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**VIRTUAL/TELECONFERENCE  
OPTOMETRY EXAMINING BOARD**  
**Virtual, 4822 Madison Yards Way, Madison**  
**Contact: Tom Ryan (608) 266-2112**  
**April 6, 2023**

*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 description 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 of January 26, 2023 (4-10)**
- C. Introductions, Announcements and Recognition
- D. Reminders: Conflicts of Interest, Scheduling Concerns
- E. Administrative Matters – Discussion and Consideration**
  - 1) Department, Staff and Board Updates
  - 2) Board Members – Term Expiration Dates
    - a. Clark, Jeffrey J. – 7/1/2023
    - b. Jinkins, Mark A. – 7/1/2016
    - c. Schulz, Robert C. – 7/1/2020
    - d. Slaby, Lisa L. – 7/1/2023
    - e. Sorce, Peter I. – 7/1/2023
    - f. Wilson, Emmylou – 7/1/2023
- F. Legislative and Policy Matters – Discussion and Consideration
- G. Administrative Rule Matters – Discussion and Consideration (11)**
  - 1) Opt 8, Relating to Continuing Education **(12-15)**
  - 2) Opt 1, 5, and 6, Relating to Telehealth **(16-17)**
  - 3) Possible Scope – ARBO Definition Changes and Opt CE Requirements **(18-23)**
  - 4) Pending and Possible Rulemaking Projects **(24)**
- H. Association of Regulatory Boards of Optometry (ARBO) Annual Meeting Worksheet – Board Input – Discussion and Consideration (25-29)**
- I. Discussion and Consideration of Items Added After Preparation of Agenda

- 1) Introductions, Announcements and Recognition
- 2) Nominations, Elections, and Appointments
- 3) Administrative Matters
- 4) Election of Officers
- 5) Appointment of Liaisons and Alternates
- 6) Delegation of Authorities
- 7) Education and Examination Matters
- 8) Credentialing Matters
- 9) Practice Matters
- 10) Legislative and Policy Matters
- 11) Administrative Rule Matters
- 12) Liaison Reports
- 13) Board Liaison Training and Appointment of Mentors
- 14) Informational Items
- 15) Public Health Emergencies
- 16) Division of Legal Services and Compliance (DLSC) Matters
- 17) Presentations of Petitions for Summary Suspension
- 18) Petitions for Designation of Hearing Examiner
- 19) Presentation of Stipulations, Final Decisions and Orders
- 20) Presentation of Proposed Final Decisions and Orders
- 21) Presentation of Interim Orders
- 22) Petitions for Re-Hearing
- 23) Petitions for Assessments
- 24) Petitions to Vacate Orders
- 25) Requests for Disciplinary Proceeding Presentations
- 26) Motions
- 27) Petitions
- 28) Appearances from Requests Received or Renewed
- 29) Speaking Engagements, Travel, or Public Relation Requests, and Reports

**J. 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.).**

**K. Deliberation on Division of Legal Services and Compliance (DLSC) Matters**

- 1) **Administrative Warnings**
  - a. 21 OPT 013 – M.K.K. **(30-31)**

**L. Deliberation of Items Added After Preparation of the Agenda**

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) DLSC Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petitions for Summary Suspensions
- 7) Petitions for Designation of Hearing Examiner
- 8) Proposed Stipulations, Final Decisions and Orders
- 9) Proposed Interim Orders

- 10) Administrative Warnings
- 11) Review of Administrative Warnings
- 12) Proposed Final Decisions and Orders
- 13) Matters Relating to Costs/Orders Fixing Costs
- 14) Case Closings
- 15) Board Liaison Training
- 16) Petitions for Assessments and Evaluations
- 17) Petitions to Vacate Orders
- 18) Remedial Education Cases
- 19) Motions
- 20) Petitions for Re-Hearing
- 21) Appearances from Requests Received or Renewed

M. Consulting with Legal Counsel

**RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION**

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

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

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

**ADJOURNMENT**

**NEXT MEETING: JULY 6, 2023**

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 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 virtually unless otherwise indicated. In-person meetings are typically conducted at 4822 Madison Yards Way, Madison, Wisconsin, unless an alternative location is listed on the meeting notice. In order to confirm a meeting or to request a complete copy of the board's agenda, please visit the Department website at <https://dps.wi.gov>. 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. Requests for interpreters for the hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer, or the Meeting Staff at 608-267-7213.

**VIRTUAL/TELECONFERENCE  
OPTOMETRY EXAMINING BOARD  
MEETING MINUTES  
JANUARY 26, 2023**

**PRESENT:** Jeffrey Clark, Mark Jinkins, Robert Schulz, Lisa Slaby, Peter Sorce, Emmylou Wilson

**STAFF:** Tom Ryan, Executive Director; Jameson Whitney, Legal Counsel; Dana Denny, Administrative Rules Coordinator; Katlin Schwartz, Bureau Assistant; and other DSPS Staff

**CALL TO ORDER**

Robert Schulz, Chairperson, called the meeting to order at 9:00 a.m. A quorum was confirmed with six (6) members present.

