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**VIRTUAL/TELECONFERENCE  
OPTOMETRY EXAMINING BOARD**  
**Virtual, 4822 Madison Yards Way, Madison**  
**Contact: Tom Ryan (608) 266-2112**  
**February 6, 2025**

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

**AGENDA**

**9:00 A.M.**

**OPEN SESSION – CALL TO ORDER – ROLL CALL**

- A. Adoption of Agenda (1-4)**
- B. Approval of Minutes of September 19, 2024 (5-7)**
- C. 9:00 AM PUBLIC HEARING on Rule Opt 8 Relating to Continuing Education Course Formats (8-9)**
- D. Reminders: Conflicts of Interest, Scheduling Concerns**
- E. Introductions, Announcements and Recognition**
  - 1. Recognition: Robert C. Schulz, Optometrist (Resigned: 12/26/2024)
- F. Administrative Matters (10-31)**
  - 1. Department, Staff and Board Updates
  - 2. **2025 Meeting Dates (10)**
  - 3. **Annual Policy Review (11-13)**
  - 4. **Election of Officers, Appointments of Liaisons and Alternates, Delegation of Authorities (14-31)**
  - 5. Board Members – Term Expiration Dates
    - a. Jinkins, Mark A. – 7/1/2016
    - b. Kenitz, Scott F. – 7/1/2025
    - c. Slaby, Lisa L. – 7/1/2027
    - d. Sorce, Peter I. – 7/1/2023
    - e. Wilson, Emmylou – 7/1/2027
    - f. Wonderling, Ann M. – 7/1/2027
- G. Administrative Rule Matters – Discussion and Consideration (32-46)**
  - 1. Discussion of public hearing comments and Clearinghouse comments for final rule draft of Opt 8, relating to Continuing Education Course Formats **(33-41)**

2. Discussion of preliminary rule draft of Opt 1 and 5, relating to Definitions (42-45)
3. Pending or Possible Rulemaking Projects (46)

**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.).**

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

**1. Case Closings**

- a. 23 OPT 012 – R.P.A. (51-109)

**I. Deliberation of Items Added After Preparation of the 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. Consulting with Legal Counsel**

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

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

**L. Correspondence from Wisconsin Academy of Ophthalmology to the Wisconsin Medical Examining Board – Informational Item (47-50)**

**M. Legislative and Policy Matters – Discussion and Consideration**

**N. 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
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26. Motions
27. Petitions
28. Appearances from Requests Received or Renewed
29. Speaking Engagements, Travel, or Public Relation Requests, and Reports

**O. Public Comments**

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

**ADJOURNMENT**

**NEXT MEETING: MAY 1, 2025**

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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://dsps.wi.gov>. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of any agenda item may be changed by the board for the convenience of the parties. The person credentialed by the board has the right to demand that the meeting at which final action may be taken against the credential be held in open session. Requests for interpreters for the hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer or reach the Meeting Staff by calling 608-267-7213.

**VIRTUAL/TELECONFERENCE  
OPTOMETRY EXAMINING BOARD  
MEETING MINUTES  
SEPTEMBER 19, 2024**

**PRESENT:** Mark Jenkins, Scott Kenitz, Robert Schulz, Lisa Slaby, Peter Sorce (*arrived at 9:02 a.m.*), Ann Wonderling

**ABSENT:** Emmylou Wilson

**STAFF:** Tom Ryan, Executive Director; Jameson Whitney, Legal Counsel; Jacob Pelegrin, Administrative Rules Coordinator; Tracy Drinkwater, Board Administration Specialist; and other DSPS Staff

**CALL TO ORDER**

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

**ADOPTION OF AGENDA**

**Amendments to the Agenda**

- E2, Add Peter I. Sorce

**MOTION:** Robert Schulz moved, seconded by Scott Kenitz, to adopt the Agenda as amended. Motion carried unanimously.

*Peter Sorce arrived at 9:02 a.m.*

**APPROVAL OF MINUTES OF JULY 11, 2024**

**MOTION:** Mark Jenkins moved, seconded by Robert Schulz, to adopt the Minutes of July 11, 2024, as published. Motion carried unanimously.

**ADMINISTRATIVE RULE MATTERS**

**Preliminary rule draft of Opt 8, relating to new course format definitions by ARBO and COPE**

**MOTION:** Peter Sorce moved, seconded by Robert Schulz, to authorize the Chair to approve the Preliminary Rule Draft of Opt 8 for posting for Economic Impact comments and submittal to the Clearinghouse. Motion carried unanimously.

**Preliminary rule draft of Opt 1 and 5, relating to Definitions**

**MOTION:** Peter Sorce moved, seconded by Ann Wonderling, to authorize Scott Kenitz to work with DSPS staff on preliminary rule drafting for Opt 1 and 5 relating to Definitions. Motion carried unanimously.

## CLOSED SESSION

**MOTION:** Peter Sorce moved, seconded by Robert Schulz, 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.). Lisa Slaby, Chairperson, read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Mark Jenkins-yes; Scott Kenitz-yes; Robert Schulz-yes; Lisa Slaby-yes; Peter Sorce-yes; and Ann Wonderling-yes. Motion carried unanimously.

The Board convened into Closed Session 9:26 a.m.

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

#### Administrative Warning

#### *21 OPT 001 – H.T.W.*

**MOTION:** Ann Wonderling moved, seconded by Peter Sorce, to issue an Administrative Warning in the matter of H.T.W., DLSC Case Number 21 OPT 001. Motion carried unanimously.

### RECONVENE TO OPEN SESSION

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

The Board reconvened to Open Session at 9:30 a.m.

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

**MOTION:** Peter Sorce moved, seconded by Scott Kenitz, 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:** Robert Schulz moved, seconded by Scott Kenitz, 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:** Robert Schulz moved, seconded by Peter Sorce, to adjourn the meeting.  
Motion carried unanimously.

The meeting adjourned at 9:33 a.m.

DRAFT

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

**AGENDA REQUEST FORM**

<b>1) Name and title of person submitting the request:</b> Jake Pelegrin Administrative Rules Coordinator		<b>2) Date when request submitted:</b> 1/24/25 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting																
<b>3) Name of Board, Committee, Council, Sections:</b> Optometry Examining Board																		
<b>4) Meeting Date:</b> 2/6/25	<b>5) Attachments:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b> 9:00 AM Public Hearing on Rule Opt 8 Relating to Continuing Education Course Formats																
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	<b>8) Is an appearance before the Board being scheduled?</b> <i>(If yes, please complete <a href="#">Appearance Request</a> for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>9) Name of Case Advisor(s), if required:</b> N/A																
<b>10) Describe the issue and action that should be addressed:</b> Attachments: -Notice of public hearing for Opt 8																		
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%; border-bottom: 1px solid black;"><b>11)</b></td> <td style="width: 60%; border-bottom: 1px solid black; text-align: center;"><b>Authorization</b></td> <td style="width: 30%; border-bottom: 1px solid black;"></td> </tr> <tr> <td style="border-bottom: 1px solid black;"><i>Jake Pelegrin</i></td> <td style="border-bottom: 1px solid black;"></td> <td style="border-bottom: 1px solid black; text-align: right;">1/24/25</td> </tr> <tr> <td style="border-bottom: 1px solid black;"><b>Signature of person making this request</b></td> <td style="border-bottom: 1px solid black;"></td> <td style="border-bottom: 1px solid black; text-align: right;"><b>Date</b></td> </tr> <tr> <td style="border-bottom: 1px solid black;"><b>Supervisor (if required)</b></td> <td style="border-bottom: 1px solid black;"></td> <td style="border-bottom: 1px solid black; text-align: right;"><b>Date</b></td> </tr> <tr> <td style="border-bottom: 1px solid black;"><b>Executive Director signature (indicates approval to add post agenda deadline item to agenda)</b></td> <td style="border-bottom: 1px solid black;"></td> <td style="border-bottom: 1px solid black; text-align: right;"><b>Date</b></td> </tr> </table>				<b>11)</b>	<b>Authorization</b>		<i>Jake Pelegrin</i>		1/24/25	<b>Signature of person making this request</b>		<b>Date</b>	<b>Supervisor (if required)</b>		<b>Date</b>	<b>Executive Director signature (indicates approval to add post agenda deadline item to agenda)</b>		<b>Date</b>
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<b>Directions for including supporting documents:</b> 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.																		



