



## STATE OF WISCONSIN

Department of Safety and Professional Services  
1400 E Washington Ave.  
Madison WI 53703

Mail to:  
PO Box 8935  
Madison WI 53708-8935

Email: [dsps@wisconsin.gov](mailto:dsps@wisconsin.gov)  
Web: <http://dsps.wi.gov>  
Phone: 608-266-2112

**Governor Scott Walker      Secretary Dave Ross**

### OPTOMETRY EXAMINING BOARD

Room 121A, 1400 E. Washington Avenue, Madison

Contact: Angela Hellenbrand (608) 261-5406

July 18, 2013

*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.*

#### Agenda

9:00 A.M.

#### OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. **Adoption of Agenda (1-4)**
- B. **Approval of Minutes – March 28, 2013 (5-10)**
- C. **Executive Director Matters – Discussion and Consideration**
  - 1) Staff Updates
  - 2) Board Member Updates
  - 3) Nomination & Election of Secretary
  - 4) DSPS Job Ready Initiative **(11-12)**
- D. **Administrative Matters – Discussion and Consideration**
  - 1) DSPS Public Board Agenda Request Form **(13-14)**
- E. **Legislation and Administrative Rule Matters – Discussion and Consideration**
  - 1) Executive Order 61 - Review of Opt Chapters 1-8 **(15-26)**
    - a. Ch 1-3, Richard Foss and Mark Jenkins **(15-18)**
    - b. Ch 4-6, Ann Meier Carli and Kathi Leach **(19-24)**
    - c. Ch 7-8, Brian Hammes and Gregory Foster **(25-26)**

- F. Items Received After Publishing of the Agenda:
- 1) Introductions, Announcements, and Recognition
  - 2) Presentations of Petition(s) for Summary Suspension
  - 3) Presentation of Proposed Stipulation(s), final Decisions(s) and Order(s)
  - 4) Presentation of Proposed Final Decision and Order(s)
  - 5) Disciplinary Matters
  - 6) Executive Director Matters
  - 7) Education and Examination Matters
  - 8) Credentialing Matters
  - 9) Class 1 Hearing(s)
  - 10) Practice Matters
  - 11) Legislation and Administrative Rule Matters
  - 12) Liaison Report(s)
  - 13) Informational Item(s)
  - 14) Speaking Engagement(s), Travel, or Public Relation Request(s)

G. Public Comments

**CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.; consider closing disciplinary investigation with administrative warning (s. 19.85(1)(b), Stats. and 440.205, Stats., to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.; and, to confer with legal counsel (s. 19.85(1)(g), Stats.)**

H. Administrative Warnings

- 1) 12 OPT 003 (N.A.S.) **(27-28)**

I. DLSC Matters

- 1) Case Status Report **(-)**

J. Deliberation of Items Received After Publishing of the Agenda:

- 1) Disciplinary Matters
- 2) Education and Examination Matters
- 3) Credentialing Matters
- 4) Class 1 Hearings
- 5) Monitoring Matters
- 6) Professional Assistance Procedure (PAP) Matters
- 7) Petition(s) for Summary Suspensions
- 8) Petition(s) for Extension of Time
- 9) Proposed Stipulations, final Decisions and Orders
- 10) Administrative Warnings
- 11) Proposed Decisions
- 12) Matters Relating to Costs
- 13) Motions
- 14) Petitions for Rehearing
- 15) Formal Complaints
- 16) Case Closings
- 17) 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 on in Closed Session, if Voting is Appropriate

**ADJOURNMENT**

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**OPTOMETRY EXAMINING BOARD  
MEETING MINUTES  
MARCH 28, 2013**

**PRESENT:** Ann Meier Carli, Richard Foss, Gregory Foster, Brian Hammes, Mark Jenkins (via go-to meeting), Kathi Leach

**STAFF:** Dan Williams, Executive Director; David Carlson, Communications Specialist; other DSPS staff.

**CALL TO ORDER**

Gregory Foster, Chair, called the meeting to order at 9:01 a.m. A quorum of six (6) members was confirmed.

**ADOPTION OF AGENDA**

**MOTION:** Ann Meier Carli moved, seconded by Kathi Leach, to adopt the agenda as amended. Motion carried unanimously.

**PUBLIC HEARING ON OPT 5.02**

Gregory Foster called the public hearing to order at 9:06 a.m. and gave introductory remarks related to the purpose of the hearing and then invited public comment. David T. Bobka, Wisconsin Optometric Association, provided testimony. Gregory Foster adjourned the public hearing at 9:12 a.m.

