



OPTOMETRY EXAMINING BOARD
Room 121B, 1400 East Washington Avenue, Madison
Contact: Brittany Lewin (608) 266-2112
February 12, 2015

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 (1-2)

B. Approval of Minutes – October 30, 2014 (3-4)

C. Administrative Matters – Discussion and Consideration

- 1) Staff Updates
- 2) Election of Officers (5)
- 3) Appointment of Liaisons and Delegated Authorities (5)
 - a. Delegation to Monitoring Liaison and Department Monitor (6-7)

D. Legislative and Administrative Rule Matters – Discussion and Consideration (8-14)

- 1) Proposals to Amend Opt 3 and 5 Relating to Licensure and Conduct (9-13)
- 2) Proposals to Amend Opt 8 Relating to Continuing Education (14)
- 3) Update on Pending and Possible Rulemaking Projects

E. Education and Examination Matters

- 1) **APPEARANCE:** Sierra Rice, Association of Regulatory Boards of Optometry (ARBO) (
- 2) OE Tracker

F. Speaking Engagement(s), Travel, or Public Relation Request(s)

G. Items Added After Preparation of Agenda:

- 1) Introductions, Announcements and Recognition
- 2) Administrative Updates
- 3) Education and Examination Matters
- 4) Credentialing Matters
- 5) Practice Matters
- 6) Legislation/Administrative Rule Matters
- 7) Liaison Reports
- 8) Informational Items
- 9) Disciplinary Matters
- 10) Presentations of Petitions for Summary Suspension

- 11) Presentation of Proposed Stipulations, Final Decisions and Orders
- 12) Presentation of Proposed Decisions
- 13) Presentation of Interim Orders
- 14) Petitions for Re-Hearing
- 15) Petitions for Assessments
- 16) Petitions to Vacate Orders
- 17) Petitions for Designation of Hearing Examiner
- 18) Requests for Disciplinary Proceeding Presentations
- 19) Motions
- 20) Petitions
- 21) Appearances from Requests Received or Renewed
- 22) Speaking Engagement(s), Travel, or Public Relation Request(s)

H. 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.).

I. Case Status Report (15)

J. Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) Disciplinary Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petitions for Summary Suspensions
- 7) Proposed Stipulations, Final Decisions and Order
- 8) Administrative Warnings
- 9) Proposed Decisions
- 10) Matters Relating to Costs
- 11) Case Closings
- 12) Case Status Report
- 13) Proposed Interim Orders
- 14) Petitions for Assessments and Evaluations
- 15) Petitions to Vacate Orders
- 16) Remedial Education Cases
- 17) Motions
- 18) Petitions for Re-Hearing
- 19) Appearances from Requests Received or Renewed

K. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

M. Open Session Items Noticed Above not Completed in the Initial Open Session

ADJOURNMENT

**OPTOMETRY EXAMINING BOARD
MEETING MINUTES
October 30, 2014**

PRESENT: Ann Meier Carli, Victor Connors (*arrived at 10:02 AM*), Richard Foss (*via teleconference*), Mark Jinkins, Robert Schultz

EXCUSED: Brian Hammes

STAFF: Brittany Lewin, Executive Director; Taylor Thompson, Bureau Assistant; Sharon Henes, Rules Coordinator; and other Department staff

CALL TO ORDER

Ann Meier Carli, Chair, called the meeting to order at 9:18 A.M. A quorum of four (4) members was confirmed.

ADOPTION OF AGENDA

MOTION: Ann Meier Carli moved, seconded by Mark Jinkins, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES

Corrections:

- Change Ann Meier Carli to Richard Foss as the Education and Examination Liaison.

MOTION: Ann Meier Carli moved, seconded by Mark Jinkins, to approve the minutes of June 5, 2014 as corrected. Motion carried unanimously.

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

SCOPE FOR OPT 3, 5, 7 RELATING TO EXAMINATION, UNPROFESSIONAL CONDUCT AND RENEWAL

MOTION: Mark Jinkins moved, seconded by Robert Schulz, to approve the Scope Statement on Opt 3, 5, and 7 relating to examination, unprofessional conduct and renewal for submission to the Governor's Office and publication and to authorize the Chair to approve the scope for implementation no less than 10 days after publication. Motion carried unanimously.

SCOPE FOR OPT 8 RELATING TO CONTINUING EDUCATION

MOTION: Richard Foss moved, seconded by Mark Jinkins, to approve the Scope Statement on Opt 8 relating to continuing education for submission to the Governor's Office and publication and to authorize the Chair to approve the scope for implementation no less than 10 days after publication. Motion carried unanimously.

