



**HYBRID (IN-PERSON/VIRTUAL)
OPTOMETRY EXAMINING BOARD**
Room N208, 4822 Madison Yards Way, 2nd Floor North, Madison
Contact: Tom Ryan (608) 266-2112
July 7, 2022

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the actions of the Board. Be advised that board members may attend meetings designated as “Hybrid” in-person or virtually.

AGENDA

9:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Adoption of Agenda (1-3)**
- B. Approval of Minutes of April 7, 2022 (4-5)**
- C. Introductions, Announcements and Recognition
- D. Reminders: Conflicts of Interest, Scheduling Concerns
- E. Administrative Matters – Discussion and Consideration**
 - 1) Department, Staff and Board Updates
 - 2) Board Members – Term Expiration Dates
 - a. Clark, Jeffrey J. – 7/1/2023
 - b. Jinkins, Mark A. – 7/1/2016
 - c. Schulz, Robert C. – 7/1/2020
 - d. Slaby, Lisa L. – 7/1/2023
 - e. Sorce, Peter I. – 7/1/2023
 - f. Sterling, John L. – 7/1/2025
 - g. Wilson, Emmylou – 7/1/2023
- F. Quarterly Board Chair Connection Meeting Report and Department Resources– Discussion and Consideration**
- G. Legislative and Policy Matters – Discussion and Consideration
- H. Administrative Rule Matters – Discussion and Consideration (6)**
 - 1) Preliminary Rule Draft: OPT 8, Relating to Continuing Education **(7-8)**
 - 2) Rule Projects Chart **(9)**
 - 3) Pending and Possible Rulemaking Projects
 - a. Virtual Delivery Systems for Optometric Care **(10)**

b. Social Media and Confidentiality in the Practice of Optometry

I. Legal Counsel Follow-up on Open Records Question Regarding Retaining Emails with DSPS – Discussion and Consideration

J. Speaking Engagements, Travel, Public Relation Requests, and Reports – Discussion and Consideration

- 1) Travel Report: Association of Regulatory Boards of Optometry (ARBO) 2022 Annual Meeting, June 12-14, 2022 – Chicago, Illinois – Mark Jenkins **(11)**

K. COVID-19 – Discussion and Consideration

L. Discussion and Consideration of Items Added After Preparation of Agenda

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

M. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85(1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.).

N. Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters

- 2) Credentialing Matters
- 3) DLSC Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petitions for Summary Suspensions
- 7) Petitions for Designation of Hearing Examiner
- 8) Proposed Stipulations, Final Decisions and Orders
- 9) Proposed Interim Orders
- 10) Administrative Warnings
- 11) Review of Administrative Warnings
- 12) Proposed Final Decisions and Orders
- 13) Matters Relating to Costs/Orders Fixing Costs
- 14) Case Closings
- 15) Board Liaison Training
- 16) Petitions for Assessments and Evaluations
- 17) Petitions to Vacate Orders
- 18) Remedial Education Cases
- 19) Motions
- 20) Petitions for Re-Hearing
- 21) Appearances from Requests Received or Renewed

O. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

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

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

ADJOURNMENT

NEXT MEETING: SEPTEMBER 22, 2022

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

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held virtually unless otherwise indicated. In-person meetings are typically conducted at 4822 Madison Yards Way, Madison, Wisconsin, unless an alternative location is listed on the meeting notice. In order to confirm a meeting or to request a complete copy of the board's agenda, please visit the Department website at <https://dps.wi.gov>. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Requests for interpreters for the hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer at 608-266-2112, or the Meeting Staff at 608-266-5439.

**VIRTUAL/TELECONFERENCE
OPTOMETRY EXAMINING BOARD
MEETING MINUTES
APRIL 7, 2022**

PRESENT: Jeffrey Clark, Mark Jinkins, Robert Schulz, John Sterling, Emmylou Wilson

EXCUSED: Lisa Slaby, Peter Sorce

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

CALL TO ORDER

Robert Schulz, Chairperson, called the meeting to order at 9:01 a.m. A quorum was confirmed with five (5) members present.

ADOPTION OF AGENDA

Amendments to the Agenda

- OPEN SESSION Under item “H. Administrative Rule Matters” **REMOVE:** “1) a. Adoption Order for OPT 3 – Relating to Reciprocal Credentials”

MOTION: John Sterling moved, seconded by Emmylou Wilson, to adopt the Agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF JANUARY 20, 2022

MOTION: Jeffrey Clark moved, seconded by John Sterling, to adopt the Minutes of January 20, 2022 as published. Motion carried. Mark Jinkins abstained

**BOARD CHAIR MEETING AND OPTIONS TO
ADDRESS DEPARTMENT RESOURCES**

MOTION: Mark Jinkins moved, seconded by John Sterling, to note for the record that the Optometry Examining Board opposes the state legislature’s continued spending authority limitations that remove license fee revenue from DSPS and the Optometry Examining Board that is raised to protect the public and regulate the optometry profession. The Board notes further that the removal of fee revenue intended for licensing and regulation prevents DSPS from hiring additional staff, thereby preventing DSPS from ensuring that licenses are issued in a timely manner. These limitations and fee lapses have created backlogs in licensing and delays in licenses being issued that are avoidable. Delays in licensing have a negative impact on the optometry workforce and the public in Wisconsin and have resulted in an increasing number of complaints to DSPS and others about the slow pace of application processing. The Board requests that the legislature

increase the staffing and spending authority of DSPS and discontinue its practice of lapsing license fee program revenue away from DSPS and the Optometry Examining Board. Motion carried unanimously.