**APPROVAL OF MINUTES OF NOVEMBER 15, 2012**

**MOTION:** Kathi Leach moved, seconded by Ann Meier Carli, to approve the minutes of November 15, 2012. Motion carried unanimously.

**ELECTION OF OFFICERS FOR 2013**

**CHAIR**

**NOMINATION:** Kathi Leach nominated Gregory Foster for the office of Board Chair. Dan Williams called three times for other nominations for the office of Board Chair.

**VICE CHAIR**

**NOMINATION:** Kathi Leach nominated Ann Meier Carli for the office of Board Vice Chair. Dan Williams called three times for other nominations for the office of Board Vice Chair.

**SECRETARY**

**NOMINATION:** Ann Meier Carli nominated Kathi Leach for the office of Board Secretary. Dan Williams called three times for other nominations for the office of Board Secretary.

<b>2013 ELECTION RESULTS</b>	
Chair	Gregory Foster
Vice Chair	Ann Meier Carli
Secretary	Kathi Leach

<b>2013 LIAISON APPOINTMENTS</b>	
Statute and Rule Committee	Mark Jinkins, Ann Meier Carli and Gregory Foster
CE Review	Kathi Leach, Richard Foss and Brian Hammes
Screening Panel	Kathi Leach, Richard Foss and Mark Jinkins
Credentialing	Ann Meier Carli
Monitoring	Gregory Foster

**MOTION:** Ann Meier Carli moved, seconded by Kathi Leach, to approve the election of the slate of officers as nominated and acknowledge the Chair's Liaison appointments. Motion carried unanimously.

- MOTION:** Mark Jenkins moved, seconded by Kathi Leach, to delegate authority to the Credentialing Liaison(s) to address all issues related to credentialing matters. Motion carried unanimously.
- MOTION:** Mark Jenkins moved, seconded by Ann Meier Carli, to adopt the Roles and Authorities Delegated to the Monitoring Liaison document. Motion carried unanimously.
- MOTION:** Ann Meier Carli moved, seconded by Kathi Leach that the Board delegates authority to the Chair or designated Board member to sign documents on behalf of the Board. In order to carry out duties of the Board, the Chair or Board member has the ability to delegate this signature authority to the Executive Director for purposes of facilitating the completion of assignments during or between meetings. The Chair or Board member delegates the authority to the Executive Director to sign the name of the Chair or Board member on documents as necessary. Motion carried unanimously.
- MOTION:** Mark Jenkins moved, seconded by Ann Meier Carli, that, in order to facilitate the completion of assignments between meetings, the Board delegates its authority by order of succession to the Chair, highest ranking officer, or longest serving member of the Board, to appoint liaisons to the Department where knowledge or experience in the profession is required to carry out the duties of the Board in accordance with the law. Motion carried unanimously.

**LEGISLATION/ADMINISTRATIVE RULE MATTERS**

**Review and Consideration of Proposed Rulemaking Order Amending OPT 5.02 Relating to Lens Prescriptions**

- MOTION:** Richard Foss moved, seconded by Kathi Leach, to accept all recommended changes from the Clearinghouse. Motion carried unanimously.
- MOTION:** Ann Meier Carli moved, seconded by Kathi Leach, to authorize Mark Jenkins to review and approve the Legislative Report and rule draft for submission to the Governor and Legislature. Motion carried unanimously.

**EO 61**

**MOTION:** Brian Hammes moved, seconded by Kathi Leach, to divide the review of Opt. Chapters among Board members as follows:  
Ch 1-3, Richard Foss and Mark Jenkins  
Ch 4-6, Ann Meier Carli and Kathi Leach  
Ch 7-8, Brian Hammes and Gregory Foster  
Review comments will be submitted to the Executive Director for review at the next meeting. Motion carried unanimously.

**REVIEW OF POSITION STATEMENTS**

**MOTION:** Kathi Leach moved, seconded by Brian Hammes, to keep Position Statement #1 as published. Motion carried unanimously.

**MOTION:** Kathi Leach moved, seconded by Ann Meier Carli, to keep Position Statement #2 as published. Motion carried unanimously.

