional resources so that the Department can add staff to its credentialing unit.
3. Comprehensive review including the quality standards for ophthalmic lenses referenced in Opt 5.11 and the disclosure requirements in Opt 5.14 to ensure the rules reflect the current practice of optometry and adequately protect patients.

13. Identity of the individual preparing the report: **Tom Ryan, Executive Director**

Please submit your report in Microsoft Word or Adobe pdf by e-mail (lfennell@arbo.org) or fax (888-703-4848) no later than **Monday, May 9, 2022**. If you wish to see a sample report for reference, just let me know.

Thank you in advance for your participation. Based on the comments from meeting attendees in the past, the sharing of Member Board activities is one of the meeting highlights. If you are not able to attend the meeting, your report will still be included with the meeting materials. I look forward to receiving your report and hope to see you in Chicago in June.

Best Regards,

Lisa Fennell
ARBO Executive Director

Association of Regulatory Boards of Optometry (“ARBO”) 2022 Annual Meeting

Dual attendance by Board and staff

- Statistics not obtained but likely available: many had staff attending – greater than 50%?
- Board attendance importance; availability of staff: Who and Time
- Budget, cost, and reimbursement rates (air travel too)
- Voting delegate: If ore than 1 attendee who carries the right to vote, i.e., the voting delegate – recommend Board representative not staff.

Topics from the 2022 annual meeting

- OE Tracker (Optometric Education, i.e., in Wisconsin “Continuing Education” or “CE”)
 - OE TRACKER captures and stores continuing education attendance data for optometrists.
 - Wisconsin: from audit, to not; from requested in every complaint response to not; now and future?
- CELMO (Council on Endorsed Licensure Mobility for Optometrists)
 - The Council on Endorsed Licensure Mobility for Optometrists (CELMO) was created to assist ARBO member optometry boards in reviewing applications for licensure from established practitioners in other jurisdictions. The goal of the CELMO program is to provide a license mobility vehicle by which the optometry licensing boards can address the difficult task of how to deal with the issue of licensure by endorsement in a uniform and consistent manner. NOTE: It is acknowledged that each individual board of optometry reserves the right to make its own determinations regarding licensure and this program in no way lessens that power, authority, and responsibility. The Following States Currently Recognize the CELMO Certificate*: Alaska, Arizona, Connecticut, Iowa, Kansas, Louisiana, Michigan, Minnesota, Missouri, New Jersey, South Carolina, Tennessee, Utah, West Virginia.
 - CELMO will obtain reports from the Healthcare Integrity and Protection Data Bank (HIPDB) and the National Practitioner Data Bank (NPDB) regarding the applicant.
 - CELMO will perform primary source verification of credentials.
 - CELMO Fees: Initial application fee = \$50 PLUS Certificate processing fee = \$200; Renewal certificate fee = \$100
 - Number of CE Hours – discussion
 - Many states have 40 every 2 years (compare Wisconsin 30)
 - Member limits “not live” to 1/3rd or 1/2 limit, or minimum 10 hours live, etc. (exceptions for covid expiring)”
 - Definition of live: face to face, or on web with 2-way, or? – lots of confusion or definitions?
- Member Board Reports: What’s New in Your Jurisdiction
 - Wisconsin (by our Executive Director Tom Ryan - attached);
 - Because “annual”, discuss process and earlier board input/review/approval?
 - Telemedicine (lots of discussion – more throughout this outline):
 - Jurisdiction: where OD resides requires license, and others where the patient resides requires license
 - Doctor not seeing patients AND/BUT prescriptions being given:
 - WI case, “ophthalmologist” shield raised
 - LA board desired to challenge but ruled unable to sue; up to criminal or other justice system to enforce
 - TX law requires live exam, understanding cost, for any prescription to be given if live versus not live
 - Random review of “new patients records” to verify did see live
 - Several complaints “did not see”
 - Penalties assessed are being challenged in court