MOTION: Mark Jinkins moved, seconded by Robert Schulz, to authorize the Chairperson to appoint a board member to discuss with the Wisconsin Optometric Association initiatives directed to the state legislature and its Joint Committee on Finance to increase the number of DSPS staff positions and the Department's spending authority. Motion carried unanimously.

ADMINISTRATIVE RULE MATTERS

Adoption Orders

OPT 5 – Relating to Professional Conduct

MOTION: Jeffrey Clark moved, seconded by Robert Schulz, to approve the Adoption Order for Clearinghouse Rule 21-005 (Opt 5), relating to unprofessional conduct. Motion carried unanimously.

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

Consideration of Attendance: Association of Regulatory Boards of Optometry (ARBO) 2022 Annual Meeting, June 12-14, 2022 – Chicago, Illinois

MOTION: Mark Jinkins moved, seconded by Robert Schulz, to designate Mark Jinkins, as the Board's delegate, and to delegate authority to the Chairperson to designate the Board's alternate delegate, to attend the Association of Regulatory Boards of Optometry (ARBO) 2022 Annual Meeting on June 12-14, 2022 in Chicago, Illinois. Motion carried unanimously.

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

MOTION: Mark Jinkins moved, seconded by John Sterling, 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: Jeffrey Clark moved, seconded by John Sterling, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:35 a.m.

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Dana Denny		2) Date when request submitted: 06/24/2022 <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: 07/07/2022	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Rule Matters – Discussion and Consideration 1. Preliminary Rule Draft: OPT 8, relating to Continuing Education 2. Rule Projects Chart 3. Pending or Possible Rulemaking Projects																					
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A																					
10) Describe the issue and action that should be addressed: Attachments: • State of Oregon Cultural Competency Language reference: State of Oregon: Continuing Education - Education • OPT 8, Continuing Education • Optometry Rule Projects Chart Copies of current Board Rule Projects Can be Viewed Here: https://dsps.wi.gov/Pages/RulesStatutes/PendingRules.aspx																							
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">11)</td> <td style="text-align: center;">Authorization</td> <td></td> <td></td> </tr> <tr> <td></td> <td><i>Dana Denny</i></td> <td style="text-align: right;">06/22/22</td> <td></td> </tr> <tr> <td colspan="2" style="border-top: 1px solid black;">Signature of person making this request</td> <td colspan="2" style="border-top: 1px solid black; text-align: right;">Date</td> </tr> <tr> <td colspan="2" style="border-top: 1px solid black;">Supervisor (if required)</td> <td colspan="2" style="border-top: 1px solid black; text-align: right;">Date</td> </tr> <tr> <td colspan="4" style="border-top: 1px solid black;">Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date</td> </tr> </table>				11)	Authorization				<i>Dana Denny</i>	06/22/22		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			
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Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.																							

Chapter Opt 8

CONTINUING EDUCATION

Opt 8.01 Definitions.
Opt 8.02 Continuing education requirements.

Opt 8.03 Continuing education approval.

Note: Chapter Opt 8 was created as an emergency rule effective November 8, 2006.

Opt 8.01 Definitions. As used in this chapter:

(1) “Biennium” means a 2-year period beginning December 16 of odd-numbered years.

(2) “COPE” means the council on optometric practitioner education.

(3) “Hardship” means serious illness, as determined by a licensed health care provider, or some other personal adversity, as determined by the board.

(4) “Hour” means a minimum of 50 minutes of lecture.

History: CR 06-116: cr. Register May 2007 No. 617, eff. 6-1-07; CR 18-021: cr. (4) Register August 2019 No. 764, eff. 12-15-19.

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

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

(2) A minimum of 20 of the 30 hours of approved continuing education hours, as specified in sub. (1), required for optometrists who are allowed to use diagnostic and therapeutic pharmaceutical agents shall relate to ocular health, conditions, or disease management, or the removal of superficial foreign bodies from an eye or from an appendage to the eye.

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

(3e) At least 20 of the 30 hours of approved continuing education required under sub. (1) shall be completed by attending programs in person. Any programs not completed in person shall be COPE or Joint Accreditation for Interprofessional Continuing Education approved programs, in accordance with s. Opt 8.03 (1) (a), or programs approved under s. Opt 8.03 (2).

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

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

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

(3s) An optometrist who by the renewal date has been licensed for one year or less from the date issued shall not be required to report continuing education for the first renewal of the license. An optometrist who by the renewal date holds a license for more than one year and less than 2 years shall be required to report 15 hours of approved continuing education for the first renewal of the license.