## **Notice of Public Hearing**

The Optometry Examining Board announces that it will hold a virtual public hearing on the rule revising Opt 8, relating to Continuing Education Course Formats, at the time and place shown below.

### **Hearing Information**

Date: February 6, 2025

Time: 9:00 A.M.

Location: Information concerning the location of the hearing will be available at:

<https://dsps.wi.gov/Pages/BoardsCouncils/Optometry/Meetings.aspx>

### **Appearances at the Hearing and Submittal of Written Comments**

The rule may be reviewed and comments submitted at:

<http://docs.legis.wisconsin.gov/code/chr/hearings>.

Comments may also be submitted to Jake Pelegrin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, WI 53708-8366, or by email to [DSPSAdminRules@wisconsin.gov](mailto:DSPSAdminRules@wisconsin.gov).

Comments must be received at or before the public hearing to be included in the record of rulemaking proceedings.

### **Initial Regulatory Flexibility Analysis**

The proposed rule will not have an effect on small businesses, as defined under s. 227.114 (1).

### **Agency Small Business Regulatory Coordinator**


The Department's Regulatory Review Coordinator may be contacted at [Jennifer.Garrett@wisconsin.gov](mailto:Jennifer.Garrett@wisconsin.gov) or calling (608) 266-2112.

**OPTOMETRY EXAMINING BOARD  
2025 MEETING DATES**

<b>Meeting Date</b>	<b>Start time</b>	<b>Location</b>	<b>Agenda Item Deadline</b>
Thursday, February 6, 2025	9:00 AM	Virtual	<b>1/27/25</b>
Thursday, May 1, 2025	9:00 AM	Virtual	<b>4/21/25</b>
Thursday, August 7, 2025	9:00 AM	Virtual	<b>7/28/25</b>
Thursday, November 6, 2025	9:00 AM	Virtual	<b>10/27/25</b>

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

**AGENDA REQUEST FORM**

1) Name and title of person submitting the request: Brenda Taylor, Board Services Supervisor		2) Date when request submitted: 12/1/2024	
3) Name of Board, Committee, Council, Sections: All Boards			
4) Meeting Date: First Meeting of 2025	5) Attachments: <input checked="" type="checkbox"/> Yes	6) How should the item be titled on the agenda page? Administrative Matters: Annual Policy Review	
7) Place Item in: <input checked="" type="checkbox"/> Open Session	8) Is an appearance before the Board being scheduled? <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: Board SharePoint Site: <a href="https://dsps.boards.wisconsin.gov/">https://dsps.boards.wisconsin.gov/</a>			
<p><b>Please be advised of the following Policy Items:</b></p> <ol style="list-style-type: none"> <li>1. <b>In-Person and Virtual Meetings:</b> Depending on the frequency of scheduled meetings, discussion topics, and member availability, DSPTS may host one or more in-person meetings. Virtual connection options are available for all board meetings.</li> <li>2. <b>Attendance/Quorum:</b> Thank you for your service and commitment to meeting attendance. If you cannot attend a meeting or have scheduling conflicts impacting your attendance, please let us know as soon as possible. A quorum is required for Boards, Sections, and Councils to meet pursuant to Open Meetings Law. Connect to / arrive at meetings 10 minutes before posted start time to allow for audio/connection testing, and timely Call to Order and Roll Call. Virtual meetings include viewable onscreen materials and A/V (speaker/microphone/video) connections.</li> <li>3. <b>Walking Quorum:</b> Board/Section/Council members must not collectively discuss the body's business outside a properly noticed meeting. If several members of a body do so, they could be violating the open meetings law.</li> <li>4. <b>Mandatory Training:</b> All Board Members must complete Public Records and Ethics Training, annually. <a href="#">Register to set up an account</a> in the Cornerstone LearnCenter online portal or <a href="#">Log in</a> to an existing account.</li> <li>5. <b>Agenda Deadlines:</b> Please communicate agenda topics to your Executive Director before the agenda submission deadline at 12:00 p.m., eight business days before a meeting. (Attachment: Timeline of a Meeting)</li> <li>6. <b>Travel Voucher and Per Diem Submissions:</b> Please submit all Per Diem and Reimbursement claims to DSPTS within 30 days of the close of each month in which expenses are incurred. (Attachment: Per Diem Form) Travel Vouchers are distributed on travel approval.</li> <li>7. <b>Lodging Accommodations/Hotel Cancellation Policy:</b> Lodging accommodations are available to eligible members for in-person meetings. Standard eligibility: the member must leave home before 6:00 a.m. to attend an in-person meeting by the scheduled start time.             <ol style="list-style-type: none"> <li>a. If a member cannot attend a meeting, they must cancel their reservation with the hotel within the applicable cancellation timeframe.</li> <li>b. If a meeting is changed to occur remotely, is canceled, or rescheduled, DSPTS staff will cancel or modify reservations as appropriate.</li> </ol> </li> <li>8. <b>Inclement Weather Policy:</b> In inclement weather, the DSPTS may change a meeting from an in-person venue to a virtual/teleconference only.</li> </ol>			
11) Authorization			
		12/02/2024	
<p><b>Directions for including supporting documents:</b></p> <ol style="list-style-type: none"> <li>1. This form should be saved with any other documents submitted to the <a href="#">Agenda Items</a> folders.</li> <li>2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director</li> </ol>			

## Timeline of a Meeting

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**8 business days prior to the meeting:** All agenda materials are due to the Department by 12:00 pm, 8 business days prior to the meeting date.

**7 business days prior to the meeting:** The draft agenda page is due to the Executive Director. The Executive Director transmits to the Chair for review and approval.

**5 business days prior to the meeting:** The approved agenda is returned to the Board Administration Specialist for agenda packet production and compilation.

**4 business days prior to the meeting:** Agenda packets are posted on the DSPS Board SharePoint site and on the Department website.

### Agenda Item Examples:

- Approval of the Agenda and previous meeting Minutes
- Open Session Items
  - Public Hearings (relating to Administrative Rules)
  - Administrative Matters
  - Legislation and Policy Matters
  - Administrative Rules Matters
  - Credentialing Matters
  - Education and Exam Issues
  - Public Agenda Requests
  - Current Issues Affecting the Profession
  - Public Comments
- Closed Session items
  - Deliberations on Proposed Disciplinary Actions
    - Stipulations
    - Administrative Warnings
    - Case Closings
    - Monitoring Matters
    - Professional Assistance Procedure (PAP) Issues
  - Proposed Final Decisions and Orders
  - Orders Fixing Costs/Matters Relating to Costs
  - Credentialing Matters
  - Education and Exam Issues

**Thursday of the Week Prior to the Meeting:** Agendas are published for public notice on the Public Notices and Meeting Minutes website: [publicmeetings.wi.gov](http://publicmeetings.wi.gov).