- Comment made to look at ARBO website for Research on live versus tele prescriptions?
 - Access to ARBO needs login information; requested but not provided by ED “The ARBO login would only give you information about CE and the ARBO CE tracker”
 - Not so sure, based on comments during the annual meeting; may be more, unable to peruse without log in information.
 - ARBO membership aid BUT not sure fully utilized by Board when no access NOR sharing publications (more below)
- Medicine dispensing (in addition toy prescribing) like a pharmacy (more below):
 - Expansion from merely prescribing, including covid vaccine administration in some jurisdictions. NOTE: Some jurisdictions expanded an optometrist’s scope of practice to allow dispensing of the covid vaccine through shots given by or under the supervision of ODs
 - One jurisdiction requires registration with the Pharmacy Board, for any licensed optometrist who desires to dispense
 - **MN:** Authorizes dispensing pharmaceuticals but only if solely at cost, i.e., no mark up or profit may be added to the drug cost that is being dispensed by ODs.
 - One jurisdiction permits ODs to dispense but not sell
 - One jurisdiction allows dispensing for only a 1-, 2-, or 3-day period of time (repetitive dispensing not discussed)
 - ALSO: new “devices” - are they pharmacy, e.g., a drug, or something else?
 - NOTE: contact lenses are being made part of big pharma pharmacies who are now dispensing contact lenses: “NO IN 2 HOUR WINDOW” message
 - What is the Wisconsin regulatory statutes on dispensing products, whether drugs, devices, or other.?
- ARBO publications: share with the Board:
 - A publication called the GreenSheet is a newsletter published three times per year by ARBO
 - An example (from after the last 2021 ARBO Annual Meeting is the Summer 2021 GreenSheet) which contains the following :
 - ARBO Annual Meeting Recap (reading this was quite informative)
 - The ARBO House of Delegates met on June 19-20, 2021, The virtual meeting was attended by 96 individuals, which included 71 delegates from 35 member boards.
 - Chair of the Judicial Council/ Resolutions Committee reported ... five-year review which ... decided to continue all resolutions.
 - Attorney Dale Atkinson, Esq., conducted Board Member/regulator training with the attendees. The following topics were discussed:
 - **MN:** Minnesota’s efforts to revise their statute to include guidance for telemedicine.
 - **NC:** North Carolina discussed the findings of the Task Force, established to investigate alternative exam methodologies during the pandemic.
 - **MD, AZ, & WY:** Maryland, Arizona, AND Wyoming discussed changes to Board operations made due to the pandemic.
 - **NC & AL:** North Carolina and Alabama discussed provisional licensure in their states.
 - The International Academy of Safe Practice Standards discussed recommendations for safe infectious disease practices for optometrists.

- An update on the National Board of Examiners in Optometry (“NEBO”) and the new Part III, Patient Encounters and Performance Skills Exam.
 - A legal update on the current regulatory legal landscape by Dale Atkinson, Esq. ... and how ARBO members may be able to assist.
 - **MN & WY**: discussion of recent scope of practice expansion and guidance on things to consider when drafting new regulations by the Wyoming and Mississippi Boards.
 - Delegates reported on the activities in their jurisdictions, issues of concern, and possible ways that ARBO can assist.
 - 2021 Resolutions # # 1, 2, 3, & 4 passed (substance in GreenSheet but omitted from this report)
- **Recommendation is DSPS to distribute the GreenSheet to each Wisconsin Board member upon receipt, PLUS**
 - **Put the GreenSheet on every agenda**
 - **Any matter in that GreenSheet should be available for discussion and action of the Board.**
 - **How much detail, if any, does Wisconsin require be contained in the agenda under its Open meetings or records laws, or other laws?**
- **Laser and other new technologies used or usable by optometrists**
 - **VA**: in process of permitting laser in the practice of optometry: liability insurance issues
 - **OK**: requires both education and test then laser is permitted in an optometrist’s scope of practice once obtained.
 - **OH**: requires “in person training” as a prerequisite to inclusion in an optometrist’s scope of practice.
 - **One jurisdiction**: requires a minimum 32 hours of training as a prerequisite to inclusion in an optometrist’s scope of practice.
 - **MS**: requires a “preceptorship with an MD; now over 150 optometrists are certified for laser as part of their practice.
 - **LA**: uses Patients Compensation Fund for insurance
 - **Question for all schools of optometry**: Is “laser” part of the curriculum being taught, and if so, are these varying prerequisites be satisfied?
 - **NOTE**: ARBO might be an appropriate repository for all jurisdictions which have differing laws and prerequisites to report requirements?
- **ARBO liaison: invitation to every Board meeting recommended.**
 - Every ARBO director is assigned to one or more states as a liaison
 - Legislators also (see below)
- Atkinson Law Firm (Illinois), i.e., the legal counsel for ARBO: ARBO is Internal Revenue Code 501 (c)(3) as an organization that supports government
 - **Legal issue: mobility (more below):**
 - Regulation of the profession for the protection of the public
 - Competence
 - Uniformity (among all jurisdictions?)
 - **Legal issue: If OD can prescribe, why can they not dispense?**
 - See above
 - Financial issue: What is in it for the optometrist?
 - **Legal issue: “virtual healthcare” (more below):**
 - **Is virtual within the scope of practice of optometry AND**
 - **If within the practice of optometry, where does that practice occur?**
 - Does the practice occur where the provider is located? OR
 - Does the practice occur where the patient is located? OR
 - **What is**
 - **What standard for determining where Board has jurisdiction?**