DEA RECLASSIFICATION OF HYDROCODONE COMBINATION PRODUCTS

MOTION: Ann Meier Carli moved, seconded by Robert Schulz, that the Board recognizes that optometrists have been able to prescribe hydrocodone combination products since 1991 in accordance with protecting the health, safety and welfare of the people of Wisconsin. The recent DEA change to classify hydrocodone combination products as a Schedule II drug removes this ability. The Board supports a statutory change to restore the privilege of optometrists to prescribe hydrocodone combination products. Motion carried unanimously.

ADJOURNMENT

MOTION: Mark Jenkins moved, seconded by Victor Connors, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:53 A.M.

2014 ELECTION RESULTS	
Board Chair	Ann Meier Carli
Vice Chair	Robert Schulz
Secretary	Mark Jinkins

2014 LIAISON APPOINTMENTS	
DLSC Monitoring and PAP Liaison(s)	Mark Jinkins
Credentialing Liaison(s)	Ann Meier Carli
Education and Exams Liaison(s)	Richard Foss
PDMP Liaison(s)	Victor Connors
2014 SCREENING PANEL APPOINTMENTS	
January-December 2014	Richard Foss Mark Jinkins Robert Schulz

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Ashley Horton Department Monitor Division of Legal Services and Compliance		2) Date When Request Submitted: January 13, 2015 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections:			
4) Meeting Date:	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Delegation to Monitoring Liaison and Department Monitor	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Delegated Authority Motion: <p style="text-align: center;"><i>“_____ moved, seconded by _____ to adopt/reject the Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor document as presented in today’s agenda packet.”</i></p>			
11) Authorization <div style="display: flex; justify-content: space-between;"> <div style="width: 40%;">  </div> <div style="width: 40%; text-align: right;"> January 13, 2015 </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: 20%; text-align: right;">Date</div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">Supervisor (if required)</div> <div style="width: 20%; text-align: right;">Date</div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">Executive Director signature (indicates approval to add post agenda deadline item to agenda)</div> <div style="width: 20%; text-align: right;">Date</div> </div>			
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.			

Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor

The Monitoring Liaison (“Liaison”) is a Board/Section designee who works with department monitors to enforce Board/Section orders as explained below.

Current Authorities Delegated to the Monitoring Liaison

The Liaison may take the following actions on behalf of the Board/Section:

1. Grant a temporary reduction in random drug screen frequency upon Respondent’s request if he/she is unemployed and is otherwise compliant with Board/Section order. The temporary reduction will be in effect until Respondent secures employment in the profession. The Department Monitor (“Monitor”) will draft an order and sign on behalf of the Liaison.
2. Grant a stay of suspension if Respondent is eligible per the Board/Section order. The Monitor will draft an order and sign on behalf of the Liaison.
3. Remove the stay of suspension if there are repeated violations or a substantial violation of the Board/Section order. In conjunction with removal of any stay of suspension, the Liaison may prohibit Respondent from seeking reinstatement of the stay for a specified period of time. The Monitor will draft an order and sign on behalf of the Liaison.
4. Grant or deny approval when Respondent proposes continuing/remedial education courses, treatment providers, mentors, supervisors, change of employment, etc. unless the order specifically requires full-Board/Section approval.
5. Grant a maximum of one 90-day extension, if warranted and requested in writing by Respondent, to complete Board/Section-ordered continuing education.
6. **Grant a maximum of one extension or payment plan for proceeding costs and/or forfeitures if warranted and requested in writing by Respondent.**

Monitoring Liaison currently has the authority to grant an extension up to 90 days. This change will allow the Liaison to grant payment plans and longer extensions on a case-by-case basis, which will be particularly helpful for Board/Sections that do not meet every month.

7. **Grant full reinstatement of licensure if Respondent has fully complied with all terms of the order without deviation. The Monitor will draft an order and obtain the signature or written authorization from the Liaison.**

This addition was initiated and approved by the Medical Examining Board in October 2014. The Liaison may choose to defer a particular request to the full Board/Section for review if needed.

Current Authorities Delegated to the Department Monitor

The Monitor may take the following actions on behalf of the Board/Section, draft an order and sign:

1. Grant full reinstatement of licensure if CE is the sole condition of the limitation and Respondent has submitted the required proof of completion for approved courses.
2. Suspend the license if Respondent has not completed Board/Section-ordered CE and/or paid costs and forfeitures within the time specified by the Board/Section order. The Monitor may remove the suspension and issue an order when proof completion and/or payment have been received.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Sharon Henes Administrative Rules Coordinator		2) Date When Request Submitted: 2 February 2015 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Optometry Examining Board			
4) Meeting Date: 12 February 2015	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Legislation and Rule Matters – Discussion and Consideration 1. Proposals to amend Opt 3, 5 relating to licensure and conduct 2. Proposals to amend Opt 8 relating to continuing education 3. Update on Pending and Possible Rulemaking Projects	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:			
11) Authorization			
<i>Sharon Henes</i>		<i>2 February 2015</i>	
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	
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 3

EXAMINATION FOR LICENSURE

Opt 3.02	Application for examination.
Opt 3.03	State law examination.
Opt 3.04	Rules of conduct.
Opt 3.05	Controls.
Opt 3.06	Instructions to be followed.