**1 business day after the Meeting:** "Action" lists are distributed by staff detailing board actions on closed session business.

**5 business days after the Meeting:** "To Do" lists are distributed to staff to ensure that board decisions are acted on and/or implemented within the appropriate divisions in the Department. Minutes approved by the board are published on the the Public Notices and Meeting Minutes website: [publicmeetings.wi.gov](http://publicmeetings.wi.gov).

# Department of Safety and Professional Services

## PER DIEM REPORT

**INSTRUCTIONS:** Record board-related activities by date, indicate relevant purpose code, the duration of time spent in B-code activities, location, and activity description. Only one \$25.00 per diem payment will be issued on any given calendar day. Submit one form per month and within 60 days of the last activity being reported. Send completed forms to your Board's Administrative Specialist.

**Purpose Codes:**

**A CODE** Official meetings including Board Meetings, Hearings and Examinations and Test Development Sessions (automatic day of per diem) Examples: board, committee, board training or screening panels; Senate Confirmation hearings, legislative and disciplinary hearings, or informal settlement conferences; test administration, test review or analysis events, national testing events, tour of test facilities, etc.

**B CODE** Other (One (1) per diem will be issued for every five (5) hours spent in category B, per calendar month): i.e., review of disciplinary cases, consultation on cases, review of meeting materials, board liaison work, e.g., contacts regarding Monitoring, Professional Assistance Procedure, Credentialing, Education and Examinations

Name of Examining Board or Council	Board or Council Member's Name
Month	Year
Employee ID Number	

<b>Date</b>	<b>Purpose Code A or B</b>	<b>Duration of B activity Hours: Minutes</b>	<b>Where Performed (Home, DSPS, or City, State)</b>	<b>Activity Describe Activity Performed (see purpose codes)</b>
<b>TOTALS</b>				

**CLAIMANT'S CERTIFICATION** The Board/Council member named above, certifies, in accordance with § 16.53, Wis. Stats., that this account for per diem, is just and correct; and that this claim is for service necessarily incurred in the performance of duties required by the State, as authorized by law.

(Rev.04/24)

Board Member Approval & Date: \_\_\_\_\_

**TOTAL DAYS CLAIMED:** \_\_\_\_\_ @ \$25.00 = \_\_\_\_\_ Supervisor Approval & Date: \_\_\_\_\_

**OPTOMETRY EXAMINING BOARD**  
**2024 Elections and Liaisons**

**Election of Officers**

ELECTION RESULTS	
<b>Chairperson</b>	Lisa Slaby
<b>Vice Chairperson</b>	Emmylou Wilson
<b>Secretary</b>	Scott Kenitz

**Appointment of Liaisons and Alternates**

LIAISON APPOINTMENTS	
<b>Credentialing Liaison(s)</b>	Lisa Slaby, Ann Wonderling <i>Alternate: Vacant</i>
<b>Education and Exams Liaison(s)</b>	Lisa Slaby Emmylou Wilson <i>Alternate Ann Wonderling</i>
<b>Monitoring Liaison(s)</b>	Scott Kenitz <i>Alternate: Mark Jenkins</i>
<b>Professional Assistance Procedure (PAP) Liaison(s)</b>	Scott Kenitz <i>Alternate: Peter Sorce</i>
<b>Legislative Liaison(s)</b>	Peter Sorce <i>Alternate: Lisa Slaby</i>
<b>Travel Authorization Liaison(s)</b>	<i>Vacant</i> <i>Alternate: Emmylou Wilson</i>
<b>Prescription Drug Monitoring Program Liaison(s) (PDMP)</b>	<i>Vacant</i> <i>Alternate: Emmylou Wilson</i>
SCREENING PANEL APPOINTMENTS	
<b>January-December 2024</b>	Emmylou Wilson, Mark Jenkins, Scott Kenitz

	<i>Alternate: Ann Wonderling</i>
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**State of Wisconsin  
Department of Safety & Professional Services**

**AGENDA REQUEST FORM**

1) Name and title of person submitting the request: Paralegal Richanda Turner, on behalf of Attorney Jameson Whitney		2) Date when request submitted: 01/16/25 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: Optometry Examining Board			
4) Meeting Date: 02/06/25	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Reaffirming 2024 delegations and new 2025 delegations	
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: N/A	
10) Describe the issue and action that should be addressed: The Board members need to review and consider reaffirming 2024 delegations and new delegations for 2025.			
11) <span style="float: right;">Authorization</span>  <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"><i>Richanda Turner</i></div> <div style="width: 35%; text-align: right;"><i>01/16/25</i></div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">Signature of person making this request</div> <div style="width: 35%; text-align: right;">Date</div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">Supervisor (Only required for post agenda deadline items)</div> <div style="width: 35%; text-align: right;">Date</div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">Executive Director signature (Indicates approval for post agenda deadline items)</div> <div style="width: 35%; text-align: right;">Date</div> </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**  
**DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES**  
**CORRESPONDENCE / MEMORANDUM**

**DATE:** January 1, 2025

**TO:** Board, Council, and Committee Members

**FROM:** Legal Counsel

**SUBJECT:** Liaison Definitions and Delegations Explanations

### **Overall Purpose of Liaison Appointments**

Each Board/Section (Board) has inherent authority that is established in our Wisconsin Statutes. This authority may change from Board to Board. Further information on your Board's authority can be found in Wis. Stat. ch. 15. Generally, each Board has authority to grant credentials, discipline credential holders, and set standards for education and examinations. In order to efficiently accomplish these tasks, Boards may appoint Liaisons. Liaisons assist with the operations of the Boards' purpose by weighing in on legislative matters, traveling to national conferences, or communicating with stakeholders.

The Department asks that each year the Boards make Liaison appointments to assist the Board and Department to accomplish these tasks in an efficient manner. Your practical knowledge and experience, as an appointed member of a professional board, are essential in making determinations regularly. The Liaison positions listed below assist the Department to complete operations between Board meetings. In most cases, Liaisons can make decisions for the full Board in their designated area. However, these areas are determined through the delegation process. Please note, a Liaison may also decide to send the delegated matter to the full Board for consideration as appropriate. Delegations assist the Board in defining the roles and authorities of each Liaison and other Board functions.

### **Liaison Definitions**

**Credentialing Liaison:** The Credentialing Liaison is empowered by the Board to review and make determinations regarding certain credential applications. The Credentialing Liaison may be called on by Department staff to answer questions that pertain to qualifications for licensure, which may include whether a particular degree is suitable for the application requirements, whether an applicant's specific work experience satisfies the requirements in statute or rule for licensure, or

whether an applicant's criminal or disciplinary history is substantially related to the practice of the profession in such a way that granting the applicant a credential would create a risk of harm to the public. Questions will likely be sent by Department staff to the Credentialing Liaison via email and may include application materials. The Credentialing Liaison serves a very important role in the credentialing process.

**Monitoring Liaison:** The Monitoring Liaison is empowered by the Board to make decisions on any credential that is limited either through a disciplinary order or initial licensure. The Department Monitors will send requests from credential holders to the Monitoring Liaison. These requests vary wildly. A common request could be to remove a limitation that has been placed on a credential or to petition for full licensure. The Monitoring Liaison can review these requests and make decisions on behalf of the Board. The Board has the authority to grant decision making latitude to their liaison to any degree. If the Monitoring Liaison has a question on a request, it is advisable for the Liaison to consult further with Department staff or bring the matter to the full Board for consideration.