**MOTION:** Kathi Leach moved, seconded by Ann Meier Carli, to revise Position Statement #3 to read as follows:

**3) MAY AN INDIVIDUAL, WHO IS NOT A LICENSED OPTOMETRIST, ASSIST IN THE PRACTICE OF OPTOMETRY?**

Yes, but in a limited capacity. The scope of practice of an unlicensed assistant to an optometrist is outlined in Chs. Opt 1.03 and Opt 5.12, Wis. Admin Code. Except as restricted by Opt 5.12 (1), an optometrist may delegate any act that is within the scope of practice of optometry to a delegate who has the proper education and training to perform the task. All unlicensed staff must be supervised, as defined in Ch Opt 1.02(6), meaning the optometrist must be available to coordinate, direct, and inspect the practice of the unlicensed person on a regular basis, as determined by the supervising optometrist.

Motion carried unanimously.

**MOTION:** Kathi Leach moved, seconded by Brian Hammes, to revise Position Statement #4 as follows:

**4) DOES AN OPTOMETRIST NEED A SEPARATE CREDENTIAL, IN ADDITION TO A LICENSE TO PRACTICE OPTOMETRY, IN ORDER TO USE DIAGNOSTIC PHARMACEUTICAL AGENTS?**

An Optometrist may use diagnostic pharmaceutical agents if the Optometrist complies with the requirements set forth in Wis. Stats. 449.17. For those licensed as an Optometrist on or after August 1, 2006, see Wis. Stats. 449.17 (1). For Optometrists licensed prior to August 1, 2006, see Wis. Stats. 449.17 (1m).

Motion carried unanimously.

**ARBO MEETING DISCUSSION AND CONSIDERATION**

**MOTION:** Kathi Leach moved, seconded by Richard Foss, to delegate Gregory Foster to attend the 2013 ARBO Annual meeting in San Diego June 23-25, 2013 on behalf of the Optometry Board. Motion carried unanimously.

**CONSIDERATION OF AUTO-APPROVAL OF CE COURSES**

**MOTION:** Mark Jenkins moved, seconded by Kathi Leach, to clarify that all Continuing Education providers must comply with the application process set forth in Opt 8.03 (1) unless excepted by the provisions of Opt 8.03 (5). Motion carried unanimously.

**ADJOURNMENT**

**MOTION:** Brian Hammes moved, seconded by Kathi Leach, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:07 a.m.

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

**AGENDA REQUEST FORM**

1) Name and Title of Person Submitting the Request: <b>Angela Hellenbrand Executive Director</b>		2) Date When Request Submitted: 11 June 2013  Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before the meeting for all others</li> </ul>	
3) Name of Board, Committee, Council, Sections: <b>Optometry Examining Board</b>			
4) Meeting Date: <b>18 July 2013</b>	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? <b>Executive Director Matters</b> - <b>DSPS Job Ready Initiative</b>	
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? If yes, who is appearing?  <input type="checkbox"/> Yes by _____ (name)  <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: <b>n/a</b>	
10) Describe the issue and action that should be addressed:			
11) Authorization			
Signature of person making this request			Date
Supervisor (if required)			Date
Bureau 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 Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

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**State of Wisconsin  
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**AGENDA REQUEST FORM**

1) Name and Title of Person Submitting the Request: Angela Hellenbrand Executive Director		2) Date When Request Submitted: 26 June 2013  Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before the meeting for all others</li> </ul>	
3) Name of Board, Committee, Council, Sections: Optometry Examining Board			
4) Meeting Date: 18 July 2013	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Matters -DPS Public Board Agenda Item	
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? If yes, who is appearing?  <input type="checkbox"/> Yes by _____ (name)  <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:  New feature on the DPS website under "Boards & Council" for public to request a topic go before the Board.			
11) Authorization			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Bureau 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 Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

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## Chapter Opt 1

### AUTHORITY AND DEFINITIONS

Opt 1.01 Authority.  
Opt 1.02 Definitions.

Opt 1.03 Delegation and supervision.

**History:** Chapter Opt 1 as it existed on January 31, 1971 was repealed, and a new chapter Opt 1 was created, [Register, January, 1971, No. 181](#), effective 2–1–71.