- Difference between “a profession” and “an occupation”: e.g., opticians not licensed
- **Declaratory ruling might be sought by Board as a start; risk of loss but best foot forward?**
- **Trending: “deregulation”**
 - No regulation
 - Anyone allowed to do
 - Allowed to do anywhere.
 - **To “protect the public”!**
- **Board issues:**
 - **Annually** create a list of “To-do” using as its goal “protect of the public”
 - **Board composition:**
 - Legislators see” majority” members of the profession being regulated
 - **Immediate “protecting their own” in every action, so must focus on “protect the public “always**
 - **Can any profession “self-regulate”?**
 - **Yes (but NO too)**
 - Trades are also professions, so professional too – why are they able to not be licensed?
 - Trend again is deregulation, so be ready when legislators ask “why?”
 - **Board:**
 - **What’s an optometrist?**
 - Is it just whoever is licensed to practice optometry?
 - Likely **“any primary eyecare physician” , but then “practices” doing some/limited scope and regulation?**
 - Rules that reduce inefficiencies
 - Application for licensure, before renewal of license as then has rights
 - **Technology changes and improvements: CAN WE TRUST YOU?**
 - **Tele = “tele-practice”, “telemedicine”, etc. (again more to follow)**
 - **Portability of licenses (mobility): CAN WE TRUST YOU?**
 - **Trend is less of permanent abode or place of practice forever?**
 - **Not only young, but old i.e., a second place of living, parttime or full time, in another jurisdiction?**
 - **Consistency or uniformity of regulation, highly varies state to state**
 - “Anonymous” complaints
 - Anonymous goes nowhere, but don’t just throw out
 - If an issue, your opportunity to address before another complaint
 - **Recommend bifurcation of application for licensure**
 - HIPAA et al. protects disclosure so bifurcate applications to separate protected information
 - **What law applies in Wisconsin, i.e., are applications in full or part open records? If so:**
 - Part 1 of application is nonprotected
 - Part 2 of application is any protected information
 - **Continuing Education (“CE”) has and is changing (more below by providers – trends in learning):**
 - Now: **“synchronous” AND “asynchronous”** in addition to **“in person”**
 - **What are boards doing to adapt for these new ways of learning CE?**
 - Younger interact more via text and less via phone – shorter blasts
 - What is the goal of CE? , i.e., to positively affect outcomes for a patient!

- Credit: consider half hour and shorter increments, i.e., the minimum 50-minute hour no more
- Not only synchronous but “online live” has become acceptable over past 5 years
- **Compare to banking**; the world has changed:
 - First was “walk in”
 - Then came “drive up”
 - Today ATM: anywhere, anytime
 - **Same outcome but now choose among alternatives: all acceptable!**
- An “examination” at end of course is not the proper determinant of learning anymore:
 - Learning is for the next week or month: is there better patient outcomes?
 - Today “online” delivery accepted by 15-20% of jurisdictions (ARBO has CE list by)
 - Also today “asynchronous” is common: issue there is the optometrist really listening?
- Consider “Optometric Education, i.e., OE Tracker developed by ARBO to help members:
 - **MN**: ED speaks of as a turnkey for all licensees (Cost: \$20 to \$45 per – not clear)
 - **WY**: 174 licensees so now with OE tracker have 100% compliance audit
 - **BC**: 920 registrants, i.e., licensees (staff only chase those who fail)
 - Staff time for 100% audit of 920 = 10 minutes
 - Cost of OE Tracker is paid for by the users (**dollars save used elsewhere**)
 - **For Wisconsin, what is law on ability to audit (prohibited unless complaint?)**
- **Cases: Discipline** Examples and Discussion “HERE COMES THE JUDGE” = Atty Dale Atkinson
 - **Don’t do “private” discipline:**
 - Nothing is minor; distribution via media is also “to protect the public”
 - Push a release into social media: **REVIEW DSPS “publication of discipline” via media?**
 - **Applications: when not granted:**
 - Every application not granted = DENY, even if withdrawn as reason unknown
 - Every DENY should include notice on media “to protect the public”.
 - So, even if “not completed” maybe realizing issue, that application is DENY treatment
 - **NEVER REVOKE OR ACCEPT SURRENDER OF LICENSE; ONLY SUSPEND TO RETAIN JURISDICTION**
 - **Voluntary surrender: DO NOT DO OR ALLOW ANY VOLUNTARY SURRENDER**
 - Treat all as a REVOCATION
 - Reason: **Boards/state loses jurisdiction if no license?**
 - **Revocation: DON’T DO OR ALLOW ANY REVOCATION:**
 - Always an issue of whether a revocation is permanent/forever
 - Said another way is the licensee eligible for reinstatement