**Professional Assistance Procedure (PAP) Liaison:** PAP is a voluntary program open to credential holders with substance abuse issues who wish to seek help by being held accountable through treatment and monitoring by the Department and Board. As part of PAP, the credential holder enters into an agreement with the Department to undergo testing, counseling, or other rehabilitation. The PAP Liaison's role includes responding to credential holders' requests for modifications and terminations of provisions of the agreement. Similar to the Monitoring Liaison, the Department Monitors will send requests from credential holders to the PAP Liaison for further review.

**Education and Examination Liaison:** Some Boards are required by statute or rule to approve qualifying education and examinations. The Education and Examination Liaison provides guidance to Department staff to exercise authority of the Board to approve or decline examinations and educational programs. This determination requires a level of professional expertise and should be performed by a professional member of the Board. For some Boards, the Education and Examination Liaison will also be tasked with approving continuing education programs and courses.

**Legislative Liaison:** The Legislative Liaison is permitted to act and speak on the Board's behalf regarding pending and enacted legislation or actions being considered by the legislature outside of Board meetings. The Legislative Liaison is not the Board's designated lobbyist and should exercise their delegated authority carefully.

**Travel Authorization Liaison:** The Travel Authorization Liaison is authorized to approve a Board member to travel to events and speak or act on the Board's behalf between Board meetings. The Travel Authorization Liaison is called upon to make decisions when sufficient notice was not received, and the full Board could not determine a representative to travel. The Travel Authorization Liaison is tasked with making determinations if the Board appointed representative is not able to attend or if the Board becomes authorized to send additional members as scholarship and funding streams can be unpredictable.

**Communication Liaison:** The Communication Liaison responds to questions that arise on behalf of the Board. The Communication Liaison works with the Department to cultivate an appropriate response which will be sent by the Executive Director or Board Counsel. The Communication Liaison **can** be responsible for all types of communication on behalf of the Board. However, the Board can appoint a separate **Website Liaison** to work with DSPS staff to make changes and ensure the Board webpage contains updated and accurate information. Additionally, for the Boards that are required by statute to produce a newsletter or digest, the Board can appoint a separate **Newsletter/Digest Liaison** to assemble and approve content for those communications.

**Screening Panel Members:** Screening Panel Members review incoming complaints against credential holders and determine which complaints should be opened for investigation and which complaints should be closed without further action. The complexity and amount of work in this role depends substantially on your Board. As a member of the Screening Panel, you are asked to apply your professional expertise to determine if a complaint alleges unprofessional conduct.

## **Delegations Explanations**

### **CREDENTIALING DELEGATIONS**

*The overall purpose of credentialing delegations is to allow the credentialing process to proceed as efficiently and effectively as possible.*

#### **Delegation of Authority to Credentialing Liaison (Generic)**

MOTION EXAMPLE: 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.

PURPOSE: To allow a representative of the Board to assist Department staff with credentialing applications and eliminate the need for the entire Board to convene to consider credential application content or questions. Additionally, it is most efficient to have the designated liaison who has assisted with the credentialing process be able to effectuate decisions which require a signature.

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

MOTION EXAMPLE: 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.

PURPOSE: To permit Department staff to efficiently issue credentials and eliminate the need for Board/Section/Liaison review when all credentialing legal requirements are met in an application. This delegation greatly decreases workload on Board members and cuts down processing time on applications.

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

MOTION EXAMPLE: to delegate authority to the Department Attorneys to make decisions regarding predetermination applications pursuant to Wis. Stat. § 111.335(4)(f).

PURPOSE: In general, the Wisconsin Fair Employment Act (codified in Wis. Stat. Ch. 111) prohibits licensing agencies from discriminating against applicants because of their arrest and/or conviction record. However, there are exceptions which permit denial of a license in certain circumstances. Individuals who do not possess a license have a legal right to apply for a determination of whether they are disqualified from obtaining a license due to their conviction record. This process is called “Predetermination.” Predetermination reviews must be completed within 30 days. This delegation allows Department Attorneys to conduct predetermination reviews and efficiently make these legal determinations without need for Board/Section/Liaison review.

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

MOTION EXAMPLE: to delegate authority to the Department Attorneys to review and approve applications with convictions which are not substantially related to the relevant professional practice.

PURPOSE: As used here, “substantially related” is a legal standard that is used in the Wisconsin Fair Employment Act. The concept of what is “substantially related” is informed by case law. This delegation permits Department Attorneys to independently conduct conviction reviews and efficiently approve applications if convictions are not substantially related to the practice of the profession. Applications that contain conviction records that may be substantially related to the practice of a profession will still be submitted to the Credentialing Liaison for input.

### **Delegation to DSPS When Applicant’s Disciplinary History Has Been Previously Reviewed**

MOTION EXAMPLE: to delegate authority to Department staff to approve applications where Applicant’s prior discipline has been approved for a previous credential and there is no new discipline.

PURPOSE: Some Boards offer progressive levels of credentials. This delegation eliminates the need for a re-review of discipline that has already been considered and approved by the Board/Section/Liaison for a lower-level credential.

### **Delegation to DSPS When Applicant’s Conviction History Has Been Previously Reviewed**

MOTION EXAMPLE: to delegate authority to Department staff to approve applications where criminal background checks have been approved for a previous credential and there is no new conviction record.

PURPOSE: Some Boards offer progressive levels of credentials. This delegation eliminates the need for a re-review of conviction history that has already been reviewed and approved for a lower-level credential.

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

MOTION EXAMPLE: to delegate authority to the Department Attorneys to review and approve reciprocity applications in which the out of state license requirements meet Wisconsin license requirements. (specific legal standards are referenced in the motion depending on credential/profession type).

PURPOSE: Applications via reciprocity or endorsement require comparison of Wisconsin licensing requirements to the licensing requirements of another jurisdiction. These reviews consider the legal standard for reciprocity, which varies by profession, as well as the specified legal requirements to obtain licensure in the profession. This delegation permits Department Attorneys to independently conduct reciprocity reviews and efficiently approve applications if legal standards and requirements are met for licensure. Applications for which reciprocity may not be available will still be submitted to the Credentialing Liaison for input.

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

MOTION EXAMPLE: 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.

PURPOSE: The law permits service members, former service members, and their spouses to be licensed if they hold licensure in other jurisdictions that qualify them to perform acts authorized by the credential they are seeking in Wisconsin. This is a shortened path to licensure that does not require meeting the specific requirements/standards for licensure/reciprocity in a profession. By law, the Department/Board must expedite the issuance of a reciprocal license via military reciprocity. This delegation permits Department Attorneys to independently conduct military reciprocity reviews and efficiently approve applications if legal standards and requirements are met for licensure. Applications for which reciprocity may not be available will still be submitted to the Credentialing Liaison for input.

### **Delegation of Authority for Application Denial Reviews**

MOTION EXAMPLE: to delegate authority to the Department's Attorney Supervisors to serve as the Board designee for purposes of reviewing and acting on requests for hearing as a result of a denial of a credential.

PURPOSE: When an application is denied, the applicant has a legal right to appeal the denial determination. Applicants must meet a specified legal standard in order to have an appeal granted. Additionally, Wisconsin law sets specific time frames for appeal decisions. This delegation permits Department Attorney Supervisors to independently review and efficiently act on requests for hearing as a result of a denial of a credential.

### **Delegation to Department Attorneys to Approve Duplicate Legal Issue**

MOTION EXAMPLE: to delegate authority to Department Attorneys to approve a legal matter in connection with a renewal application when that same/similar matter was already addressed by the Board and there are no new legal issues for that credential holder.

PURPOSE: The intent of this delegation is to be able to approve prior discipline by the Board for the renewal applicant. This delegation eliminates the need for a re-review of discipline that has already been considered and approved by the Board/Section/Liaison.