(5) Except for purposes of obtaining continuing education in order to satisfy the requirements for late renewal under s. Opt 7.05, continuing education hours may be applied only to the biennial registration period in which the continuing education hours are acquired.

Registration period in which the continuing education hours are acquired.

(6) To obtain credit for completion of continuing education hours, an optometrist shall, at the time of each renewal of registration, sign a statement certifying that the course work has been completed. If audited, an optometrist shall submit certificates of attendance issued by each course provider or other evidence of attendance satisfactory to the board.

(7) An optometrist who fails to meet the continuing education requirements by the renewal date may not engage in the practice of optometry until his or her registration is renewed under s. Opt 7.05.

History: CR 06-116: cr. Register May 2007 No. 617, eff. 6-1-07; correction in (9) made under s. 13.93 (2m) (b) 7., Stats., Register December 2007 No. 624; CR 18-021: am. (title), (1), cr. (1m), am. (2), (3), cr. (3e), (3m), (3s), r. (4), (8) to (10) Register August 2019 No. 764, eff. 12-15-19.

Opt 8.03 Continuing education approval. (1) The board shall accept the following in satisfaction of continuing education for each biennium:

(a) Any continuing education program approved by COPE or Joint Accreditation for Interprofessional Continuing Education.

(b) Any in-person continuing education program relevant to the practice of optometry provided by one of the following organizations:

1. Wisconsin Optometric Association.
2. American Optometric Association.
3. American Academy of Optometry.
4. Optometric Extension Program Foundation.
5. Neuro-Optometric Rehabilitation Association.
6. College of Optometrists in Vision Development.
7. A school or college of optometry accredited by the Accreditation Council on Optometric Education.

(2) The board may approve a continuing education program not accepted under sub. (1). To apply for approval of a continuing education program, a provider shall submit to the board an application on forms provided by the department at least 30 days prior to the program. An application filed under this subsection or s. Opt 8.02 (3e) or (3m) (b) shall include all of the following:

- (a) Title of the program.
- (b) Date of the program.
- (c) General description and timed outline of the program.
- (d) Name and qualifications of the instructor.
- (e) Sponsoring organization of the program.
- (f) Category of the program relevant to the practice of optometry.
- (g) Approved number of continuing education program hours requested.
- (h) Delivery method of the program.

(3) The provider of the continuing education program under sub. (1) (b) or (2) agrees to monitor the attendance and furnish a certificate of attendance to each participant. The certificate of attendance shall certify successful completion of the program.

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

Note: Application forms for continuing education program approval are available on the department's website at dps.wi.gov, or by request from the Department of Safety and Professional Services, P.O. Box 8366, Madison, Wisconsin 53708, or call (608) 266-2112.

History: CR 06-116: cr. Register May 2007 No. 617, eff. 6-1-07; CR 18-021: r. and recr. Register August 2019 No. 764, eff. 12-15-19; correction in (1) (b) (intro.) made under s. 35.17, Stats., Register August 2019 No. 764.

Optometry Examining Board
Rule Projects (updated 6/22/22)

Clearinghouse Rule Number	Scope #	Scope Expiration	Code Chapter Affected	Relating clause	Current Stage	Next Step
21-004	086-20	12/29/2022	OPT 3	Reciprocal Credentials for Service Members, Former Service Members, and Their Spouses		Rule effective 7/1/22
21-005	079-19	02/19/2022	OPT 5	Unprofessional Conduct		Rule effective 7/1/22
Not Yet Assigned	080-21	07/10/2024	OPT 8	Continuing Education	Scope Published on 09/20/21	Currently drafting rule.

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

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Jeffrey Clark		2) Date when request submitted: 6/1//2022 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Optometry Examining Board			
4) Meeting Date: 5/4/2022	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Virtual Delivery Systems for Optometric Care	
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 Appearance Request 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 topic concerns the delivery of optometric services via on-line platforms/virtual delivery systems. Dr. Clark asks that the Board consider this topic and review the experience of the Wisconsin Medical Examining Board. Resources: Wis. Admin. Code Chapter MED 24, Telemedicine: https://docs.legis.wisconsin.gov/code/admin_code/med/24.pdf 2021 Wisconsin Act 121: https://docs.legis.wisconsin.gov/2021/related/acts/121#:~:text=An%20Act%20to%20renumber%20and,charitable%20clinics%20and%20defining%20telehealth.			
11) Authorization			
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
Directions for including supporting documents: 1. This form should be saved with any other documents submitted to the Agenda Items 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 & Professional Services**

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Mark Jenkins		2) Date when request submitted: 6/12/2022 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Optometry Examining Board			
4) Meeting Date: 7/7/2022	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? I. Speaking Engagements, Travel, Public Relation Requests, and Reports – Discussion and Consideration 1) Travel Report: Association of Regulatory Boards of Optometry (ARBO) 2022 Annual Meeting, June 12-14, 2022 – Chicago, Illinois – Mark Jenkins	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <input 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 Member Mark Jenkins will report on the ARBO 2022 Annual Meeting from June 12-14 in Chicago.			
11) Authorization			
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
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