

**STATE OF WISCONSIN  
OPTOMETRY EXAMINING BOARD**

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**IN THE MATTER OF RULEMAKING : REPORT TO THE LEGISLATURE  
PROCEEDINGS BEFORE THE : CR 24-080  
OPTOMETRY EXAMINING BOARD :**

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**I. THE PROPOSED RULE:**

The proposed rule, including the analysis and text, is attached.

**II. REFERENCE TO APPLICABLE FORMS:**

N/A

**III. FISCAL ESTIMATE AND EIA:**

The Fiscal Estimate and EIA are attached.

**IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:**

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.

**V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:**

The Optometry Examining Board held a public hearing on February 6, 2025. The Board received the following comment:

From Peter Theo, Executive Vice President, Wisconsin Optometric Association:

In the proposed Opt 8 rule changes the current COPE terminology for course format has been incorporated for non in person education (synchronous virtual and asynchronous), but not for in person education. We would like to suggest adding the COPE terminology

for course format for in person as well, (Synchronous In-Person) for uniformity purposes. It would likely also be necessary to add the COPE definition of synchronous live with the other two definitions. In a quick review this suggested change would apply to Opt 8.02 (3e), Opt 8.02 (3m) (a), Opt 8.02 (3s), Opt 8.03 (1) (a), Opt 8.03 (2) (h) plus the addition of the definition.

Thank you for your consideration.

**Response:** The board appreciates the collaboration and feedback, but the board does not believe it is necessary to create a definition for in person courses, since this is a commonly understood term. It is not the board's desire to require in person courses to be accredited by COPE or Joint Accreditation for Interprofessional Continuing Education. During the discussions on rule drafting, the discussions highlighted that with so many courses going virtual these days, it may be harder for licensees to find in person opportunities. If in person courses were also limited to only those accredited by COPE or Joint Accreditation for Interprofessional Continuing Education, it would narrow the options even further. Currently, in person courses are allowed from any of the organizations under Opt 8.03 (1) (b). The board may also approve a course not accepted by the current regulations, in Opt 8.03 (2).

#### **VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:**

All Legislative Council comments except comment 5b. have been accepted and incorporated into the proposed rules.

**Comment: 5b.** 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.

**Response:** The board rejects this comment because the board believes the current language provides the most clarity. The board believes it provides the most clarity to list the various hour requirements first, then the accreditation requirements, then the requirements for attendance monitoring and post-course evaluation.

#### **VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:**

N/A

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** Opt 8.01 (1); to **amend** Opt 8.02 (3e), (3m) (a), (3s), Opt 8.03 (1) (a), (2) (h), and (4); and to **create** Opt 8.01 (1m) and (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. 440.08 (2) (a), not less than 30 hours of continuing education. The rules shall include requirements that apply only to optometrists who are allowed to use topical ocular diagnostic pharmaceutical agents under s. 449.17 or who are allowed to use therapeutic pharmaceutical agents or remove foreign bodies from an eye or from an appendage to the eye under s. 449.18.”

**Related statute or rule:**

None.

**Plain language analysis:**

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 are 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).

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TEXT OF RULE

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

SECTION 2. 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, viewing a webcast, or listening to an assigned podcast.

SECTION 3. 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 4. 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 5. Opt 8.02 (3m) (a) is amended to read:

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

**Opt 8.02 (3s)** An optometrist who by the renewal date has been licensed for one year or less from the date issued shall not be required to report continuing education for the first

renewal of the license. An optometrist who by the renewal date holds a license for more than one year and less than 2 years shall be required to report 15 hours of approved continuing education for the first renewal of the license. A minimum of ~~10~~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 7. 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 8. 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 9. 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 (3s) as deemed appropriate by the board.

SECTION 10. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

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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 \_\_\_\_\_

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Chairperson  
Optometry Examining Board

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date September 20, 2024
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Opt 8- Continuing Education	
4. Subject Continuing Education Course Format Definitions and Requirements	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected 20.165(1)(g)
7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses <b>(if checked, complete Attachment A)</b>	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule 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.	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The rule will be posted to the public for Economic Impact Analysis comments as required, and will be subject to an official public hearing, along with other steps of the rule process.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. None.	
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) DSPS estimates a total of 5,355.00 in one-time costs for implementing this rule. The rule time staff costs support 0.1 limited term employee to undertake such tasks as rulemaking, legal review, assisting with renewal of application forms, updating requirements in LicenseE and training.	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit of this rule is that regulations on continuing education for optometrists in Wisconsin will be modernized and will align more closely with those recommended by ARBO and COPE. More specifically, the approved course formats will have clear definitions and clear hour requirements. It will create clarity for stakeholders as to what the requirements are. The rule also decreases the required number of in person continuing education hours from 20 to 10. If the rule does not go forward, requirements around continuing education for optometrists will remain unclear and out of date.	



## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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16. Long Range Implications of Implementing the Rule

The long range implication of implementing the rule is that regulations on continuing education for optometrists in Wisconsin will be modernized and will align more closely with those recommended by national optometry associations.

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17. Compare With Approaches Being Used by Federal Government

None.

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18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

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.

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19. Contact Name

Jake Pelegrin, Administrative Rules Coordinator

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20. Contact Phone Number

(608) 267-0989

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This document can be made available in alternate formats to individuals with disabilities upon request.

**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

**ATTACHMENT A**

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

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5. Describe the Rule's Enforcement Provisions

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes    No
-