**ADOPTION OF AGENDA**

**MOTION:** Peter Sorce moved, seconded by Jeffrey Clark, to adopt the Agenda as published. Motion carried unanimously.

**APPROVAL OF MINUTES OF SEPTEMBER 22, 2022**

**MOTION:** Emmylou Wilson moved, seconded by Jeffrey Clark, to adopt the Minutes of September 22, 2022 as published. Motion carried unanimously.

**ADMINISTRATIVE MATTERS**

**Election of Officers**

*Slate of Officers*

**NOMINATION:** Mark Jinkins nominated the 2022 slate of officers to continue in 2023. All officers accepted their nominations.

Tom Ryan, Executive Director, called for nominations three (3) times.

The Slate of Officers was elected by unanimous voice vote.

<b>ELECTION RESULTS</b>	
<b>Chairperson</b>	Robert Schulz
<b>Vice Chairperson</b>	Emmylou Wilson
<b>Secretary</b>	Jeffrey Clark

## Appointment of Liaisons and Alternates

<b>LIAISON APPOINTMENTS</b>	
<b>Credentialing Liaison(s)</b>	Lisa Slaby <i>Alternate: Jeffrey Clark</i>
<b>Education and Exams Liaison(s)</b>	Lisa Slaby <i>Alternate Emmylou Wilson</i>
<b>Monitoring Liaison(s)</b>	Jeffrey Clark <i>Alternate: Mark Jinkins</i>
<b>Professional Assistance Procedure (PAP) Liaison(s)</b>	Jeffrey Clark <i>Alternate: Peter Sorce</i>
<b>Legislative Liaison(s)</b>	Peter Sorce <i>Alternate: Robert Schulz</i>
<b>Travel Authorization Liaison(s)</b>	Robert Schulz <i>Alternate: Lisa Slaby</i>
<b>Prescription Drug Monitoring Program Liaison(s) (PDMP)</b>	Robert Schulz <i>Alternate: Emmylou Wilson</i>
<b>SCREENING PANEL APPOINTMENTS</b>	
<b>January-December 2022</b>	Emmylou Wilson, Mark Jinkins, Jeffrey Clark <i>Alternate: Peter Sorce (1<sup>st</sup>), Lisa Slaby (2<sup>nd</sup>)</i>

## Delegation of Authorities

### *Document Signature Delegations*

**MOTION:** Mark Jinkins moved, seconded by Lisa Slaby, to delegate authority to the Chairperson (or in absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) to sign documents on behalf of the Board in order to carry out its duties. Motion carried unanimously.

**MOTION:** Peter Sorce moved, seconded by Emmylou Wilson, in order to carry out duties of the Board, the Chairperson (or in absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) has the ability to delegate signature authority for purposes of facilitating the completion of assignments during or between meetings. The members of the Board hereby delegate to the Executive Director or

DPD Division Administrator, the authority to sign on behalf of a board member as necessary. Motion carried unanimously.

### *Delegated Authority for Urgent Matters*

**MOTION:** Mark Jenkins moved, seconded by Jeffrey Clark, that in order to facilitate the completion of urgent matters between meetings, the Board delegates its authority to the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession), to appoint liaisons to the Department to act in urgent matters. Motion carried unanimously.

### *Delegation to Chief Legal Counsel Due to Loss of Quorum*

**MOTION:** Mark Jenkins moved, seconded by Lisa Slaby, to delegate the review and authority to act on disciplinary cases to the Department's Chief Legal Counsel due to lack of/loss of quorum. Motion carried unanimously.

### *Delegation to Chief Legal Counsel for Stipulated Resolutions*

**MOTION:** Mark Jenkins moved, seconded by Robert Schulz, to delegate to DSPS Chief Legal Counsel the authority to act on behalf of the Board concerning stipulated resolutions providing for a surrender, suspension, or revocation of a credential, where the underlying merits involve serious and dangerous behavior, and where the signed stipulation is received between Board meetings. The Board further requests that CLC only act on such matters when the best interests of the Board, Department and the Public are best served by acting upon the stipulated resolution at the time the signed stipulation is received versus waiting for the next Board meeting. Motion carried unanimously.

### *Monitoring Delegations*

#### **Delegation of Authorities for Monitoring**

**MOTION:** Mark Jenkins moved, seconded by Peter Sorce, to adopt the "Roles and Authorities Delegated for Monitoring" document as presented in the January 26, 2023 agenda materials on pages 17-19. Motion carried unanimously.

#### **Delegation of Authorities for Legal Counsel to Sign Monitoring Orders**

**MOTION:** Lisa Slaby moved, seconded by Emmylou Wilson, to delegate to Legal Counsel the authority to sign Monitoring orders that result from Board meetings on behalf of the Board Chairperson. Motion carried unanimously.