### **Delegation to Department Attorneys to Approve Prior Discipline**

MOTION EXAMPLE: to delegate authority to Department Attorneys to approve an applicant's prior professional discipline which resulted in a forfeiture/fine/other monetary penalty, remedial education, and/or reprimand, that is 10 years old or older, and the previously disciplined credential is currently in good standing.

PURPOSE: In order to continue improving processing application legal reviews in a timely matter, this delegation gives Department Attorneys authority to approve prior professional discipline which meets all of the following criteria: (1) it is at least ten years old; (2) it resulted in a monetary penalty, remedial education, and/or reprimand; and (3) the previously disciplined credential is currently in good standing.

### **MONITORING DELEGATIONS**

*The overall purpose of monitoring delegations is to be able to enforce the Boards orders and limited licenses as efficiently and effectively as possible. Monitoring delegations have two categories: delegations to the Monitoring Liaison and delegations to the Department Monitor.*

### **Delegation of Authority to Department Monitor**

MOTION EXAMPLE: to delegate authority to the Department Monitor:

- a. to grant full reinstatement of licensure if education is the only limitation and credential holder has submitted the required proof of course completion.
- b. to suspend the credential if the credential holder has not completed Board ordered education, paid costs, paid forfeitures, within the time specified by the Board Order.
- c. to lift a suspension when compliance with education and costs provisions have been met.

PURPOSE: These delegations allow for the Department Monitor to automatically act on requests when certain criteria are met or not met without needing to burden the Monitoring Liaison. The Board can set their own criteria for what actions they would like to be handled by the Department, the Monitoring Liaison, and the full Board.

## **Delegation of Authority to Monitoring Liaison**

MOTION EXAMPLE: to delegate authority to the Monitoring Liaison to approve or deny all requests received by the credential holder.

PURPOSE: These delegations allow the Board to set criteria for what decisions can be made by the Board member(s) serving as the Monitoring Liaison and what matters should be decided by the full Board.

## **Education and Examination Delegations**

MOTION EXAMPLE: to delegate authority to the Education and Examination Liaison(s) to address all issues related to qualifying education, continuing education and examinations. Motion carried unanimously. (Differs by Board)

PURPOSE: Some Boards are responsible for approving qualifying educational programs or continuing education courses. A delegation is executed in order for an Education and Examination Liaison to make these determinations on behalf of the Board and with assistance of the Department. Additionally, some Boards review examinations and individual scores to qualify for a credential.

## **MISCELLANEOUS DELEGATIONS**

### **Document Signature**

MOTION EXAMPLE: 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 EXAMPLE: 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, Board Counsel, or DPD Division Administrator the authority to sign on behalf of a Board member as necessary. Motion carried unanimously.

PURPOSE: To take the action approved at Board meetings, the Department may need to draft correspondence and/or Orders after the meetings have adjourned. These actions then need to be signed by a Board Member. This interaction usually takes place over email and a Board member can authorize the use of his/her signature that is kept on file.

### **Urgent Matters**

MOTION EXAMPLE: 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.

PURPOSE: Allows for quick responses to urgent matters that may need Board approval or for which the Department requires guidance from the Board.

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

MOTION EXAMPLE: 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 after two consecutive meetings. Motion carried unanimously.

PURPOSE: Sometimes Boards can struggle to meet quorum necessary to conduct business. This happens for a multitude of reasons, but this delegation allows for the Boards to have disciplinary cases decided by Chief Legal Counsel if the Board fails to meet quorum for two consecutive meetings.

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

MOTION EXAMPLE: to delegate to the Department's Chief Legal Counsel (CLC) 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.

PURPOSE: For matters of public safety, it may be necessary to take immediate action on a stipulated agreement rather than allowing a credential holder to continue practicing unencumbered until the next scheduled meeting. This delegation allows CLC to act on behalf of the Board when there is a stipulated agreement. A stipulated agreement is an agreement to which all relevant parties have consented to the terms.

### **Voluntary Surrenders**

MOTION: 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: 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.

PURPOSE: Credential holders can ask the Boards to accept surrender of their credentials at any time. These delegations are in place for the different situations that arise from those requests. If a credential holder is seeking to surrender their credential because they wish to leave the profession, that can be processed with this delegation by the Department if they have no pending disciplinary complaints. If the credential holder wishes to surrender while they have a pending disciplinary complaint, that request is reviewed by the individual Board member assigned to the case.



### **DLSC Pre-screening**

MOTION EXAMPLE: to delegate pre-screening decision making authority to the DSPS screening attorney for opening cases where the credential holder has failed to respond to allegations contained in the complaint when requested by intake (case will be opened on failure to respond and the merits of the complaint).

PURPOSE: Pre-screening delegations exist so the Board can define specific parameters where the Department can review disciplinary complaints and open those cases if they meet certain criteria. Boards also have the authority to set certain criteria that would allow the Department to review and close a case if the criteria is met.

### **Delegation to Handle Administrative Rule Matters**

MOTION EXAMPLE: to delegate authority to the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving Board member in that succession), to act on behalf of the Board regarding administrative rule matters between meetings. Motion carried unanimously.

PURPOSE: In order to advance the administrative rules process, action may need to occur between meetings. This allows for quick responses to urgent matters that may need Board approval or for which the Department requires guidance from the Board.

**OPTOMETRY EXAMINING BOARD  
2024 DELEGATIONS  
JANUARY 25, 2024**

*All combined Delegations for 2024*

**Document Signature Delegations**

**MOTION:** Mark Jenkins 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:** Emmylou Wilson moved, seconded by Peter Sorce, 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, Board Counsel 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:** Emmylou Wilson moved, seconded by Scott Kenitz, to adopt the “Roles and Authorities Delegated for Monitoring” document as presented in the January 25, 2024, agenda materials on pages. 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 to Department Attorneys to Approve Duplicate Legal Issue**

**MOTION:** Lisa Slaby moved, seconded by Emmylou Wilson, to delegate authority to Department Attorneys to approve a legal matter in connection with a renewal application when that same/similar matter was already addressed by the Board and there are no new legal issues. Motion carried unanimously.

### **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.

### **Delegation to Approve Opioid Abuse Report**

**MOTION:** [Board member name] moved, seconded by [Board member name], to authorize the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving Board member in that succession) to review and approve the opioid abuse report required by Wis. Stat. § 440.035 (2m)(c)1., for filing with the Legislature.

### **Delegation to Department Attorneys to Approve Prior Discipline**

**MOTION:** [Board member name] moved, seconded by [Board member name], to delegate authority to Department Attorneys to approve an applicant's prior professional discipline which resulted in a forfeiture/fine/other monetary penalty, remedial education, and/or reprimand, that is 10 years old or older, and the previously disciplined credential is currently in good standing. Motion carried [ ].

### **Delegation to Handle Administrative Rule Matters**

**MOTION:** [Board member name] moved, seconded by [Board member name], to delegate authority to the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving Board member in that succession), to act on behalf of the Board regarding administrative rule matters between meetings. Motion carried [ ].

### **Delegation to Monitoring Liaison**

**MOTION:** [Board Member Name] moved, seconded by [Board Member Name], to delegate authority to the Monitoring Liaison(s) to make any determination on Orders under monitoring and to refer to the Full Board any matter the Monitoring Liaison deems appropriate. Motion carried [ ].