- **NEVER DO REVOCATION as permanent/forever:**
 - If revocation was permanent, then ask is application for a new license
 - Reinstatement is a completely different process?
Why better than new:
 - Challenge to Board order died after time, appeal “use it or lose it”
 - If future seek practice, has ceased ability to challenge prior order
 - ALWAYS draft good wording in final orders to keep effective if re-apply
 - Problem with revocation is maybe licensed in another jurisdiction or will be?
 - **Expired Licenses: DO NOT REVOKE OR ALLOW SURRENDER**
 - IN: Board no longer has any authority if license expires
 - **Do not classify as no license** as then lose jurisdiction
 - **RATHER CONSIDER “INACTIVE” as a license status** (e.g., Wisconsin CPA?)
 - **ALTERNATIVE** is keep license with “**Agreement not to practice**”
 - **Reinstatement** is not the same as a new license application
 - **What is wording on Wisconsin application** about “elsewhere” – CAVEAT wiggle room BEWARE
- **Practicing without a license:**
 - If solely DA or criminal”, highest burden of proof, i.e., “beyond a reasonable doubt”
 - **Ability to make it a “civil” action by Board or DSPS (Wisconsin law?)**
 - **Boards: Pursue ability for an Administrative Rule as a civil remedy**
 - Lower burden of proof, e.g., “preponderance of the evidence
 - No longer determined against murder, rapes, etc. for priority
 - **What is Wisconsin law now?**
- **First Amendment, i.e., “constitutional” challenges are the trend**
 - **“tele” medicine**, advice, etc. is it protected “freedom of speech” so not practicing without a license?
 - **Cases go both ways on 1st Amendment**
 - **NY:** U.S. District Court refused to rule as no standing to ask if 1st amendment (or not)
 - **DC:** Board motion to dismiss 1st Amendment claim was granted by U.S. District Court
 - **TX** (veterinary medicine): social media and advice around the world
 - No “patient in Texas”
 - U.S. District Court allowed case: different scrutiny if 1st Amendment case
 - Did not charge for his advice: really shouldn’t turn on fee or not?
 - **TN:** discipline was **“TERMINATION OF LICENSE”:**
 - **Posts on internet:** Were posts on Twitter “misinformation” supporting discipline?
 - **Because taking away license, “Due Process” 4th Amendment in addition to 1st**
 - Freedom of speech, but question became “misinformation” or not?

- Internet has some support, whether true or not true, for anything? (it's social media, not science)
 - A "Relative Credibility" balance was used to determine if misinformation or not?
 - Dismissed challenge to termination as "no jurisdiction" since Board action "not subject to review"
 - Note: a different procedure to challenge may have survived dismissal
 - **CA:** 4th Amendment Due Process not given in Reinstatement request
 - "Violent protestor" = reinstatement denied
 - Also 1st Amendment right asserted, i.e., "Right to Assemble"
 - Note some states "expunge" all matters after X years, automatically
 - **DE:** Drunk driving – is it related to practice? Due Process & 1st Amendment challenges
 - **KY:** Did not disclose **pending criminal action on RENEWAL application**
 - Licensee alleges "oversight" error, and seeks monetary penalty
 - Board did not renew on alleged "unprofessional conduct"
 - Original charge in a bar fight 5 years ago
 - More recent drunk and punched a patient
 - Court upheld non-renewal
 - Board had subject matter jurisdiction to consider
 - If not a patient, probably not jurisdiction
 - Actions if not a patient, not relevant to practice
 - **MD:** How far can a Board look back at prior conduct -error in application years prior
 - Court found ambiguous question and reversed Board ALJ as should be no sanction
 - CAVEAT: All Boards should eliminate rubric (if A, then X; if B, then Y, etc.)
 - Make sanction determination based on evidence
 - **CAVEAT: REVIEW ALL FORMS TO SEGMENT WHAT IS CONFIDENTIAL**
 - Open records requests
 - Example: Treatment for alcoholism (on form – encourage treatment not punishment)
 - **Wisconsin: Review all application and renewal forms to segment what is confidential**
- **Artificial Intelligence in Optometry** by University of Alabama Professor of Optometry
 - History of artificial intelligence (i.e., "AI")
 - Anything where answers are 0 or 1 (1 or 2, 3 or 4, etc.); 1936 "turning machines" for German encryptions
 - 1950s "machine learning to make life easier"
 - **Contemporary examples** of AI:
 - Browsing history on computer, Amazon Alexa, Google Translate
 - Voice generated text; "JFGI", i.e., "just freakin' Google it"
 - Driving assistance in vehicles, now in health care
 - Unlike vehicle algorithms, **health care may require "patient interaction" for positive outcomes?**
 - IBM "Watson"; health care machine able to draw blood with no other human present
 - Autopsies are now being done by machine; question is "outcome".
 - Laser eye lens removal: AI is better outcomes than human action without AI