Opt 3.07	Passing grade.
Opt 3.09	Announcement of results.
Opt 3.10	Failure and review.
Opt 3.11	Claim of examination error.
Opt 3.12	Reexamination.

History: Chapter Opt 3 and 4 as they existed on March 31, 1989 were repealed and a new chapter Opt 3 was created effective April 1, 1989.

Opt 3.01 Scheduling of examination.

History: Cr. Register, March, 1989, No. 399, eff. 4-1-89; CR 06-116: r. Register May 2007 No. 617, eff. 6-1-07.

Opt 3.02 Application for examination. (1) Prior to taking the examination for licensure as an optometrist, an applicant shall file with the board a completed application on a form provided by the board. The application shall include:

(a) The fee authorized in s. 440.05 (1), Stats.

Note: A list of all current examination fees may be obtained at no charge from the Office of Examinations, Department of Safety and Professional Services, 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708.

Note: An otherwise qualified applicant with a disability shall be provided with reasonable accommodations. Application forms for examination may be obtained from the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708 or from the department's website at <http://dps.wi.gov>.

(b) Verification of the applicant's successful completion of parts I, II and III of the national board examination submitted directly to the board by the national board of examiners in optometry.

Note: It is the responsibility of the applicant to contact the National Board of Examiners in Optometry to request that it forward verification of the applicant's successful completion of the requisite examination to the board. An application will not be considered complete until after the board receives the examination verification and other required information.

(c) A certified transcript of the coursework completed by the applicant submitted directly to the board by an accredited college of optometry approved and recognized by the board.

Note: The board annually reviews for approval the colleges of optometry accredited by the council on optometry education of the American Optometric Association or other accrediting bodies. A list of board approved colleges of optometry is included in the application packet on-line at <http://dps.wi.gov>. It is the responsibility of the applicant to contact the appropriate college to request that the college forward a certified transcript to the board office. An application will not be considered complete until after the board receives a copy of the transcript and other essential information.

(2) An applicant who has a pending criminal charge or who has been convicted of any crime shall provide the board all related information necessary for the board to determine whether the circumstances of the pending criminal charge or conviction substantially relate to the circumstances of the licensed activity.

(3) Failure of an applicant to give complete and correct answers to all questions on the application may be considered sufficient reason for denial of license or for discipline after the license is issued.

History: Cr. Register, March, 1989, No. 399, eff. 4-1-89; am. (1) (a), Register, July, 1994, No. 463, eff. 8-1-94; am. (1) (a), Register, April, 1996, No. 484, eff. 5-1-96; am. (1) (intro.) and (a), r. and recr. (1) (b), r. (2), renum. (3) to (5) to be (1) (c), (2) and (3) and am. (1) (c), Register, September, 1997, No. 501, eff. 10-1-97; am. (1) (b), Register, December, 1998, No. 516, eff. 1-1-99; CR 06-116: am. (1) (intro.) Register May 2007 No. 617, eff. 6-1-07.

Opt 3.03 State law examination. An applicant shall pass a written examination on state law relating to optometry including, but not limited to, ch. 449, Stats., and chs. Opt 1 to 8.

History: Cr. Register, March, 1989, No. 399, eff. 4-1-89; am. Register, April, 1996, No. 484, eff. 5-1-96; r. (1), renum. (2) to be Opt 3.03, Register, December, 1998, No. 516, eff. 1-1-99; CR 06-116: am. Register May 2007 No. 617, eff. 6-1-07.

Opt 3.04 Rules of conduct. An applicant who gives or receives unauthorized assistance, violates rules of conduct of the examination or otherwise acts dishonestly during the written examination may be denied licensure by the board. Future consideration of the applicant shall be at the discretion of the board.

Note: The rules of conduct of an examination are provided to candidates prior to the administration of an examination.

History: Cr. Register, March, 1989, No. 399, eff. 4-1-89; am. Register, September, 1997, No. 501, eff. 10-1-97; am., Register, December, 1998, No. 516, eff. 1-1-99.

Opt 3.05 Controls. Time limits and other necessary controls may be provided by the board chairperson or examiner prior to the examinations.

History: Cr. Register, March, 1989, No. 399, eff. 4-1-89; am., Register, December, 1998, No. 516, eff. 1-1-99.

Opt 3.06 Instructions to be followed. Credit may be denied on any questions if examination instructions are not followed.

History: Cr. Register, March, 1989, No. 399, eff. 4-1-89.