### **Delegation to Department Monitor**

**MOTION:** [Board Member Name] moved, seconded by [Board Member Name], to delegate authority to the Department Monitor as outlined below:

1. to grant reinstatement of licensure if education and/or costs are the sole condition of the order and the credential holder has submitted the required proof of completion for approved courses and paid the costs.
2. to suspend the license if the credential holder has not completed Board ordered education and/or paid costs and forfeitures within the time specified by the Board order. The Department Monitor may remove the suspension and issue an order when proof of completion and/or payment has been received.

3. to suspend the license (or remove stay of suspension) if a credential holder fails to enroll and participate in an Approved Program for drug and alcohol testing within 30 days of the order, or if credential holder ceases participation in the Approved Program without Board approval. This delegated authority only pertains to respondents who must comply with drug and/or alcohol testing requirements.
4. to grant or deny approval when a credential holder proposes treatment providers, mentors, and supervisors unless the Order specifically requires full-Board or Board designee approval.
5. to grant a maximum of one 90-day extension, if warranted and requested in writing by a credential holder, to complete Board ordered continuing, disciplinary, or remedial education.
6. to grant a maximum of one 90-day extension or payment plan for proceeding costs and/or forfeitures if warranted and requested in writing by a credential holder.
7. to grant a maximum of one 90-day extension, if warranted and requested in writing by a credential holder, to complete a Board ordered evaluation or exam.

Motion carried [REDACTED].

#### **Review and Approval of 2024 Delegations including new modifications**

**MOTION:** [Board member name] moved, seconded by [Board member name], to reaffirm all delegation motions made in 2024, as reflected in the February 6, 2025 agenda materials, which were not otherwise modified or amended during the February 6, 2025 meeting. Motion carried [REDACTED].

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

**AGENDA REQUEST FORM**

<b>1) Name and title of person submitting the request:</b> Jake Pelegrin Administrative Rules Coordinator		<b>2) Date when request submitted:</b> 1/24/25 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
<b>3) Name of Board, Committee, Council, Sections:</b> Optometry Examining Board			
<b>4) Meeting Date:</b> 2/6/25	<b>5) Attachments:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b> <b>Administrative Rule Matters – Discussion and Consideration</b> 1. Discussion of public hearing comments and Clearinghouse comments for final rule draft of Opt 8, relating to Continuing Education Course Formats 2. Discussion of preliminary rule draft of Opt 1 and 5, relating to Definitions 3. Pending or possible rulemaking projects.	
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	<b>8) Is an appearance before the Board being scheduled?</b> <i>(If yes, please complete <a href="#">Appearance Request</a> for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>9) Name of Case Advisor(s), if required:</b> N/A	
<b>10) Describe the issue and action that should be addressed:</b>  Attachments: -Clearinghouse Report and final rule draft for Opt 8 -Prelim rule draft for Opt 1 and 5 -Rules progress chart			
<b>11)</b> <i>Jake Pelegrin</i>		Authorization 1/24/25	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
<b>Directions for including supporting documents:</b> 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			





# Wisconsin Legislative Council

## RULES CLEARINGHOUSE

**Scott Grosz**  
Clearinghouse Director

**Anne Sappenfield**  
Legislative Council Director

**Margit Kelley**  
Clearinghouse Assistant Director

### CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

#### CLEARINGHOUSE RULE **24-080**

AN ORDER to amend Opt 8.02 (3e), (3m) (a), and (3s), and 8.03 (1) (a), (2) (h), and (4); and to create Opt 8.01 (1m) and (5), relating to continuing education.

Submitted by **OPTOMETRY EXAMINING BOARD**

10-21-2024 RECEIVED BY LEGISLATIVE COUNCIL.

11-15-2024 REPORT SENT TO AGENCY.

MSK:KAM

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES  NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES  NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES  NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached YES  NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES  NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES  NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES  NO



# Wisconsin Legislative Council

## RULES CLEARINGHOUSE

**Scott Grosz**  
Clearinghouse Director

**Anne Sappenfield**  
Legislative Council Director

**Margit Kelley**  
Clearinghouse Assistant Director

### CLEARINGHOUSE RULE 24-080

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]**

#### 2. Form, Style and Placement in Administrative Code

a. In the caption for the proposed rule, the enumeration of treated provisions should be revised to show the agency designation once at the beginning of each treatment list, and to group subunits that are within the same rule section. For example: “to amend Opt 8.02 (3e), (3m) (a), and (3s) and 8.03 (1) (a), (2) (h), and (4); and to create Opt 8.01 (1m) and (5)”.

b. The rule summary’s plain language analysis for the proposed rule should be revised to briefly describe the revised continuing education requirements. A plain language analysis should contain sufficient detail to enable a reader to understand the content of the proposed rule and how it differs from current law. [s. 1.01 (2) (b), Manual.]

c. In SECTION 1, the proposed rule defines “asynchronous course” and inserts the definition after the word “biennium” in the current list of definitions. Consider renumbering the items in s. Opt 8.01 to maintain alphabetical order. Renumbering is appropriate to insert an initial item into a series to maintain alphabetical order. [s. 1.10 (3) (d) 4., Manual.]

d. In SECTION 8 of the proposed rule, amending s. Opt 8.03 (4), the new cross-reference should be shown as “or s. Opt 8.02 (3e) or (3s)”.

#### 5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In SECTION 1 of the proposed rule, creating s. Opt 8.01 (1m), the slash between “webcast” and “podcast” should be removed. Consider rephrasing to also add a verb. For example: “viewing a webcast, or listening to an assigned podcast”. [s. 1.08 (1) (d), Manual.]

b. In SECTIONS 3 and 5 of the proposed rule, amending s. Opt 8.02 (3e) and (3s), consider **rearranging the amendments for clarity or further dividing the subsections. For example, consider placing the inserted sentences that address asynchronous courses together.**

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 24-080)  
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PROPOSED ORDER

An order of the Optometry Examining Board to ~~renumber~~ **renumber** Opt 8.01 (1); **amend** Opt 8.02 (3e), ~~Opt 8.02~~ (3m) (a), ~~Opt 8.02~~ (3s), Opt 8.03 (1) (a), ~~Opt 8.03~~ (2) (h), and ~~Opt 8.03~~ (4); and to **create** Opt 8.01 (1m) and ~~Opt 8.01~~ (5), relating to continuing education.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:** Section 449.06 (2m), Stats.

**Statutory authority:** Sections 15.08 (5) (b), 227.11 (2) (a), and 449.06 (2m), Stats.

**Explanation of agency authority:**

Section 15.08 (5) (b), Stats. provides that each examining board “[s]hall 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. provides that “Each 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 449.06 (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. 449.08 (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:**

The proposed rule clarifies the number of continuing education hours and instructional format required to renew an optometry license according to the updated standards adopted by the Association of Regulatory Boards of Optometry (ARBO) and the Council on Optometric Practitioner Education (COPE). The rule sets hour requirements for in person, synchronous virtual, and asynchronous continuing education hours required to renew an optometry license. COPE has updated definitions of synchronous and asynchronous course formats and hours to align with modern education terminology and provided new definitions to guide state regulatory boards. The rule requires at least 10 of the 30 hours of continuing education per biennium to be completed in person. It allows up to 10 of the hours to be completed in an asynchronous course format. The third option that licensees have for their course formats is synchronous virtual, and they will be able to do up to 20 of the 30 required hours in synchronous virtual format.

**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 education (CE) requirements for optometrists licensed in Illinois [68 Ill. Adm. Code 1320.80]. Illinois has recently updated their code to allow different course formats. Out of a total of 30 required CE hours per renewal cycle, at least 12 hours must be in person and up to 18 hours may be “completed online through live, real-time presentations or by pre-recorded video”. In other words, these are essentially the in person, synchronous virtual, and asynchronous course formats defined by COPE.

