

**STATE OF WISCONSIN  
OPTOMETRY EXAMINING BOARD**

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**IN THE MATTER OF RULEMAKING : REPORT TO THE LEGISLATURE  
PROCEEDINGS BEFORE THE : CR 23-040  
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 is 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 board is updating the continuing education requirements in order to clarify the number of in person continuing education hours required to renew an optometry license. Additionally, the continuing education requirements are also being reviewed and updated to create clarity and ensure required topics reflect the current practice of optometry, which takes into consideration if the licensee holds a DEA registration and does not prescribe controlled substances.

**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 September 28, 2023. The Board did not receive any written comments or testimony concerning the proposed rules.

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

All Legislative Council recommendations have been incorporated into the proposed rules.

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

N/A

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original   <input type="checkbox"/> Updated   <input type="checkbox"/> Corrected</p>	<p>2. Date July 19, 2023</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) OPT 8</p>	
<p>4. Subject Continuing Education</p>	
<p>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</p>	<p>6. Chapter 20, Stats. Appropriations Affected s.20.165(1)(g)</p>
<p>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 checked="" type="checkbox"/> Indeterminate   <input type="checkbox"/> Decrease Existing Revenues   <input type="checkbox"/> Could Absorb Within Agency's Budget</p>	
<p>8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy   <input checked="" 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></p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0</p>	
<p>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</p>	
<p>11. Policy Problem Addressed by the Rule The objective of the proposed rule is to clarify the number of in-person continuing education hours required to renew an optometry license. The optometry board will also review Opt 8 in its entirety to ensure that continuing education requirements reflect current best practices in the field.</p>	
<p>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 was posted for 14 days on the Department of Safety and Professional Services (DSPS) website to solicit comments on the potential economic impact. No comments were received.</p>	
<p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. N/A</p>	
<p>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 \$2,000 in one-time costs for staffing and an indeterminate one-time IT impact to implement the rule. The estimated one-time cost is for staff and board training, website and forms updates, and additional workload associated with a temporary increase in inquiries. The one-time estimated costs cannot be absorbed in the currently appropriated agency budget.</p>	
<p>15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit of implementing the rule is to better clarify the continuing education requirements, utilize current technological delivery methods, and ensure that required topics reflect the current practice of optimedtry, The alternative to implementing the rule is that the Wisconsin Administrative Code Opt 8 will remain as is, without clarification on how continuing education should be implemented.</p>	
<p>16. Long Range Implications of Implementing the Rule The long term implications are to clarify optometry continuing education implementation practices.</p>	

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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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 requirements for optometrists licensed in Illinois. [68 Ill. Adm. Code 1320.80]. Currently, the State of Illinois does not require licensed optometrists to complete cultural competency or DEI continuing education requirements.

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

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

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

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19. Contact Name

Dana Denny

20. Contact Phone Number

608-287-3748

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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
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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 23-040)

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PROPOSED ORDER

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

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

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

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

**Explanation of agency authority:**

Section 15.08 (5) (b), Stats., provides each examining board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains. . .”

Section 449.06 (2m), Stats., provides that “the examining board shall promulgate rules requiring a person who is issued a license to practice optometry to complete, during the 2–year period immediately preceding the renewal date specified in s. 440.08(2)(a), not less than 30 hours of continuing education. The rules shall include requirements that apply only to optometrists who are allowed to use topical ocular diagnostic pharmaceutical agents under s. 449.17 or who are allowed to use therapeutic pharmaceutical agents or remove foreign bodies from an eye or from an appendage to the eye under s. 449.18.”

**Related statute or rule:** None.

**Plain language analysis:**

The board is updating the continuing education requirements in order to clarify the number of in person continuing education hours required to renew an optometry license. Additionally, the continuing education requirements are also being reviewed and updated to create clarity and ensure required topics reflect the current practice of optometry, which takes into consideration if the licensee holds a DEA registration and does not prescribe controlled substances.

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

N/A

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

N/A

**Comparison with rules in adjacent states:**

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

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

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

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

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

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

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

The proposed rules 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 will be attached upon completion.

**Effect on small business:**

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at [Jennifer.Garrett@wisconsin.gov](mailto:Jennifer.Garrett@wisconsin.gov), or by calling (608) 266-6795.

**Agency contact person:**

Sofia Anderson, 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 8.02 (1) and (1m) are amended to read:

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

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

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

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

SECTION 3. 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 of the 15 hours shall be attended in person.

SECTION 4. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

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(END OF TEXT OF RULE)

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

Dated 02/08/2024

Agency *Lisa Slaby, OD*  
Chairperson  
Optometry Examining Board