**Opt 1.01 Authority.** The rules in chs. [Opt 1](#) to [8](#) are adopted under authority in ss. [15.08 \(5\) \(b\)](#), [227.11 \(2\)](#), [449.01](#) and [449.07](#), Stats., to define the scope of practice of optometry in Wisconsin.

**History:** Cr. [Register, August, 1985, No. 356](#), eff. 9–1–85; correction made under s. 13.93 (2m) (b) 7., Stats., [Register, March, 1989, No. 399](#); am. [Register, September, 1997, No. 501](#), eff. 10–1–97; CR 06–116: am. [Register May 2007 No. 617](#), eff. 6–1–07.

**Opt 1.02 Definitions.** As used in chs. [Opt 1](#) to [8](#):

(1) “Board” means the optometry examining board.

(1m) “Department” means the department of safety and professional services.

(2) “Fitting contact lenses” means any of the following procedures:

(a) Determining whether a patient may safely and comfortably wear contact lenses.

(b) Measuring and evaluating the curvature of the cornea through any means including photographic, mechanical or reflected light methods.

(c) Using a spectacle prescription or a prescription determined through the use of a vertometer or its equivalent on a pair of spectacles, as a basis for designing, manufacturing or duplicating a contact lens.

(d) Prescribing a schedule of wearing contact lenses.

(e) Placing a contact lens upon the eye of a patient for diagnostic purposes.

(f) Evaluating the physical fit of the contact lens.

(g) Using a phoropter, hand-held lens or any automated instrument for the purposes of determining the prescription or change in prescription of a contact lens.

(h) Any procedure listed in s. [Opt 1.02 \(4\)](#).

(4) “Minimum examination for the fitting of contact lenses” means the performance of all of the following procedures:

(a) Performing a minimum eye examination.

(b) Determining lens specifications.

(c) Evaluating the physical fit of diagnostic and prescribed lenses by means of a slit lamp.

(d) Prescribing a time schedule for a patient’s wearing the contact lenses.

(e) Performing progress evaluations and recording in the patient record the recommended date of the patient’s next visit.

(5) “Minimum eye examination” means the performance of all of the following procedures:

(a) Recording a complete case history of the patient.

(b) Measuring far and near visual acuity.

(c) Conducting an ophthalmoscopic and external examination.

(d) Measuring corneal curvature.

(e) Performing retinoscopy.

(f) Evaluating convergence and accommodation.

(g) Obtaining far and near subjective findings.

(h) Evaluating muscle balance.

(i) Measuring intraocular pressure.

(j) Recording prescription and far and near visual acuity obtained.

(6) “Supervision” means availability to coordinate, direct, and inspect the practice of an unlicensed person on a regular basis, as determined by the supervising optometrist.

**History:** Cr. [Register, January, 1971, No. 181](#), eff. 2–1–71; am. [Register, August, 1973, No. 212](#), eff. 9–1–73; r. and recr. [Register, August, 1985, No. 356](#), eff. 9–1–85; emerg. r. (3), eff. 10–18–85; r. (3), [Register, April, 1986, No. 364](#), eff. 5–1–86; correction in (1) (h) made under s. 13.93 (2m) (b) 7., Stats., [Register, March, 1989, No. 399](#); renum. (1), (2) and (4) to be (2), (3) and (6) and am. (2) (h) and (6) (c), (1), (4) and (5) renum. from [Opt 5.02 \(1\), \(3\) and \(4\), Register, June, 1990, No. 414](#), eff. 7–1–90; am. (intro.), (2) (a) to (g), (4) (intro.) to (d), (5) (intro.) to (i) and (6) (a) to (e), r. (1), cr. (1) and (1m), [Register, September, 1997, No. 501](#), eff. 10–1–97; CR 06–116: am. (intro.), r. (3), r. and recr. (6), [Register May 2007 No. 617](#), eff. 6–1–07; **correction in (1m) made under s. 13.92 (4) (b) 6., Stats., Register February 2012 No. 674.**

**Opt 1.03 Delegation and supervision.** Except as provided under s. [Opt 5.12 \(1\)](#) and (2), an optometrist may direct an unlicensed person working under the optometrist’s supervision to perform any act that is within the optometrist’s scope of practice. The optometrist continues to be responsible for interpretation of test findings, as well as the diagnosis and management of any condition related to the care of the patient.