**Iowa:**

Rules of the Iowa Board of Optometry establish continuing education requirements for optometrists licensed in Iowa [645 IAC 181.1 – 181.3]. Iowa has not yet included the new COPE course format definitions within these rules. However, it only allows a maximum of 10 CE hours per renewal cycle to be virtual for both of their credential levels (30 hours total and 50 hours total required).

**Michigan:**

Rules of the Michigan Board of Optometry establish continuing education requirements for optometrists licensed in Michigan [Mich Admin Code, R 338.331 to R 338.333]. They require a total of 40 CE hours per renewal cycle. The only provision that covers the topic of in person versus virtual CE is the following: “A minimum of 20 of the required continuing education hours must be completed in a live, synchronous learning format. The remaining hours may be completed in any other format” [R 338.331 (4)]. Since it does not specify that courses must be in person, and since “live, synchronous” fits the COPE definition of a synchronous virtual course, it is presumed to mean that at least 20 hours must be either in person courses or synchronous virtual courses. In this case, all of a licensee’s CE hours may be virtual.

**Minnesota:**

Rules of the Minnesota Board of Optometry establish continuing education requirements for optometrists licensed in Minnesota [Minnesota Rules, Chapter 6500.3000]. They require a total of 40 CE hours per renewal cycle. At least 25 hours must be course formats of in person or virtual synchronous. A maximum of 15 hours may be asynchronous. In this case, all of a licensee’s CE hours may be virtual.

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

The proposed rules were developed by the Board reviewing the new course format definitions, by reviewing chapter Opt 8, and deciding what changes were needed.

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

The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

**Fiscal Estimate and Economic Impact Analysis:**

The Fiscal Estimate and Economic Impact Analysis is attached.

**Effect on small business:**

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted at [Jennifer.Garrett@wisconsin.gov](mailto:Jennifer.Garrett@wisconsin.gov) or (608) 266-2112.

**Agency contact person:**

Jake Pelegrin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; 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 Jake Pelegrin, 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 to be included in the record of rule-making proceedings.

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TEXT OF RULE

SECTION 1. Opt 8.01 (1) is renumbered to 8.01 (1e).

SECTION ~~24~~. Opt 8.01 (1m) is created to read:

**Opt 8.01 (1m)** “Asynchronous course” means an educational course in which content is created and made available for learners at a later date, and there is no real-time communication between the instructor and the learner. Examples include a recorded webinar without instructor interaction, reading an assigned journal article, ~~or viewing a~~ webcast, or listening to an assigned /podcast.

SECTION ~~32~~. Opt 8.01 (5) is created to read:

**Opt 8.01 (5)** “Synchronous virtual course” means an educational course with real time communication between the instructor and the learner, and learners can receive immediate feedback. Examples include interactive webinars in real time, videoconferences, or interactive posters with authors presenting in real time.

SECTION 43. Opt 8.02 (3e) is amended to read:

**Opt 8.02 (3e)** At least ~~20~~10 of the 30 hours of approved continuing education required under sub. (1) shall be completed by attending programs in person. Programs not completed in person may include synchronous virtual courses or asynchronous courses. Up to 10 of the 30 approved hours may be completed in an asynchronous course format. Any programs not completed in person shall be COPE or Joint Accreditation for Interprofessional Continuing Education ~~approved~~ accredited programs, in accordance with s. Opt 8.03 (1) (a), or programs approved under s. Opt 8.03 (2). Synchronous virtual courses shall include a type of attendance monitoring or post-course evaluation. Asynchronous courses shall include a post-course test requiring a minimum score of 70% to receive credit.

SECTION ~~54~~. Opt 8.02 (3m) (a) is amended to read:

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**Opt 8.02 (3m) (a)** Approval of less than the ~~20~~10 hours of in person continuing education required under sub. (3e), or less than the 5 hours of in person continuing education required under sub. (3s).

**SECTION 65.** Opt 8.02 (3s) is amended to read:

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**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 ~~4~~5 of the 15 approved hours shall be attended in person. Programs not completed in person may include synchronous virtual courses or asynchronous courses. Up to 5 of the 15 approved hours may be completed in an asynchronous course format. Any programs not completed in person shall be COPE or Joint Accreditation for Interprofessional Continuing Education accredited programs, in accordance with s. Opt 8.03 (1) (a), or programs approved under s. Opt 8.03 (2). Synchronous virtual courses shall include a type of attendance monitoring or post-course evaluation. Asynchronous courses shall include a post-course test requiring a minimum score of 70% to receive credit.

**SECTION 76.** Opt 8.03 (1) (a) is amended to read:

**Opt 8.03 (1) (a)** Any continuing education program ~~approved~~ accredited by COPE or Joint Accreditation for Interprofessional Continuing Education. This may include course formats of in person courses, synchronous virtual courses, or asynchronous courses. Synchronous virtual courses shall include a type of attendance monitoring or post-course evaluation. Asynchronous courses shall include a post-course test requiring a minimum score of 70% to receive credit.

**SECTION 87.** Opt 8.03 (2) (h) is amended to read:

**Opt 8.03 (2) (h)** Delivery method of the program, whether in person, synchronous virtual, or asynchronous.

**SECTION 98.** Opt 8.03 (4) is amended to read:

**Opt 8.03 (4)** In cases of hardship under s. Opt 8.02 (3m), the board may waive any requirement under this section, ~~or s. Opt 8.02 (3e), or s. Opt 8.02 (3s)~~ as deemed appropriate by the board.

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**SECTION 109.** 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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This Proposed Order of the Optometry Examining Board is approved for submission to the Governor and Legislature.

Dated \_\_\_\_\_

\_\_\_\_\_  
Chairperson  
Optometry Examining Board

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 )  
-----

PROPOSED ORDER

An order of the Optometry Examining Board to **repeal** Opt 1.02 (5) (i) and 5.02 (2); and to **create** Opt 1.02 (5) (h) 4. relating to Definitions.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

**Statutes interpreted:** Sections 449.01 (1) (a) 2. a. and 449.01 (2), Stats.

**Statutory authority:** Sections 15.08 (5) (b) and 227.11 (2) (a), Stats.

**Explanation of agency authority:**

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

**Related statute or rule:**

None.

**Plain language analysis:**

In chapter Opt 5, the quality standards for ophthalmic lenses in Opt 5.11 and the disclosure requirements on extended-wear contact lenses in Opt 5.14 were removed by a previous rule. However, the definition of extended-wear contact lenses was left in Opt 5. This rule removes this obsolete definition. In chapter Opt 1, the definition of a minimum eye examination for the fitting of contact lenses includes a requirement to inform the patient of the risks if contact lenses are prescribed for extended wear. This rule removes

that requirement, and creates a new requirement to counsel the patient on the risks of wearing contact lenses during sleep.

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

None.

**Comparison with rules in adjacent states:**

**Illinois:**

Rules of the Illinois Department of Financial and Professional Regulation regulate the practice of optometry [68 Ill. Adm. Code 1320.100]. This section regulates the prescribing and fitting of any ophthalmic lenses including contact lenses. However, no part of the Illinois optometry code specifically mentions extended-wear contact lenses.

**Iowa:**

Rules of the Iowa Board of Optometry regulate the furnishing of prescriptions to patients [645 IAC 181.3 (154)]. This section provides requirements for the eye examination, for the lenses, and for the prescription. However, no part of the Iowa optometry code specifically mentions extended-wear contact lenses.

**Michigan:**

Michigan laws regulate the prescribing of contact lenses [MCL 333.5553 to 333.5559]. They provide the regulations optometrists need to follow for prescribing and eye examination. However, they don't specifically mention extended-wear contact lenses.