Opt 3.07 Passing grade. (1) NATIONAL EXAMINATION. To pass the examination of the national board of examiners in optometry, an applicant shall receive a grade equal to or higher than the passing score recommended by the national board of examiners in optometry.

(2) STATE LAW EXAMINATION. To pass the state law examination, each applicant must receive a grade determined by the board to represent minimum competence to practice optometry.

Note: The passing grades for the state law examinations will be determined by the board after consultation with subject matter experts who have reviewed a representative sample of the examination questions and available candidate performance statistics.

History: Cr. Register, March, 1989, No. 399, eff. 4-1-89; am. (2) (a), Register, April, 1996, No. 484, eff. 5-1-96; am. (2), Register, September, 1997, No. 501, eff. 10-1-97; r. (2) (a), renum. (2) (b) to be (2) and am., Register, December, 1998, No. 516, eff. 1-1-99.

Opt 3.09 Announcement of results. Examination results shall be released to the applicant after completion of the examination.

History: Cr. Register, March, 1989, No. 399, eff. 4-1-89; CR 06-116: am. Register May 2007 No. 617, eff. 6-1-07.

Opt 3.10 Failure and review. (2) An applicant who fails the state law examination may request a review of the examination. The applicant shall file a written request to the board within 30 days of the date on which examination results were mailed.

Note: The board office is located at 1400 East Washington Avenue, P.O. Box 8366, Madison, Wisconsin 53708.

(3) The time for review shall be limited to one hour.

(4) The examination shall be reviewed only by the applicant and in the presence of the proctor.

(5) The proctor shall not respond to inquiries by the applicant regarding allegations of examination error.

(6) Any comments or claims of error regarding specific questions or procedures in the examination may be placed in writing on the provided form. These comments shall be retained and made available to the applicant for use at any subsequent hearing.

(7) An applicant shall be permitted to review the examination only once.

History: Cr. Register, March, 1989, No. 399, eff. 4-1-89; renum. from Opt 3.08, and r. and recr. Register, June, 1990, No. 414, eff. 7-1-90; renum. (intro.) to be (1) and am., am. (2) and (6), Register, September, 1997, No. 501, eff. 10-1-97.; r. (1), am. (2) and (3), Register, December, 1998, No. 516, eff. 1-1-99.

Opt 3.11 Claim of examination error. (1) An applicant wishing to claim examination error shall file a written request for board review in the board office within 30 days of the date the examination was reviewed. The request shall include:

- (a) The applicant's name and address.
- (b) The type of license applied for.
- (c) A description of the perceived error, including specific questions or procedures claimed to be in error.
- (d) The facts which the applicant intends to prove, including reference text citations or other supporting evidence for the applicant's claim.

(2) The board shall review the claim and notify the applicant in writing of the board's decision and any resulting grade changes.

(3) If the board's decision does not result in the applicant passing the examination, the applicant may retake the examination as provided under s. Opt 3.12.

History: Cr. Register, June, 1990, No. 414, eff. 7-1-90; am. (1) (a) to (c) and (3), Register, September, 1997, No. 501, eff. 10-1-97.

Opt 3.12 Reexamination. An applicant who fails the state law examination shall be required to retake the examination.

Note: A list of all current examination fees may be obtained at no charge from the Department of Safety and Professional Services, 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708.

Note: The procedures for license denial are covered in ch. SPS 1.

History: Cr. Register, March, 1989, No. 399, eff. 4-1-89; renum. from Opt 3.10 and am. (1), Register, June, 1990, No. 414, eff. 7-1-90; am. (1), Register, July, 1994, No. 463, eff. 8-1-94; am. Register, April, 1996, No. 484, eff. 5-1-96; am. (1), Register, September, 1997, No. 501, eff. 10-1-97; r. and recr., Register, December, 1998, No. 516, eff. 1-1-99.

Chapter Opt 5

UNPROFESSIONAL CONDUCT

Opt 5.01	Intent.	Opt 5.10	Patient records.
Opt 5.02	Definitions.	Opt 5.11	Verification.
Opt 5.04	Improper use of title.	Opt 5.12	Delegation and supervision of unlicensed persons.
Opt 5.05	Change of address.	Opt 5.13	Unprofessional advertising.
Opt 5.06	Inspection.	Opt 5.14	Disclosure.
Opt 5.07	Adequate equipment.	Opt 5.15	Conduct.
Opt 5.08	Performing minimum eye examination.	Opt 5.16	Contact lens prescription release.
Opt 5.09	Performing minimum examination for fitting of contact lenses.		

History: Chapter Opt 7 as it existed on January 31, 1971 was repealed, and a new chapter Opt 7 was created, [Register, January, 1971, No. 181](#), effective 2-1-71; chapter Opt 6, Issuance of License as it existed on August 31, 1985 was repealed and chapter Opt 7 was repealed and recreated as chapter Opt 6, [Register, August, 1985, No. 356](#), effective 9-1-85; Chapter Opt 6 was renumbered Chapter Opt 5, effective April 1, 1989.