## *Credentialing Authority Delegations*

### **Delegation of Authority to Credentialing Liaison**

**MOTION:** Mark Jenkins moved, seconded by Emmylou Wilson, to delegate authority to the Credentialing Liaison(s) to serve as a liaison between the Department and the Board and to act on behalf of the Board in regard to credentialing applications or questions presented to them, including the signing of documents related to applications. Motion carried unanimously.

### **Delegation of Authority to DSPS When Credentialing Criteria is Met**

**MOTION:** Jeffrey Clark moved, seconded by Lisa Slaby, to delegate credentialing authority to the Department to act upon applications that meet all credentialing statutory and regulatory requirements without Board or Board liaison review. Motion carried unanimously.

### **Delegation of Authority for Predetermination Reviews**

**MOTION:** Mark Jenkins moved, seconded by Peter Sorce, to delegate authority to the Department Attorneys to make decisions regarding predetermination applications pursuant to Wis. Stat. § 111.335(4)(f). Motion carried unanimously.

### **Delegation of Authority for Conviction Reviews**

**MOTION:** Mark Jenkins moved, seconded by Lisa Slaby, to delegate authority to the Department Attorneys to review and approve applications with convictions which are not substantially related to the practice of optometry. Motion carried unanimously.

### **Delegation of Authority for Endorsement Reviews**

**MOTION:** Peter Sorce moved, seconded by Robert Schulz, to delegate authority to the Department Attorneys to review and approve endorsement applications in which the out of state license requirements are substantially similar to the Board's requirements for licensure. Motion carried unanimously.

### **Delegated Authority for Application Denial Reviews**

**MOTION:** Lisa Slaby moved, seconded by Jeffrey Clark, to delegate authority to the Department's Attorney Supervisors to serve as the Board's designee for purposes of reviewing and acting on requests for hearing as a result of a denial of a credential. Motion carried unanimously.

### **Delegation of Authority for Military Reciprocity Reviews**

**MOTION:** Lisa Slaby moved, seconded by Peter Sorce, to delegate authority to the Department Attorneys to review and approve military reciprocity applications in which the individual meets the requirements of Wis. Stat. § 440.09. Motion carried unanimously.

### *Voluntary Surrenders*

**MOTION:** Peter Sorce moved, seconded by Robert Schulz, to delegate authority to the assigned case advisor to accept or refuse a request for voluntary surrender pursuant to Wis. Stat. § 440.19 for a credential holder who has a pending complaint or disciplinary matter. Motion carried unanimously.

**MOTION:** Emmylou Wilson moved, seconded by Jeffrey Clark, to delegate authority to the Department to accept the voluntary surrender of a credential when there is no pending complaint or disciplinary matter with the Department pursuant to Wis. Stat. § 440.19. Motion carried unanimously.

### *Education and Examination Liaison(s) Delegation*

**MOTION:** Emmylou Wilson moved, seconded by Robert Schulz, to delegate authority to the Education and Examination Liaison(s) to address all issues related to continuing education and examinations. Motion carried unanimously.

### *Authorization for DSPS to Provide Board Member Contact Information to National Regulatory Related Bodies*

**MOTION:** Peter Sorce moved, seconded by Jeffrey Clark, to authorize the Department staff to provide national regulatory related bodies with all board member contact information that the Department retains on file. Motion carried unanimously.

### *Optional Renewal Notice Insert Delegation*

**MOTION:** Lisa Slaby moved, seconded by Robert Schulz, to designate the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) to provide a brief statement or link relating to board-related business within the license renewal notice at the Board's or Board designee's request. Motion carried unanimously.

### *Legislative Liaison Delegation*

**MOTION:** Peter Sorce moved, seconded by Jeffrey Clark, to delegate authority to the Legislative Liaisons to speak on behalf of the Board regarding legislative matters. Motion carried unanimously.

### *Travel Authorization Liaison Delegation*

**MOTION:** Lisa Slaby moved, seconded by Robert Schulz, to delegate authority to the Travel Authorization Liaison to approve any board member travel to and/or participation in events germane to the Board, and to designate representatives from the Board to speak and/or act on the Board's behalf at such events. Motion carried unanimously.



***Prescription Drug Monitoring Program (PDMP) Liaison(s) Delegation***

**MOTION:** Jeffrey Clark moved, seconded by Robert Schulz, to delegate authority to the PDMP Liaison(s) for all matters relating to PDMP. Motion carried unanimously.

*Robert Schulz was excused at 10:03 a.m. Emmylou Wilson presided as the Chairperson for the duration of the meeting.*

**SPEAKING ENGAGEMENTS, TRAVEL, OR PUBLIC RELATION REQUESTS,  
AND REPORTS**

**Consideration of Attendance: Association of Regulatory Boards of Optometry (ARBO)  
2023 Annual Meeting – June 18-20, 2023 – Washington, DC**

**MOTION:** Mark Jenkins moved, seconded by Lisa Slaby, to designate Peter Sorce, as the Board’s delegate, and Mark Jenkins as the Board’s alternate delegate, to attend the Association of Regulatory Boards of Optometry (ARBO) 2023 Annual Meeting on June 18-20, 2023 in Washington, DC. Motion carried unanimously.