**Minnesota:**

Minnesota statutes regulate ophthalmic services and ophthalmic goods provided by optometrists [Minnesota Statutes, 145.711 to 145.714]. They regulate eye examinations, fittings, and products provided. However, they don't specifically mention extended-wear contact lenses.

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

The proposed rules were developed by the Board reviewing the current definitions in chapters Opt 1 and 5 and deciding what changes were necessary.

**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 at [Jennifer.Garrett@wisconsin.gov](mailto:Jennifer.Garrett@wisconsin.gov) or (608) 266-2112.

**Agency contact person:**

Jake Pelegrin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; 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 Jake Pelegrin, 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 1.02 (5) (h) 4. is created to read:

**Opt 1.02 (5) (h) 4.** Informing the patient of the potential risks or complications of wearing contact lenses during sleep.

*Dr. Kenitz suggested repealing the Opt 1.02 (5) (i), which we can easily do. He also suggested creating the new 1.02 (5) (h) 4. I think his suggestion makes sense and would be adequate. The subd. 2. already requires counseling on the lens wearing schedule.*

SECTION 2. Opt 1.02 (5) (i) is repealed.

SECTION 3. Opt 5.02 (2) is repealed.

SECTION 4. 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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This Proposed Order of the Optometry Examining Board is approved for submission to the Governor and Legislature.

Dated \_\_\_\_\_

\_\_\_\_\_  
Chairperson  
Optometry Examining Board

## Optometry Examining Board Rule Projects

Clearinghouse Rule Number	Scope #	Scope Expiration	Code Chapter Affected	Relating clause	Current Stage	Next Step
CR 23-040	080-21	03/20/2024	OPT 8	Continuing Education	Rule published and effective 9/1/2024.	Rule effective.
CR 24-028	018-23	08/20/2025	OPT 1, 5 and 6	Telehealth	The final rule draft is currently with the Legislature for review.	Approval by the Legislature, then rule adoption.
CR 24-080	057-23	2/26/2026	OPT 8	Continuing Education-ARBO COPE	Board discussion of Clearinghouse comments, public hearing comments, and Final Rule Draft.	Board approval of Final Rule Draft and Report to the Legislature.
	057-24	11/28/2026	OPT 1 and 5	Definitions	Board discussion of preliminary rule draft.	Board approval of preliminary rule draft.

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

**AGENDA REQUEST FORM**

<b>1) Name and title of person submitting the request:</b> Dr. Lisa Slaby, Board Chair		<b>2) Date when request submitted:</b> 11/5/2024 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
<b>3) Name of Board, Committee, Council, Sections:</b> Optometry Examining Board			
<b>4) Meeting Date:</b> 2/6/2025	<b>5) Attachments:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b> Correspondence from Wisconsin Academy of Ophthalmology to the Wisconsin Medical Examining Board – Informational Item	
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	<b>8) Is an appearance before the Board being scheduled?</b> <i>(If yes, please complete <a href="#">Appearance Request</a> for Non-DS/PS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>9) Name of Case Advisor(s), if applicable:</b> N/A	
<b>10) Describe the issue and action that should be addressed:</b> Board discussion.			
<b>11) 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.			

# MEMORANDUM

TO: WAO

FROM: Guy DuBeau

DATE: October 8, 2024

RE: Our File: 29457.100543

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You have requested my opinion on the issue of optometrists performing various laser surgical procedures. We have become aware of private companies hosting continuing education seminars for optometrists on these procedures. We are also aware of some optometrists performing these procedures with some concerning results.

The answer is a reasonably straightforward “no.” Optometrists cannot perform the procedures identified without practicing outside their statutorily authorized scope of practice. Wisconsin State Statute, Ch. 449, prohibits optometrists from performing surgery. We are aware there is language in the relevant provisions of Ch. 449 that have purportedly given rise to a “gray area” argument by some optometrists; we feel that is a dangerous misreading of the statute. To authorize a type of professional to perform surgery who is not otherwise trained to perform such surgery and without any requirements on the training needed to practice such surgery is a dangerous reach at best that is not supported by state law or administrative code.

*Purported Reasoning behind Optometrist claims and actions.*

I looked at the purported justification for this which I believe begins with some background on the courses directed at optometrists. The advertisements describe the course content as including “surgical procedures for the optometric physician” and “laser procedures for the optometric physician.” Setting aside the questionable use of the title “physician,” I also find it interesting that the program is referred to as the “ophthalmic procedure course,” which at least in my mind evinces an understanding that this is something beyond standard optometric practice. The speaker also appears careful not to say the training will authorize the practice but that it will leave the attendees trained to the same level as optometrists in states that have surgical and laser privileges for optometrists; he is not making a representation that completing the course will confer the privileges in Wisconsin but what is unclear is why anyone would sign up to take the course if they did not think they could put the training to use. With this I turn to specific issues.



*What is the statutory scope of practice for optometrists and why are these courses relevant?*

By statute, the practice of optometry “does not include surgery or medical treatment.” Wis. Stat. sec. 449.01(1)(b). It does, however, include “applying principles or techniques of optometric sciences in the diagnosis, prevention or treatment of a condition or cause of ocular health.” Wis. Stat. sec. 449.01(1)(a)4. While this first provision seems quite clear, my concern is that the optometrist may try to use the second provision to argue that the techniques being taught are “techniques of optometric science.” The argument would go something like this: They could note that the course appears to be being taught by optometrists and that optometrists are specifically licensed in some jurisdictions to perform these procedures. They point out in the video that the course is COPE approved, which our Optometry Board will accept for continuing education of optometrists. Wis. Admin. Code Opt. sec. 8.03. The board is silent as to scope of practice but why would it authorize the training in an area without also expecting its licensees to practice the training they receive. I suspect this is the key argument optometrists would use to justify their practice.

That said, the better and more appropriate analysis is that the statute would be read to prohibit surgeries. It is hornbook basic statutory construction that more specific mandates in statutes (i.e., “does not include surgery”) take precedent over the more general “techniques of optometric science”. It is difficult to envision a cogent argument that would justify optometrists performing these procedures in the face of a clear statutory prohibition when the only justification rests on an implied, but not specified, authorization in the rules.

*Are laser procedures surgery?*

There is no specific statutory definition of “surgery.” Most accepted dictionary definitions have provisions along the line of “treating conditions by the physical removal, repair or readjustment of organs or tissues.” This physical changing of tissue structure is the key to the procedures being described in the video, which the speaker freely refers to as surgical in nature. In short, irrespective of whatever particular definition of “surgery” might apply, I think it clear that what is being discussed in the video is surgery.

*Has the Optometry Board authorized these procedures?*

No, though there is a history on this. In 2000, the OEB issued a statement suggesting that laser procedures would be within the scope of optometric practice and began rulemaking procedures to codify what would be required of optometrists wishing to do so. This was challenged in court on the same statutory argument set forth above. The Board ultimately

withdrew its policy statement and ceased its rulemaking efforts. It has not in the past two decades done any formal action on this issue. At this point, I do not think any optometrist in Wisconsin would be explicitly authorized to perform the procedures at issue. The OEB recognized in 2000 as a bare minimum that the practice needed to be specifically authorized, and rules needed to be established for their licensees to practice in an area reserved for physicians. (See for example, the rules of the Dentistry Examining Board regarding conscious sedation.) This does not, however, address much less overcome the clear statutory prohibition on optometrists performing surgery. One can speculate that the OEB abandoned the rulemaking process because it recognized it could not create such rules within the context of its statutory mandate.

GJD:sal