Opt 5.01 Intent. The intent of the board in adopting the rules in this chapter is to establish minimum standards of conduct for optometrists and to specify reasons for taking disciplinary action against a licensee.

History: Cr. [Register, August, 1985, No. 356](#), eff. 9-1-85; renum. [Register, March, 1989, No. 399](#), eff. 4-1-89; r. (1), renum. (2) to be Opt 5.01, [Register, September, 1997, No. 501](#), eff. 10-1-97.

Opt 5.02 Definitions. As used in this chapter:

(1) "Contact lens prescription" means a prescription order for a contact lens that includes all of the following:

- (a) The specifications needed to adequately duplicate a contact lens.
- (b) The name, signature and license number of the prescribing optometrist.
- (c) The date of the prescription.
- (d) The date of expiration.
- (e) Provisions for a reasonable number of refills.

(2) "Extended-wear contact lenses" means contact lenses which have received federal food and drug administration approval for marketing for extended wear and are prescribed for use on an extended wear or overnight schedule.

Note: Extended-wear contact lenses require premarket approval under section 515 of the Federal Food, Drug and Cosmetic Act, [21 USC 360e](#) (1985). A copy of this provision is available at the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708.

(3) "Grossly incompetent" as that term is used in s. [449.07 \(1\) \(b\)](#), Stats., means the failure of a licensee or certificate holder to exercise that degree of care and skill which is exercised by the average practitioner who holds the same type of license or certificate, acting in the same or similar circumstances. Grossly incompetent specifically includes the inability to proficiently operate equipment and instruments described in s. [Opt 5.07](#).

(4) "Lens prescription" means a written or electronic order that contains the specifications for ophthalmic materials for a particular patient for the purpose of treating the refractive or functional abilities of the visual system or the enhancement of visual performance.

(5) "Limited eye screening" means an event where no spectacle prescription, contact lens prescription or treatment or management plan is generated.

(6) "Signature" means a handwritten mark or an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

History: Cr. [Register, August, 1985, No. 356](#), eff. 9-1-85; emerg. cr. (1), eff. 12-17-85; renum. (1) to (3) to be (2) to (4), cr. (1), [Register, June, 1986, No. 366](#), eff. 7-1-86; renum. [Register, March, 1989, No. 399](#), eff. 4-1-89; renum. (1), (3) and (4) to be Opt 1.02 (1), (4) and (5), (2) to be (1), cr. (2), [Register, June, 1990, No. 414](#), eff.

7-1-90; cr. (intro.) and (1), renum. (1) to be (1m) and am., [Register, September, 1997, No. 501](#), eff. 10-1-97; [CR 01-060](#): renum (1), (1m) and (2) to be (2) to (4) and am. (4), cr. (1), [Register December 2001 No. 552](#), eff. 1-1-02; [CR 05-036](#): cr. (5) [Register January 2006 No. 601](#), eff. 2-1-06; [CR 06-116](#): cr. (6) [Register May 2007 No. 617](#), eff. 6-1-07; [CR 13-017](#): am. (4) [Register November 2013 No. 695](#), eff. 12-1-13.

Opt 5.04 Improper use of title. It shall be unprofessional conduct for an optometrist to use the title "Doctor", or the initials "Dr.", in printed form unless the optometrist has been granted the title of doctor of optometry by an optometric college and unless the optometrist indicates in print in the same communication that he or she is an optometrist.

History: Cr. [Register, August, 1985, No. 356](#), eff. 9-1-85; renum. [Register, March, 1989, No. 399](#), eff. 4-1-89; am. [Register, September, 1997, No. 501](#), eff. 10-1-97.

Opt 5.05 Change of address. An optometrist shall inform the board of any change in address or change in location of practice. It shall be unprofessional conduct to fail to comply with this section.

History: Cr. [Register, August, 1985, No. 356](#), eff. 9-1-85; renum. [Register, March, 1989, No. 399](#), eff. 4-1-89.

Opt 5.06 Inspection. It shall be unprofessional conduct for an optometrist to fail to furnish to the board upon request information concerning the mode and location of practice. Every optometrist shall permit the board or a board representative to inspect his or her office, equipment and records during regular office hours.

History: Cr. [Register, August, 1985, No. 356](#), eff. 9-1-85; renum. [Register, March, 1989, No. 399](#), eff. 4-1-89; am. [Register, September, 1997, No. 501](#), eff. 10-1-97.

Opt 5.07 Adequate equipment. It shall be unprofessional conduct for an optometrist to fail to have in good working order adequate equipment and instruments as are necessary to perform the minimum eye examination specified in s. [Opt 1.02 \(5\)](#).