**History:** Cr. [Register, March, 1975, No. 231](#), eff. 4–1–75; r. and recr. [Register, August, 1985, No. 356](#), eff. 9–1–85; CR 06–116: r. and recr. [Register May 2007 No. 617](#), eff. 6–1–07.

## Chapter Opt 2

### ORGANIZATION OF THE BOARD

Opt 2.01 Procedure.  
Opt 2.02 Vice-chairperson.

Opt 2.03 Membership in international association.  
Opt 2.04 Delegates.

**History:** Chapter Opt 2 as it existed on January 31, 1971 was repealed, and a new chapter Opt 2 was created, [Register, January, 1971, No. 181](#), effective 2-1-71.

**Opt 2.01 Procedure.** Unless otherwise specified, Robert's Rules of Order, of latest copyright, shall be the guide for conduct of business at all business meetings of the board. The board shall meet annually or more frequently at the call of the chairperson or a majority of the members.

**History:** Cr. [Register, January, 1971, No. 181](#), eff. 2-1-71; correction made under s. 13.93 (2m) (b) 5., Stats., [Register, June, 1990, No. 414](#).

**Opt 2.02 Vice-chairperson.** In the event of the chairperson's absence or incapacity, the vice-chairperson shall exercise the powers of chairperson with the approval of the other board members.

**History:** Cr. [Register, January, 1971, No. 181](#), eff. 2-1-71; am. [Register, March, 1979, No. 279](#), eff. 4-1-79; renum. from Opt 2.04 and am. [Register, June, 1990, No. 414](#), eff. 7-1-90.

**Opt 2.03 Membership in international association.**

The board may maintain an active paid membership in the international association of boards and the secretary shall submit vouchers for the annual dues thereof to the secretary of safety and professional services for approval and payment.

**History:** Cr. [Register, January, 1971, No. 181](#), eff. 2-1-71; am. [Register, March, 1979, No. 279](#), eff. 4-1-79; renum. from Opt 2.05. [Register, June, 1990, No. 414](#), eff. 7-1-90; correction made under s. 13.92 (4) (b) 6., Stats., [Register February 2012 No. 674](#).

**Opt 2.04 Delegates.** The board may elect a delegate or delegates to the international association of boards and/or the national board of examiners in optometry and subject to the approval of the secretary of safety and professional services, may pay such fees and expenses as are ordinary and necessary in the performance of duties as a delegate.

**History:** Cr. [Register, January, 1971, No. 181](#), eff. 2-1-71; renum. from Opt 2.03, [Register, June, 1990, No. 414](#), eff. 7-1-90; correction made under s. 13.92 (4) (b) 6., Stats., [Register February 2012 No. 674](#).

## 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://drl.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://drl.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 8935, 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 4

### LICENSURE BY ENDORSEMENT

Opt 4.01 Qualifications.  
Opt 4.02 Application procedures.

Opt 4.03 Examinations.

**History:** Chapter Opt 5 as it existed on March 31, 1989 was repealed, and a new chapter Opt 4 was created effective April 1, 1989.

**Opt 4.01 Qualifications.** An optometrist holding a license, in good standing, to practice optometry in another state that has substantially similar requirements may become licensed and registered in Wisconsin if the applicant submits evidence satisfactory to the board that he or she satisfies all of the following criteria:

(1) Has graduated from an accredited school or college of optometry approved and recognized by the board.

(2) Has passed the examination of the national board of examiners in optometry as required under s. [Opt 4.03 \(2\)](#).

(3) Has practiced optometry in the other state for at least 5 years.

(4) Has passed the required state law examination administered by the board as required under s. [Opt 4.03 \(1\)](#).

(5) Has never been disciplined by the licensing authority in any other state, territory of the United States, or another country for any misconduct or violations which evidence lack of competence to practice optometry in Wisconsin as determined by the board.

(6) Is not aware of any pending complaints against the applicant or investigations of the applicant that relate to the practice of optometry.

(7) Does not have an arrest or a conviction record, subject to ss. [111.321](#), [111.322](#) and [111.335](#), Stats.

(8) Pays the fee specified in s. [440.05 \(1\)](#), Stats.

(9) Has completed the study specified in ss. [449.17 \(1m\) \(b\)](#) and [449.18 \(2\) \(a\) 2.](#), Stats., and passed the examinations specified in ss. [449.17 \(1m\) \(c\)](#) and [449.18 \(2\) \(a\) 3.](#), Stats.