**CLOSED SESSION**

**MOTION:** Peter Sorce moved, seconded by Mark Jenkins, to 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.). Emmylou Wilson, Vice Chairperson, read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Jeffrey Clark-yes; Mark Jenkins-yes; Lisa Slaby-yes; Peter Sorce-yes; and Emmylou Wilson-yes. Motion carried unanimously.

The Board convened into Closed Session 10:52 a.m.

**DELIBERATION ON DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC)  
MATTERS**

**Proposed Stipulations, Final Decisions and Orders**

***21 OPT 010 – Michael A. Steck, O.D.***

**MOTION:** Mark Jenkins moved, seconded by Peter Sorce, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Michael A. Steck, O.D., DLSC Case Number 21 OPT 010. Motion carried unanimously.

## **RECONVENE TO OPEN SESSION**

**MOTION:** Peter Sorce moved, seconded by Jeffrey Clark, to reconvene in Open Session. Motion carried unanimously.

The Board reconvened to Open Session at 11:00 a.m.

## **VOTING ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION**

**MOTION:** Emmylou Wilson moved, seconded by Peter Sorce, to affirm all motions made and votes taken in Closed Session. Motion carried unanimously.

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

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

**MOTION:** Jeffrey Clark moved, seconded by Lisa Slaby, to delegate ratification of examination results to DSPS staff and to delegate and ratify all licenses and certificates as issued. Motion carried unanimously.

## **ADJOURNMENT**

**MOTION:** Peter Sorce moved, seconded by Jeffrey Clark, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:05 a.m.

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

**AGENDA REQUEST FORM**

1) Name and title of person submitting the request: Dana Denny Administrative Rules Coordinator		2) Date when request submitted: 1/24/23 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Optometry Examining Board			
4) Meeting Date: 4/6/23	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Rule Matters - Discussion and Consideration  1. Opt 8, relating to Continuing Education 2. Opt 1, 5, and 6 relating to Telehealth 3. Possible Scope – ARBO Definition Changes and Opt CE Requirements 4. 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? <i>(If yes, please complete <a href="#">Appearance Request</a> for Non-DSPS Staff)</i>  <input type="checkbox"/> Yes <Appearance Name(s)> <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if applicable: N/A
10) Describe the issue and action that should be addressed:  1. Opt 8, relating to Continuing Education – Preliminary Rule Draft 2. Opt 1, 5, and 6 relating to Telehealth 3. ARBO/COPE Definition Document 4. Rule Project Chart			
11) <span style="float: right;">Authorization</span>  <div style="display: flex; justify-content: space-between;"> <div style="border-bottom: 1px solid black; width: 80%;"><i>Dana Denny</i></div> <div style="border-bottom: 1px solid black; width: 15%; text-align: right;"><i>3/24/23</i></div> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <span>Signature of person making this request</span> <span>Date</span> </div> <hr/> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <span>Supervisor (Only required for post agenda deadline items)</span> <span>Date</span> </div> <hr/> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <span>Executive Director signature (Indicates approval for post agenda deadline items)</span> <span>Date</span> </div>			
Directions for including supporting documents: 1. This form should be saved with any other documents submitted to the <a href="#">Agenda Items</a> folders. 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

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

An order of the Optometry Examining Board to **amend** Opt 8.02 (1), (1m), and (3s), relating to continuing education.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

**Statutes interpreted:** s.448.40 (1), Stats.

**Statutory authority:** ss. 15.08 (5) (b) and 449.06 (2m), Stats.

**Explanation of agency authority:**

Section 15.08 (5) (b), Stats., provides each examining board “[s]hall 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 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.”

**Related statute or rule:** None.

**Plain language analysis:**

Updating the continuing education requirements will 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.

**Summary of, and comparison with, existing or proposed federal regulation:** N/A

**Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule:** N/A

**Comparison with rules in adjacent states:**

**Illinois:** Rules of the Illinois Department of Financial and Professional Regulation establish continuing requirements for optometrists licensed in Illinois. [68 Ill. Adm. Code 1320.80]. Currently, the State of Illinois does not require licensed optometrists to complete cultural competency or DEI continuing education requirements.

**Iowa:** Rules of the Iowa Board of Optometry establish continuing education requirements for optometrists licensed in Iowa [645 IAC 181.1 – 181.111]. Currently, the State of Iowa does not require licensed optometrists to complete cultural competency or DEI continuing education requirement.

**Michigan:** Rules of the Michigan Board of Optometry establish continuing medical education requirements for optometrists licensed in Michigan [Mich Admin Code, R 338.319 to R 338.323]. Currently, the State of Michigan does not currently require licensed optometrists to complete cultural competency or DEI continuing education requirements.

**Minnesota:** Rules of the Minnesota Board of Optometry establish continuing education requirements for optometrists licensed in Minnesota [Minnesota Rules, Chapter 6500.3000]. Currently, the State of Minnesota does not currently require licensed optometrists to complete cultural competency or DEI continuing education requirements.