History: Cr. [Register, August, 1985, No. 356](#), eff. 9-1-85; correction made under s. 13.93 (2m) (b) 7., Stats., [Register, June, 1986, No. 366](#); renum. [Register, March, 1989, No. 399](#), eff. 4-1-89; correction made under s. 13.93 (2m) (b) 7., Stats., [Register, March, 1989, No. 399](#); am. [Register, June, 1990, No. 414](#), eff. 7-1-90; am. [Register, September, 1997, No. 501](#), eff. 10-1-97.

Opt 5.08 Performing minimum eye examination.

(1) Except as provided in sub. (2), it shall be unprofessional conduct for an optometrist to fail to perform the minimum eye examination at any of the following:

- (a) The patient's initial examination with the optometrist.
- (b) Any examination conducted more than one year after a minimum eye examination.
- (c) An examination for the fitting of contact lenses.

(2) It shall not be unprofessional conduct to fail to perform the minimum eye examination in the following instances:

- (a) Where the patient refuses or is unable to participate in any procedure of the minimum eye examination.

(b) At an examination for the diagnosis and management of eye disease or for the removal of superficial foreign bodies from an eye or from an appendage to the eye.

(c) Where written verification of all examination findings has been received from a licensed optometrist or an ophthalmologist stating that he or she has performed a minimum eye examination, as defined in s. Opt 1.02 (5), for the patient within the 90 day period immediately preceding the date of the patient's visit.

(d) Where a limited eye screening is performed.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; renum. Register, March, 1989, No. 399, eff. 4-1-89; r. and recr. Register, April, 1996, No. 484, eff. 5-1-96; am. (1) (intro.), (b), (2) (intro.) and (a), cr. (2) (c), Register, September, 1997, No. 501, eff. 10-1-97; CR 05-036: cr. (2) (d) Register January 2006 No. 601, eff. 2-1-06.

Opt 5.09 Performing minimum examination for fitting of contact lenses. Except in cases where the patient is unable to participate, it shall be unprofessional conduct for an optometrist to fail to perform an examination as defined in s. Opt 1.02 (4) in the fitting of contact lenses for a patient.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; correction made under s. 13.93 (2m) (b) 7., Stats., Register, June, 1986, No. 366; renum. Register, March, 1989, No. 399, eff. 4-1-89; correction made under s. 13.93 (2m) (b) 7., Stats., Register, March, 1989, No. 399; am. Register, June, 1990, No. 414, eff. 7-1-90.

Opt 5.10 Patient records. (1) It shall be unprofessional conduct for an optometrist to fail to record and include in each patient's record the following information:

(a) Name and date of birth of the patient.

(b) Date of examination and examination findings, including a clear and legible record of the tests performed, the results obtained, the prescription ordered and the patient's far and near visual acuity obtained with the prescription ordered.

(c) Date of the prescription.

(d) Lens verification of lenses dispensed, including the date of verification and identification of the person verifying the lenses.

(e) Name, signature and license number of the examining optometrist.

(2) It shall be unprofessional conduct to fail to maintain patient records for at least 6 years.

(3) In any instance in which a lens prescription may have changed, is outdated or may become outdated it shall be unprofessional conduct for an optometrist to fail to print or stamp across the face of the prescription, "Warning: This lens prescription may be outdated and may not be relied upon for proper fit and correction" or, "Warning: This lens prescription expires on _____, and may not be relied upon after this date for a proper fit or correction" or, "Expired." A lens prescription order shall be signed by a licensed optometrist, and the words "lens prescription" written or typed on the face of the order.

Note: Federal Trade Commission Rules 16 CFR 315.3 and 16 CFR 456.2 (a) require the release of spectacle and contact lens prescriptions. Under s. Opt 5.16, it is unprofessional conduct for an optometrist to fail to release, at no cost to the patient, a copy of the patient's contact lens prescription following release of the patient from contact lens fitting and initial follow-up care.

(4) It shall be unprofessional conduct for an optometrist to fail to release a patient's records in accordance with s. 146.83, Stats. It shall also be unprofessional conduct to release the lens prescription specifications contained in the patient records without indicating that those specifications do not constitute a legal prescription and that lenses are not to be filled or dispensed from that record. This may be done by stamping or writing on the face of the record containing the lens prescription specifications, "This is NOT a prescription and shall not be used to dispense lenses."

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; renum. Register, March, 1989, No. 399, eff. 4-1-89; am. (3), cr. (4), Register, June, 1990, No. 414, eff. 7-1-90; am. (1) (intro.) to (d), Register, September, 1997, No. 501, eff. 10-1-97; CR 01-060: am. (3), Register December 2001 No. 552, eff. 1-1-02.