- Idea behind AI in health care is supervised AI, but heading forward for unsupervised health care AI
- Question with AI is whether human input is needed, or if merely algorithm?
 - **Health care for pets:** No interaction with animal required
 - **How about humans?** General anesthesia, interaction never present
 - **Danger with AI is if gives the wrong outcome**
 - Examples of AI from basic to complex even in an Apple watch:
 - Did you fall?
 - If answer Yes, then additional questions leading up to if hematoma on hip
 - **Convolutional networks:** lots and lots of data analyzed rapidly
 - **Deep learning** is classic machine learning: **basic to reach Grand Master**
- **Diabetic retinopathy: the POSTER CHILD of AI in health care:**
 - Hard to determine the “level” of diabetic retinopathy
 - At age 35 change in level maybe every year
 - At age 42 change in level maybe every 6 months
 - At age 51 change in level maybe every 3 months
 - If treatment, usually regression of the retinopathy, so what is level?
 - A very good algorithm has been developed, still a few speed bumps, BUT
 - Now available “auto”, i.e., AI, for diabetic retinopathy
 - “tele retinal imaging” approved first in 2018
 - Now in Albertson’s grocery stores
 - What is outcome from the AI: refer “go see an OD asap” & low cost, i.e., less than \$10
 - **FL:** CVS pharmacies machines to do “diabetic retinopathy” exams
 - Not limited to screening anymore, Minute Care
- **Best/Better to Embrace AI; AND try not to denigrate**
 - Today doing good at “sub clinical diagnosis”; even if algorithm is not 100% makes life easier for all
 - FDA will only approve if “safe”; Mayo Clinic Florida experience is
 - Before covid 30% of diabetic retinopathy stratified; now 60% due to AI
- **Transformation important: NEW DEFINITION OF “SCOPE OF PRACTICE”?**
- **License Mobility:**
 - ARBO Council on Endorsed Licensure Mobility for Optometrists (“CELMO”)
 - **Both ends of the “Life of an Optometrist” spectrum**
 - **Elder:** Changing from long set location in life to retirement and elsewhere
 - **Young:** Less of a permanent commitment to one location - mobile
 - Compare psychology: PSYPACT (Wisconsin has fairly recently adopted)
 - Many other “compacts”; do not have blinders on so get “on the wagon”
 - Be on the cutting edge, not cutting teeth at this point, but happening across jurisdictions
 - **Unilateral Licensure:** not only on the horizon but happening
 - **Twelve (12) states already; others have mostly with some “add ons” or limitations**
 - Is this the right for optometry? Trend is CAVEAT deregulation:
 - Federal Trade Commission (“FTC”): anti “Restraint of Trade”
 - U.S. Constitution Commerce Clause: federal versus state regulation
 - **States: trend is deregulation**
 - Trades and professions – licensure viewed as a restraint?
 - Even the requirement of registration equals a restraint