**Summary of factual data and analytical methodologies:**

The proposed rules were developed by obtaining input and feedback from the Optometry Board with additional information from the Association of Schools and Colleges of Optometry (ASCO).

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

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

**Fiscal Estimate and Economic Impact Analysis:**

The Fiscal Estimate and Economic Impact Analysis will be attached upon completion.

**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 [Jennifer.Garrett@wisconsin.gov](mailto:Jennifer.Garrett@wisconsin.gov), or by calling (608) 266-6795.

**Agency contact person:**

Dana Denny, 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 608-287-3748; email at [DSPSAdminRules@wisconsin.gov](mailto:DSPSAdminRules@wisconsin.gov).

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

Comments may be submitted to Dana Denny, 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](mailto:DSPSAdminRules@wisconsin.gov). Comments must be received on or before the public hearing, held on a date to be determined, to be included in the record of rule-making proceedings.

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TEXT OF RULE

SECTION 1. Opt 8.02 (1), (1m), and (3s) are amended to read:

**Opt. 8.02 (1)** A licensee shall complete 30 hours of approved continuing education in each biennial registration period. A minimum of 20 of the 30 hours shall relate to ocular health, conditions, or disease management. A minimum of 2 of the 30 hours shall relate to cultural competency or diversity training.

**Opt 8.02 (1m)** ~~During the biennial registration period commencing December 15, 2019 and ending December 14, 2021, unless~~ Each biennium, unless granted a hardship waiver in accordance with sub. (3m), the 30 required hours of continuing education shall include ~~2 hours~~ 1 hour on the topic of responsible prescribing of controlled substances.

**Opt 8.02 (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. A minimum of 10 of the 15 hours must be attended in person.

SECTION 2. Opt 8.02 (1s) is created to read:

**Opt 8.02 (1s)** The board shall provide an exemption to any licensee under s. Opt 8.02 (1m) if the optometrist does not hold a DEA registration and does not prescribe controlled substances.

SECTION 3. 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.

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(END OF TEXT OF RULE)

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DRAFT

# STATEMENT OF SCOPE

## Optometry Examining Board

**Rule No.:** Chapters OPT 1, 5 and 6

**Relating to:** Telehealth

**Rule Type:** Permanent

**1. Finding/nature of emergency (Emergency Rule only):**

N/A

**2. Detailed description of the objective of the proposed rule:**

The objective of the proposed rule is to provide clarity for licensees regarding the use of telehealth to provide optometric health practice, which may include revisions to Chs. OPT 1, 5 and 6.

**3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

Current administrative rules of the Optometry Examining Board do not address virtual delivery of optometric telehealth services. The proposed rule will establish standards of practice and professional conduct when delivering optometric telehealth services. Reviewing and updating these requirements will enhance clarity regarding current technological methods of delivery and ensure they also accurately reflect the current practice of optometry. The alternative to not updating the rules would be that licensees would not have clear guidance regarding virtual optometric delivery care service and current professional conduct requirements.

**4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

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) (a), Stats., states in part, that an agency, “may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.”

Section 449.25, Stats., provides that the examining board shall promulgate rules relating to informed consent, stating that, “[a]ny optometrist who treats a patient shall inform the patient about the availability of reasonable alternate modes of treatment and about the benefits and risks of these treatments...”

**5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

80 hours

**6. List with description of all entities that may be affected by the proposed rule:**



Licensed optometrists practicing telehealth and their patients.

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

None.

**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

The proposed rule is not likely to have a significant economic impact on small businesses.

**Contact Person:** Dana Denny, Administrative Rules Coordinator, [DSPSAdminRules@wisconsin.gov](mailto:DSPSAdminRules@wisconsin.gov), (608) 287-3748.

Approved for publication:



Authorized Signature

1/17/2023

Date Submitted

Approved for implementation:



Authorized Signature

3/17/2023

Date Submitted



## **COPE Announces New Synchronous and Asynchronous Course Formats**

October 2022

Over the past few years, the COPE Governing Committee has completed a thorough review of COPE's course format options and the effectiveness of these formats within optometry and the healthcare continuing education system. The committee also completed an extensive literature review and research into CE/CME formats in numerous healthcare professions.

COPE has determined that the overall quality of continuing education is more important than the location of the course. Continuing education delivery methods changed during the pandemic and technology now allows for immediate interaction with a course instructor regardless of learners being present in the same room. In February 2022, COPE proposed updating its course formats to Synchronous and Asynchronous to align with modern educational terminology. Feedback from stakeholders was overwhelmingly positive. Stakeholders requested clarification on monitoring attendance and measuring outcomes for the new formats and in response, COPE developed clear, streamlined guidance to ensure that COPE's requirements and standards will remain intact with the format changes.