Opt 5.11 Verification. (1) It shall be unprofessional conduct for an optometrist to fail to verify, or fail to ascertain that a delegate of the optometrist's verified, before delivery, the accu-

racy with which the prescription of the lenses dispensed by the optometrist or the optometrist's employer is compounded and to record the verification as required in s. Opt 5.10 (1) (d). In the case of contact lenses, it shall be unprofessional conduct to fail to include in the record the parameters and any available lot number.

(2) It shall be unprofessional conduct for an optometrist to deliver ophthalmic lenses if the lenses do not meet requirements set forth in Table 1, ANSI Z80.1-1995, requirements for first-quality prescription ophthalmic lenses, approved January 3, 1995, by the American national standards institute, inc.

Note: The standard incorporated above as reference may be obtained from the Standards Institute located at 11 West 42nd Street, New York, NY 10036. A copy of the Standard is on file at the board office.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; renum. Register, March, 1989, No. 399, eff. 4-1-89; am. (2), Register, September, 1997, No. 501, eff. 10-1-97.

Opt 5.12 Delegation and supervision of unlicensed persons. It shall be unprofessional conduct for an optometrist to do any of the following:

(1) Delegate the prescribing of pharmaceutical agents, or the removal of foreign bodies from an eye or from an appendage to the eye, to an unlicensed person.

(2) Delegate the performance of tasks related to the practice of optometry to an unlicensed person that exceed that person's competence, education, training, or experience.

(3) Fail to exercise supervision over an unlicensed person, as provided under s. Opt 1.03.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; renum. Register, March, 1989, No. 399, eff. 4-1-89; am. Register, June, 1990, No. 414, eff. 7-1-90; CR 06-116: renum. Opt 5.12 to be Opt 5.12 (intro.) and am., cr. (1) to (3), Register May 2007 No. 617, eff. 6-1-07.

Opt 5.13 Unprofessional advertising. (1) Unprofessional advertising means any false, fraudulent, misleading, or deceptive statement made to the public by an optometrist, including statements that:

(a) Create false, fraudulent, or unjustified expectations of favorable results.

(b) Make comparisons with other optometrists which are false, fraudulent, misleading, or deceptive.

(c) Contain representations that would be likely to cause a reasonable person to misunderstand or be deceived.

(2) No licensed optometrist may:

(a) Seek to obtain patients by advertising or other forms of solicitation in a manner that is false, fraudulent, misleading, or deceptive;

(b) Maintain a professional relationship with any other person or firm advertising in a manner that is false, fraudulent, misleading, or deceptive.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; renum. Register, March, 1989, No. 399, eff. 4-1-89; am. (1) (a) and (b), Register, September, 1997, No. 501, eff. 10-1-97.

Opt 5.14 Disclosure. (1) It shall be unprofessional conduct for an optometrist to fail to provide to any patient receiving extended-wear contact lenses a separate, written disclosure in not less than 12 point type, which includes the following language: "As with any drug or device, the use of extended-wear contact lenses is not without risk. A small, but significant, percentage of individuals wearing extended-wear lenses develop potentially serious complications which can lead to permanent eye damage. If you have any unexplained eye pain or redness, watering of the eye or discharge, cloudy or foggy vision, decrease in vision or sensitivity to light, remove your lenses and make arrangements to see your eye-care professional before wearing your lenses again. Regular inspection by a licensed eye-care professional is important to evaluate your eyes' tolerance of extended wear lenses."

(2) The disclosure shall in addition indicate that a regular schedule of cleaning and disinfection is necessary and indicate a

recommended schedule of follow-up appointments for evaluation of adaptation to contact lens wear.

(3) Information about replacement lenses, service agreements, warranties, refunds and other business items should not be part of the required disclosure. Instructions for proper lens care and recommended solutions should also be distributed separately.

(4) The disclosure shall be signed by the patient prior to the patient's receipt of the lenses. If the patient is a minor or incompetent, the patient's parent or legal guardian shall sign the disclosure. The patient or the patient's parent or legal guardian, if the patient is a minor or incompetent, shall be given a copy of the disclosure, and a signed copy of the disclosure shall be placed in the patient record of the individual for whom the lenses are dispensed.

(5) An optometrist may dispense replacement extended-wear lenses without providing the written disclosure required in sub. (1), if the patient for whom the lenses are dispensed already has a signed disclosure form in his or her patient file.

History: Emerg. cr. eff. 12-17-85; cr. Register, June, 1986, No. 366, eff. 7-1-86;

renum. Register, March, 1989, No. 399, eff. 4-1-89; am. (4), Register, September, 1997, No. 501, eff. 10-1-97.

Opt 5.15 Conduct. (1) It shall be unprofessional conduct for an optometrist to engage in any practice or conduct which constitutes a substantial danger to the health, welfare, or safety of a patient or the public.