- Licensure is the balance of public interest, i.e., “to protect the public”c?
- **Disasters**
 - Examples of federally declared disasters
 - Hurricanes: Ida: 2021 and many more before that
 - Earthquakes: Puerto Rico 2019 and many others
 - Many other natural disasters
 - Disasters carry an increased need for medical, including personnel:
 - Emergency Medical Technicians (EMTs), Doctors, Nurses
 - Optometrists?
 - Universal licensure
 - United States have “compacts”, but not every state signs on
 - Canada “Agreement on International Trade” (“AIT”)
 - AIT allows profession to practice in any province
 - Quebec province has “add on”, must also have French language proficiency
 - Is AIT right model for U.S.?
 - U.S. issue is that federal has no authority over licensure
 - CELMO began in 2005 for assistance to ARBO members dealing with mobility
 - Snowbirds fly from their licensure states to the south in winter (or permanently)
 - Need for more in the retirement states as people go there
 - Optometrists skills, training, and experience go with the person
 - **Feedback requested for/to ARBO/CELMO**
 - **What is the Wisconsin processes for foreign state optometry practitioners?**
 - **What documents does Wisconsin require for licensure?**
 - **Would Wisconsin allow ARBO/CELMO to “store” documents (within DSPS)?**
 - **“Primary Source documents” used for licensure**
 - **How can ARBO/CELMO help with foreign credentials and licensure by Wisconsin**
 - Cost for CELMO
 - Each candidate initial \$50 plus \$200 processing fee = \$250 to get “certified”
 - Every 2 years there is also a renewal cost (unclear, maybe \$50?)
- **Panel of providers of CE: synchronous versus asynchronous**
 - New England has 5000 optometry providers: 700 responded to survey
 - Best CE is with ability of optometrist to choose delivery option
 - **Live synchronous is the #1 “most desired” delivery**, i.e., most likely to attend.
 - CE “online”
 - Initially optometrists went online with other optometrist “friends”, a private discussion about health care
 - Beginning around 2015 “why not get CE from learning about health care, even if online?”
 - Shift in access abilities: now more than 30% use mobile devices for online CE; issues using mobile:
 - Harder to type/feedback
 - Prefer mobile as used while driving, including carting kids around or to/from work

- Most access and watch mobile while doing something else (dressing, eating, etc.)
- Council on Optometric Practitioner Education (“COPE”)
 - Cost more for fare from airport to meeting location than most pay for a year of CE
 - **IL:** Illinois College of Optometry (“ICO”)
 - Initially Illinois did not use COPE
 - As soon as ICO began COPE, saw “all hours access” for CE, e.g., 3 a.m. learning happening
 - **Covid :** lost 1 year +/- of live CE (in a 2 year reporting period)
 - Now need for 2 years of CE in 1 year period of time +/-
 - NO SURPRISE: cannot reverse the covid acceptance of CE, i.e., other than live
 - Issues arose before COPE like “don’t we need to sign?” and “are we able to do that online?”
 - **ICO will not go back to “live”:** new is “synchronous” for whoever logs in from wherever location
 - Missing from the new model is “networking” with other optometrist’s experience in an array of problems/issues
 - Zoom et al. platforms do allow simultaneous conversation and “break out” rooms for possible networking
 - **Would Wisconsin give CE credit for this participation networking on issues/problems = better outcomes?**
 - Testing of outcomes is not immediate, but the next week, month, or year?
 - CAVEAT: if call a test, examination, or even a quiz, most would go out of way to avoid that in CE:
 - Synchronous can include BUT call it a “poll”, or call it a “survey” (not quiz, test, etc.)
 - Response rate to poll or survey if anonymity is relatively high to reflect the learning form the CE
 - **NOW: JURISDICTIONS GET ON BOARD WITH NEW CE DELIVERY METHODS**
 - University of Alabama (“UAB”) experience:
 - **Breaking 1-hour courses into 8 to 12 minute “sessions”, outcome =**
 - Increased learning by “students”; better or “as well as” other methods used over the last 15 years.
 - Offered opportunity to ask questions but zero asked, i.e., opportunity for feedback:
 - Initial “zero” feedback, i.e., zero questions asked (using Zoom or similar for 2-way voice)
 - **Discovery: if asker can be anonymous then gives feedback and questions**
 - Similar to ICO, do “poll” or “survey” instead of quiz, test, et al.
 - Poll response is often in excess of 90% (usual minimum of 80%)
 - Poll can verify learning is happening, similar to a quiz but anonymity
 - **Elder “wired for 1 hour increments” BUT Younger “less than 30 minute” increments**
 - More than half “attend CE” during travel to or from work
 - More questions, and accordingly more learning, shared using synchronous model
 - Best outcomes if “anonymous Zoom type” where feedback allowed/permitted
 - At issue: “asynchronous” is a “lecture”
 - Most do not learn best from lectures, i.e., one sided communication