COPE will be implementing the new Synchronous and Asynchronous course formats with all new course and activity submissions on January 1, 2023. To prepare for this change, the following information/guidelines have been created to ensure a smooth transition among stakeholders:

- NEW COPE Synchronous/Asynchronous Format Chart (including definitions and examples)
- Attendance Monitoring and Outcomes Measurement Guide (includes definitions and examples)
- New COPE Format FAQ

It is also important to note that individual State and Provincial Licensing Boards may limit the number of Synchronous Virtual and Asynchronous hours optometrists can take for license renewal. COPE advises optometrists to contact the State or Provincial Board where they are licensed for verification of what is acceptable.

Please review the attached information and feel free to contact Sierra Powell, Manager of Accreditation Services, at [spowell@arbo.org](mailto:spowell@arbo.org), with any questions.

# 2023 COPE Course Formats

NEW COURSE FORMAT	DESCRIPTION	EXAMPLES
<p><b>SYNCHRONOUS</b></p> <ul style="list-style-type: none"> <li><b><u>SYNCHRONOUS IN-PERSON</u></b> FORMERLY “LIVE”</li> </ul> <p style="text-align: center;"><b>OR</b></p> <ul style="list-style-type: none"> <li><b><u>SYNCHRONOUS VIRTUAL</u></b> FORMERLY “INTERACTIVE DISTANCE LEARNING”</li> </ul>	<p><b>INTERACTIVE CONTINUING EDUCATION</b> <i>For Synchronous In-Person and Virtual:</i></p> <ul style="list-style-type: none"> <li>Lecturer and learner are together at the same time</li> <li>Real time communication between the instructor and the learner</li> <li>Learners can receive immediate feedback</li> <li>Fixed schedule; learning takes place only once at a specific date and time</li> </ul> <p><i>*NOTE: Post-course tests will <b>NOT</b> be required for courses presented in a synchronous format <u>unless the course is for CEE credit</u>. See CEE definition below.</i></p>	<ul style="list-style-type: none"> <li><b><u>SYNCHRONOUS IN-PERSON:</u></b> -Face-to-face -Hands on workshop -Interactive posters with authors presenting in real time</li> <li><b><u>SYNCHRONOUS VIRTUAL:</u></b> -Interactive webinars in real time -Videoconferences -Interactive posters with authors presenting in real time</li> </ul>
<p><b>ASYNCHRONOUS</b></p> <p>FORMERLY “ENDURING DISTANCE LEARNING”</p>	<p><b>NON-INTERACTIVE CONTINUING EDUCATION</b></p> <ul style="list-style-type: none"> <li>Lecturer and learner are not together at the same time</li> <li>No real time communication between the instructor and the learner</li> <li>Learners do not receive immediate feedback</li> <li>Content is created and made available for attendance at a later date</li> <li>No fixed schedule, learner-paced</li> </ul> <p><i>*NOTE: Post-course tests will be required for ALL courses presented in an asynchronous format.</i></p>	<ul style="list-style-type: none"> <li>Recorded webinar without instructor interaction</li> <li>Journal article</li> <li>Webcast/podcast</li> </ul>

**Continuing Education with Examination (CEE)** is also known as Transcript Quality (TQ) or Certified CE. This type of continuing education is required to be in-person, be a minimum of 2 hours in length and include a post-course test to verify learning. Learners must score a minimum of 70% on the post-course test to receive CEE credit.

**IMPORTANT:** Individual State and Provincial Licensing Boards may limit the number of Synchronous Virtual and Asynchronous hours optometrists can take for license renewal. **COPE advises optometrists to contact the State or Provincial Board where they are licensed for verification of what is acceptable.**

# COPE Attendance Policy Requirements

Attendance monitoring is required for COPE-Accredited CE and must be an active process that is conducted with integrity and impartiality. **COPE Administrators/Providers MUST monitor attendance at all activities and ensure that CE credit is provided only to those individuals present during the instructional time.** No partial credit is permitted in any circumstances. Attendees should only receive credit if they have been present for the entire scheduled time.

COPE credit hours/units are defined in the following increments:

- 0.25 credit hours/units = 15 minutes of instructional time
- 0.50 hours/units = 25 minutes of instructional time
- 1.00 hours/units = 50 minutes of instructional time

To assist COPE Administrators/Providers in ensuring accurate attendance, COPE has provided a list of examples of acceptable attendance monitoring options. \*\*Please note that this list may not include all attendance monitoring options available. COPE Administrators/Providers are welcome to contact ARBO to discuss other potential options.

## Attendance Monitoring Options for COPE Accredited CE

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### Virtual Roll Call

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**Message Boards/Chats or Discussion Forum-** Ask learners to post comments/something they learned at various times

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**Interactive Polls-** Ask questions throughout the course to ensure learner participation

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**Quizzes-** Pre-and post-course quiz or post-course quiz only

*(Reminder: Post-course tests are required for Asynchronous and CEE courses.)*

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### Post-Course Surveys or Evaluations

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**Lecture Questions** asked throughout Course for learners to respond in chat

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**Meeting Platform/Software Attendance Tracking** of attendees' sign-in and sign-out time

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# COPE Outcomes Measurement Requirements

**COPE Administrators/Providers are required to conduct a post-activity educational evaluation which includes gathering data or information on the changes in the learners based on the stated goals of competence, performance or patient outcomes as identified in planning the activity.** This is extremely important for Synchronous Courses that no longer require post-course testing. (Note: Courses submitted for CEE credit require a post-course test.) COPE has provided a list of outcomes measurement options for COPE Administrators/Providers to use. \*\*Please note that this list may not include all outcomes measurement options available. COPE Administrators/Providers are welcome to contact ARBO to discuss other potential options.