(2) It shall be unprofessional conduct for an optometrist to engage in conduct in the practice of optometry which evidences a lack of knowledge or ability to apply professional principles or skills.

History: Cr. Register, September, 1997, No. 501, eff. 10-1-97.

Opt 5.16 Contact lens prescription release. It shall be unprofessional conduct for an optometrist to fail to release, at no cost to the patient, a copy of the patient's contact lens prescription following release of the patient from contact lens fitting and initial follow-up care.

History: CR 01-060: cr. Register December 2001 No. 552, eff. 1-1-02; CR 05-036: am. Register January 2006 No. 601, eff. 2-1-06.

Chapter Opt 8

CONTINUING EDUCATION

Opt 8.01 Definitions.
Opt 8.02 Continuing education.

Opt 8.03 Approval of continuing education courses.

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.

History: CR 06-116: cr. Register May 2007 No. 617, eff. 6-1-07.

Opt 8.02 Continuing education. (1) A licensee shall complete 30 hours of approved continuing education in each biennial registration period. A minimum of 7 of the 30 hours shall be approved glaucoma education.

(2) Except as provided in sub. (4), approved continuing education hours required for optometrists who are allowed to use diagnostic and therapeutic pharmaceutical agents shall relate to the diagnosis and management of eye disease or the removal of superficial foreign bodies from an eye or from an appendage to the eye.

(3) Except as provided in sub. (4), approved continuing education hours required for optometrists who are not allowed to use diagnostic and therapeutic pharmaceutical agents shall relate to the diagnosis and management of eye disease.

(4) No more than a combined total of 6 hours of continuing education per biennium may be claimed for course work that relates to one or more of the following subject matter:

- (a) Contact lens.
- (b) Functional vision.
- (c) General optometry.
- (d) Low vision.
- (e) Jurisprudence.
- (f) Practice management.

(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.

(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.

(8) Optometrists initially licensed within a biennium shall complete one hour of board approved continuing education per month or partial month of licensure reported on or before December 15 of the second year of the biennium. A minimum of one-quarter of the continuing education hours shall be in the diagnosis and management of glaucoma.

(9) Except as provided in sub. (10), no more than a combined total of 6 hours of continuing education per biennium may be claimed for course work obtained through alternative delivery methods such as home-study courses, self-study packages, computer courses, televideo conferencing, or other delivery methods approved by the board under s. Opt 8.03 (4).

(10) The board may permit a certificate holder to claim more than 6 hours of continuing education per biennium for course work obtained through alternative delivery methods such as home-study courses, self-study packages, computer courses, televideo conferencing, or other delivery methods approved by the board, if the credential holder submits evidence satisfactory to the board of hardship.

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.

Opt 8.03 Approval of continuing education courses. (1) Except as provided in sub. (5), to apply for approval of a continuing education course, a course provider shall submit to the board office an application on forms provided by the department and shall include the title, general description and an outline of the course, the dates, the location, the name and qualifications of the instructor of the course, and the sponsor of the course.

Note: An application for continuing education course approval may be obtained from the board office at the Department of Safety and Professional Services, Office of Education and Examinations, P.O. Box 8366, Madison, Wisconsin, 53708, or from the department’s website at: <http://dps.wi.gov>.

(2) A continuing education course must meet all of the following criteria to be approved as a continuing education course:

- (a) The subject matter of the course pertains to the practice of optometry.
- (b) The provider of the continuing education course agrees to monitor the attendance and furnish a certificate of attendance to each participant. The certificate of attendance shall certify successful completion of the course.
- (c) The provider of the course is approved by the board.
- (d) The course content and instructional methodologies are approved by the board.

(3) Except as provided in sub. (5), a separate application shall be submitted for each continuing education course approval request.

(4) The board may approve alternate delivery method continuing education courses such as home-study courses, self-study packages, computer courses, televideo conferencing and other methods.

(5) A continuing education course approved by COPE, or sponsored by a state optometric association, the American Optometric Association, the American Academy of Optometry, or an accredited school or college of optometry, which satisfies the criteria established under sub. (2), shall be approved by the board without receipt of a course approval application from the course provider.

Note: The Council on Optometric Practitioner Education (COPE), which is a committee of the Association of Regulatory Boards of Optometry (ARBO), may be contacted at 1750 South Brentwood Boulevard, Suite 503, St. Louis, Missouri 63144, (314) 785-6000. The American Optometric Association may be contacted at 243 N. Lindbergh Blvd., 1st Floor, St. Louis, MO 63141, (800) 365-2219. The American Academy of Optometry may be contacted at 6110 Executive Blvd., Suite 506, Rockville, MD 20852, (301) 984-1441.

History: CR 06-116: cr. Register May 2007 No. 617, eff. 6-1-07.