- Learning is increased with participation, i.e., synchronous
- **AROUND THE WORLD AS QUICKLY AS POSSIBLE: avoiding legal issues by Attorney Atkinson**
 - **Board should ratify all initial AND renewal licenses: ALWAYS**
 - **Wisconsin OPT Examining Board does not do; should the Board ratify at its “next meeting”?**
 - **Why:**
 - **If merely administrative, why is there any Board?(NOTE THROUGHOUT THIS TOPIC)**
 - **Movement in legislatures and society to” deregulate”, i.e., eliminate Boards**
 - **Ultimately, doesn’t Board grant any and all optometry licenses?**
 - **Change annual delegation wording, to provide subsequent “ratification”**
 - Timing as once granted then vested rights/procedure 4th Amendment
 - **Why both education and examination requirements, i.e., isn’t one enough?**
 - Exam is not a capstone end of education
 - Exam is competence based on what has been a person’s past, e.g., education or not
 - Query: should education be required?
 - Initially trades/professions had apprenticeships (or none, i.e., exam only)
 - Attorneys:
 - Only two states allow attorneys to take exam with no education
 - Only two states (e.g., Wisconsin) allows attorneys education only (no exam).
 - **Wisconsin optometrists?**
 - **Is Board comfortable to grant any license without education or without exam?**
 - **Take control and ratify all licenses including BOTH**
 - **Initial licensees AND**
 - **Renewals ton licenses**
 - **Every meeting review list of all administration approved licenses including renewals**
 - **Board review, and discussion if any, AND**
 - **RATIFY the grant of all licenses by the Board**
 - **Jurisprudence:**
 - **If any law changes, do a letter or publication “by and from the Board” (not just administration)**
 - Informs all licensees of any law change, including rules by Board or legislature new laws
 - Have Board approve at its meeting before distribution so Board action (not merely administrative).
 - **Education and Wisconsin Optometric Association (“WOA”) meetings: couple with a Board meeting**
 - When there is a widely attended event, like WOA education, provide licensees with opportunity to see what you do as a Board
 - Why not couple a WOA directors meeting just after or before an Optometry Examining Board meeting?
 - Invite all WOA attendees to attend the “open meeting” portions of the Board’s work
 - Invite participation and opportunity (within limits like at other governmental meetings)
 - Be “open” not “closed” – Wisconsin open meeting law anyway
 - **Criminal questions for licensees on applications and renewals**
 - **Pending or only convictions: What is Wisconsin law?**
 - **Ask Board counsel to review Wisconsin law to and for the Board and Screening Committee**

- Remember, ask about not just this profession but any other professions as maybe more than one license
 - If licensed in any other trade or profession, discipline?
 - Any complaints optometry or elsewhere
 - Do not limit to “interim” but consider any past events
 - **How many complaints are received?**
 - **If few, why is any Board needed?**
 - **Report at each meeting from Division of Legal Services and Compliance?**
 - Number of complaints since last meeting, status and disposition
 - “YTD” (Year to date) reporting always too; at end of each year
 - Summary of all cases
 - Summary of dispositions
 - Summary of pending or resolved
 - Timing: how long from complaint to resolution?
 - For dismissed at screening cases
 - For cases opened for investigation
 - Et alia?
 - **Statistics received by Board, questions asked, and approval at first meeting of following year**
 - **Storage of “primary source documents” used for licensure** (more above)
 - **Would Wisconsin allow 3rd party like ARBO/CELMO to store these documents in or on the DSPS site?**
 - **These documents used for licensure, not only maybe in Wisconsin but other jurisdictions**
 - Finding documents, when retire/move jurisdictions, often long ago and difficult process
 - One example is transcripts: practitioner registered with CELMO does not need to look (stored and available)
 - Comments by EDs:
 - **Saves substantial staff time as CELMO has required documents available and easily accessible**
 - **Eliminates or reduces delays in processing of license applications**
 - Consent required?
 - Would licensees desire this information be available to 3rd parties?
 - **If held in Wisconsin for CELMO is it subject to open records discovery?**
 - Question: Should CELMO documents also include “discipline”?
 - Did not appear if considered
 - **Refer or defer to NPDB (National Practitioner Data Base)**
 - Most jurisdictions applications: “any investigation”, “any pending”, etc.
 - IT’S HIP TO BE SQUARE
 - **Why does your Board exist?**
 - **Is your Board really granting licensure, or is that administration?**
 - **What does the media think about your Board?**
 - Licensees too are part of social network
 - Do “Opt” rules or regulations “suck”?
 - Efficiencies: ARBO will never replace any Board; just **efficiencies to both reduce cost and improve timing**
 - **COPE**
 - **CELMO**
 - Horizon – any other ARBO member desired?