## Outcomes Measurement Options for COPE Accredited CE

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**Short Pre-Test and Post-Test-** Ask the same question or different questions to measure change

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**Simple Question at End of Course** asking what learners plan to change in practice

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**Interactive Poll** at the end of the course asking outcomes measurement questions

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**Open-Book Test Questions** based on speaker's handout at end of the course

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**Self-Assessment Question(s)** given at the beginning and end of the course to measure change

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**Pre-Course Checklist of Skills-** Ask "Are you doing this activity in your practice now?" Areas not checked off can be addressed in the speaker's presentation and reported at the conclusion.

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**Required/Strongly Recommended Pre-Reading** - Ask questions related to pre-reading and course content at the end of the course

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**Post-Course Surveys or Evaluations**

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# COPE Synchronous/Asynchronous Format FAQ's



## **What is the difference between “Synchronous In-Person” and the previous “live” format?**

There is no difference. The Synchronous In-Person format (previously “live”) is when the instructor is in the same room with the participants, even if other formats are used as audiovisual aids for teaching the course. The instructor is face-to-face with the audience and can touch the participants.

## **What is the difference between “Synchronous Virtual” and the previous “Interactive Distance Learning” format?**

Synchronous Virtual is the same as the previous Interactive Distance Learning format as far as the course presentation. There must be immediate interaction between the instructor and the learner. The only difference is that post-course tests will no longer be required for courses presented in the Synchronous Virtual Format. Required attendance monitoring and other methods of outcomes measurement are now available for COPE Administrators/Providers to ensure accurate attendance and evaluate their stated goals of competence, performance or patient outcomes.

## **What is the different between “Asynchronous Distance” format and the previous “Enduring Distance Learning” format?**

There is no difference. Because there is no real time communication between the instructor and the learner during these courses, a post-course test for learners will continue to be required for this format.

## **Have the post-course test requirements changed for Asynchronous Distance courses?**

No. Courses presented for COPE review under the Asynchronous Distance format must comply with the following requirements:

- A. Courses must include a post-course test to verify learning.
- B. Post-course tests and answer keys must be reviewed by an accredited school of optometry, medicine, pharmacy or osteopathy.
- C. Tests must be in multiple-choice question (MCQ) and should conform to the National Board of Examiners in Optometry’s (NBEO) Item Writer’s Manual.
- D. Post Course tests must receive a score of at least 70% or better for a certificate of completion to be issued.
- E. Post-course tests must include a minimum number of questions based on the length of the course.
  - 0.25 hours/units require a minimum of 3 questions
  - 0.50 hours/units require a minimum of 5 questions
  - 1.00 hours/units require a minimum of 10 questions
- F. The post-course test and answer key must be uploaded with the application materials to COPE.
- G. Tests may accompany a course as part of the delivery mechanism (i.e., an internet-based course may allow test candidates to take the test online; or a correspondence course may include the test in the same publication as the article, etc.)
- H. Post-course test grading may be done by the sponsoring school or other impartial method. The sponsoring school is responsible for ensuring that the test and answer key are valid and that the grading process is objective. The school must ensure the administration and grading of the test is unbiased if they are not grading the test themselves.



**Will my licensing board award “Live” credit for a Synchronous Virtual course?**

Individual State and Provincial Licensing Boards may allow Synchronous Virtual courses to count as “live” credit for license renewal, while others may not. COPE advises optometrists to contact the State or Provincial Board where they are licensed for verification of what is acceptable for license renewal.

**Why did COPE remove the post-course test requirement for Synchronous Virtual Courses?**

COPE has determined that there are other effective tools to both monitor attendance and measure the success of a CE activity outside of a multiple-choice test. A full list of acceptable attendance and outcomes measurement options is now available for all COPE Administrators/Providers to utilize based on the nature of each individual CE activity.

**If I have a course that was approved under one of COPE’s previous formats will I have to resubmit it as synchronous or asynchronous in order to present it in 2023?**

You will not have to resubmit a course as long as it hasn’t expired and the delivery method of the course hasn’t changed. As of January 1, 2023, all new course submissions will be in the synchronous and asynchronous formats.

**Are there any changes in the Course Qualification Periods?**

The course qualification period for each course qualified by COPE depends on the format of the course. These time periods will not change with the new formats. They will remain as follows:

- Synchronous In-Person Courses: 1 Year Qualification Period
- Synchronous Virtual Courses: 1 Year Qualification Period
- Asynchronous Distance Courses: 3 Year Qualification Period

**Optometry Examining Board  
Rule Projects (updated 3/24/23)**

<b>Clearinghouse Rule Number</b>	<b>Scope #</b>	<b>Scope Expiration</b>	<b>Code Chapter Affected</b>	<b>Relating clause</b>	<b>Current Stage</b>	<b>Next Step</b>
Not Yet Assigned	080-21	07/10/2024	OPT 8	Continuing Education	Scope Published on 09/20/21	Currently drafting rule.
Not Yet Assigned	018-23	08/20/2025	OPT 1, 5 and 6	Telehealth	Scope signed on 1/17/23	Rule Drafting



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

**AGENDA REQUEST FORM**

1) Name and title of person submitting the request:		2) Date when request submitted:	
		Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: <b>Optometry Examining Board</b>			
4) Meeting Date: 4/6/2023	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? <b>Association of Regulatory Boards of Optometry (ARBO) Annual Meeting Worksheet – Board Input</b>	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete <a href="#">Appearance Request</a> for Non-DSPS Staff)</i>  <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if applicable:	
10) Describe the issue and action that should be addressed: <b>The Board will provide input regarding information requested by ARBO for the Annual Meeting.</b>			
11) <b>Authorization</b>			
Signature of person making this request			Date
Supervisor (Only required for post agenda deadline items)			Date
Executive Director signature (Indicates approval for post agenda deadline items)			Date
<b>Directions for including supporting documents:</b> 1. This form should be saved with any other documents submitted to the <a href="#">Agenda Items</a> folders. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			



Association of Regulatory Boards of Optometry, Inc.

## Association of Regulatory Boards of Optometry

3440 Toringdon Way  
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Charlotte, NC 28277

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Email: arbo@arbo.org

**To:** ARBO Member Board Executives  
**Date:** March 6, 2023  
**Re:** Request for Member Board Reports

As you know, we collect an annual report each year from all of the ARBO Member Licensing Boards for distribution at our Annual Meeting in June.

**PLEASE NOTE:** Delegates at the Annual Meeting will be asked to present any new or interesting activities in their jurisdiction. All delegates should come prepared to report on the activities of their jurisdiction.

**For the time period of January 1, 2022-December 31, 2022, please provide the following information on your Board letterhead by May 12, 2023:**

1. Members of your Board, including any new appointments.
2. Number of Board meetings held:
  - Number of live meetings
  - Number of conference calls or virtual meetings
3. Number of complaints registered and resolved in the preceding twelve months.
4. Any continuing education audits conducted:
  - Percentage of licensees audited
  - Overall audit results
5. Any new legislation enacted and corresponding actions taken by your Board.
6. Any new rules/regulations enacted and date they became effective.
7. Statistics and demographics including:
  - Number of new licensees/registrants
  - Total number of licensees/registrants practicing in your jurisdiction
8. Fees charged for all levels of licensure:
  - Initial licensure
  - License renewal
9. License renewal period (number of years).

10. Scope of Practice in your jurisdiction:

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

11. Board website

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.

13. Identity of the individual preparing the report.

Please submit your report in Microsoft Word or Adobe pdf by e-mail ([lfennell@arbo.org](mailto:lfennell@arbo.org)) or fax (888-703-4848) no later than **Friday, May 12, 2023**. 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 at the meeting in June.

Best Regards,



Lisa Fennell  
ARBO Executive Director



**2023 ARBO Annual Meeting  
Member Board Report  
Jurisdiction: Wisconsin  
For the time period of January 1, 2022 - December 31, 2022**

1. Members of your Board, including any new appointments.

**Robert C. Schulz  
Emmylou Wilson  
Jeffrey Clark  
Mark Jenkins  
Lisa Slaby  
Peter Sorce**

**John Sterling (resigned in 2022)**

2. Number of Board meetings held:

- o Number of live meetings: **0**
- o Number of conference calls or virtual meetings: **4**

3. Number of complaints registered and resolved in the preceding twelve months: **N/A**

4. Any continuing education audits conducted:

- o Percentage of licensees audited
- o Overall audit results

**2017 Wisconsin Act 59 directly prohibits random CE audits.**

5. Any new legislation enacted and corresponding actions taken by your Board.

6. Any new rules/regulations enacted and date they became effective.

- 1) **OPT 3, relating to Reciprocal Credentials for service members, former service members, and their spouses** (CR 21-004), effective July 1, 2022; and
- (2) **OPT 5, relating to Unprofessional Conduct** (CR 21-005) effective July 1, 2022.

7. Statistics and demographics including:

- o Number of new licensees/registrants: **N/A**
- o Total number of licensees/registrants practicing in your jurisdiction: **N/A**

8. Fees charged for all levels of licensure:

- o Initial licensure: **\$60/biennium**
- o License renewal: **\$60/biennium**

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

10. Scope of Practice in your jurisdiction:

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

**See:** <https://dsps.wi.gov/Pages/RulesStatutes/Optometry.aspx>

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

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

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