- **Difference: Endorsement not reciprocity**
 - **Reciprocity is an “old concept”**: if ours then the same for your; **“get rid of reciprocity”**
 - **Rather do “Licensure by Endorsement”**:
 - **Though Wisconsin uses term “endorsement” is it a little like reciprocity?**
 - Opt 4, LICENSURE BY ENDORSEMENT, Wisconsin Administrative Code: Section Opt 4.01 Qualifications
 - “An optometrist holding a license, in good standing, in another state that has substantially similar requirements ... “
- **Do not term any change in “scope of practice” as any expansion**
 - **Instead, “modification recognizing training and experience of optometrists”**
 - Ground is “public need” and “public benefit”
 - More education and training is GOOD PUBLIC BENEFIT
 - **Continuing issue: Does liability insurance cover?**
 - **Suggests Board doing media**: rearrange conceptual NOT REGULATION, but the positives:
 - Usually media is negative; this is a Board opportunity
 - “Volunteerism” of optometrists on the Board and elsewhere, for the public good!
- **Legislators (do they know? - invite them!)**
 - **Board members should each take time to invite their legislators to meetings of the Board**
 - Handwritten are the best, as personal
 - Unlikely to attend, and if does not, **be sure to follow up “missed you”**
 - **Also send them a copy of the minutes of a meeting, highlighting at least one thing?**
 - Starting that rapport gives consideration on future legislation, when or if proposed
 - Prefer them to ask, rather than merely pass, unknown to the Board and optometrists in general
 - Live example from Jenkins being on Taxation Section Board of the State Bar of Wisconsin
 - Wisconsin Department of Revenue Chief Legal Counsel attended most Board meetings
 - Question on how “poorly worded” became Wisconsin law?
 - Chief legal counsel receives call from legislator
 - Legislator doesn’t recognize the timing as at night, picking up child from sports
 - Call comes in, traffic with child in car, actually children and most know what that means
 - BUT is those who provide dollars so brief discussion and comments made
 - The wording in the law is an off the cuff wording in discussion; never imagined in law draft
 - Call while not at work, on his private cell number and with family = “the law”
 - That’s how “poorly worded”, no drafting intended, and just answering question, now the law
 - **So, what might be enacted if do not engage with your legislators, related questions:**
 - **Are members of the Wisconsin Board empowered to lobby?**
 - **If one or some, why not all?**
 - **Authorized to lobby, avoids the issue of an unanticipated “complaint” or other “bad”**
 - Even if no lobby power, do not give up:

- You are a voter, so your legislator has a constituent, speaking for yourself not the Board
 - Still can provide information to your legislators
 - Boards can always give opinions on proposed legislation even if no lobby power
 - Remember do not say “expand practice”, rather **“training/experience correction to include for public benefit”**
- Medical Practices Acts (Optometry too)
 - **Can you do by rule in Wisconsin?**
 - Some jurisdictions and recommended “any material change is required to be reviewed by applicable Board”
 - Any ability to have legislated into statute; not restricting ability of legislators to change BUT just getting comment!
 - Review by Board would permit consideration of all effects (and possible lobby by each member before enactment)
- Does Board have “legislative report” at each meeting on “any proposed legislation”?
 - **Wisconsin: recommended – can DSPS staff do written report as the standing topic on every agenda?**
- **Preceptorships or other “on the job” training**
 - **MS:** Law required optometrists to do preceptorship with MD (ophthalmologist?) for 8 hours
 - **MD:** insurance said “NO” to coverage, so never done
 - Sometimes captive insurance providers, protecting not only themselves but their constituents.
- **Restorative justice**
 - Criminal expungements
 - Maybe marijuana or similar years ago, and crime then, but now would not be?
 - **CA:** 8 million convictions expunged
 - AUTO in some states after a period of time
 - **How are Wisconsin applications worded to pick these up even if expunged?**
 - **Wisconsin law: can expunged or old, or charges not convictions be considered?**
 - **Use same wording on renewals as used on initial applications**
 - **Do not word “since last” renewal**
 - Ask about period, e.g., in last 10 years, etc.
 - **Always weigh “relevance to practice”**
 - If “good moral character” standard or similar, get rid of it: too subjective/too ambiguous to survive challenge
 - On other hand, **“crime” is appropriate consideration if relevant to practice**
 - Remove barriers to licensure, especially if have already “done their penance”, i.e., sentence served
 - Not “good moral character” but have you any crime ever?
 - Crime might actually be “not good moral character” but standard is different
 - **Clean Slate legislation**
 - **CT:** arrests may not be considered, only convictions
 - **Wisconsin law?**
 - Some jurisdictions ask but do not consider – if not, then don’t ask!