**Note:** Applicants who engaged in the practice of optometry for at least 5 years prior to 1996 are required to take and pass Parts I and II of the national board examination. Applicants who engaged in the practice of optometry for less than 5 years prior to 1996 and applicants who graduated from an approved college of optometry after December 31, 1995 are required to take and pass Parts I, II and III of the national board examination. It is the responsibility of the applicant to contact the national board to request that verification of the applicant's successful completion of the requisite examination be forwarded to the board. An application will not be considered complete until after the board receives the examination verification and other required information.

**History:** Cr. [Register, March, 1989, No. 399](#), eff. 4-1-89; am. [Register, April, 1996, No. 484](#), eff. 5-1-96; am. (intro.), (4) and (6), [Register, September, 1997, No. 501](#), eff. 10-1-97; am. (2) and (4), [Register, December, 1998, No. 516](#), eff. 1-1-99; [CR 06-116](#): am. (intro.), (1) to (5) and (7), cr. (8) and (9), [Register May 2007 No. 617](#), eff. 6-1-07.

**Opt 4.02 Application procedures. (1)** An applicant for licensure under this chapter shall file with the board a completed application on a form provided by the board. The application shall include:

(a) The signature of the applicant.

(b) Notice as to whether the applicant has been disciplined in any state in which he or she has held a license.

(c) The fees 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 licensure may be obtained from the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708.

(d) A certified transcript of the coursework completed by the applicant submitted directly to the board by an accredited school or 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 available from the board upon request. 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 required information.

(e) Verification of the applicant's licensure submitted directly to the board by all states in which the applicant has ever held a license.

**Note:** It is the responsibility of the applicant to contact the appropriate state licensing agencies to request that verification of the applicant's licensure be forwarded to the board. An application will not be considered to be complete until after the board receives verification of licensure from all state licensing agencies and other required information.

(2) Applicants who have a pending criminal charge or have 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 are substantially related to the circumstances of the licensed activity.

**History:** Cr. [Register, March, 1989, No. 399](#), eff. 4-1-89; am. (1) (intro.) and (c), [Register, June, 1990, No. 414](#), eff. 7-1-90; am. (1) (c), [Register, July, 1994, No. 463](#), eff. 8-1-94; am. (1) (c), [Register, April, 1996, No. 484](#), eff. 5-1-96; am. (1), renum. (2), (3) and (4) to be (1) (d), (e) and (2) and am. (1) (d) and (e), [Register, September, 1997, No. 501](#), eff. 10-1-97; [CR 06-116](#): am. (1) (intro.) and (c) [Register May 2007 No. 617](#), eff. 6-1-07.

**Opt 4.03 Examinations. (1)** An applicant for a license by endorsement under this chapter shall take and pass the state law examination as set forth in s. [Opt 3.03](#).

(2) An applicant for a license by endorsement under this chapter shall successfully complete one of the following:

(a) Parts I and II of the national board examination, if the applicant has engaged in the practice of optometry for at least 5 years prior to January 1, 1996.

(b) Parts I, II and III of the national board examination, if the applicant has engaged in the practice of optometry for less than 5 years prior to January 1, 1996, or if applicant graduated from an approved college of optometry after December 1, 1995.

(3) The passing grade for the examinations shall be as specified in s. [Opt 3.07](#).

**Note:** The conduct of examinations administered by the board is specified in ch. [Opt 3](#).

**History:** Cr. [Register, March, 1989, No. 399](#), eff. 4-1-89; am. (1), [Register, April, 1996, No. 484](#), eff. 5-1-96; am. (1), renum. (2) to be (3) and am., cr. (2), [Register, December, 1998, No. 516](#), eff. 1-1-99; [CR 06-116](#): am. (1) and (2) (intro.) [Register May 2007 No. 617](#), eff. 6-1-07.

## Chapter Opt 5

### UNPROFESSIONAL CONDUCT

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

**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 accuracy 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 6

### USE OF DIAGNOSTIC AND THERAPEUTIC PHARMACEUTICAL AGENTS AND REMOVAL OF SUPERFICIAL FOREIGN BODIES FROM AN EYE OR FROM AN APPENDAGE TO THE EYE

Opt 6.01 Authority.  
Opt 6.02 Definitions.  
Opt 6.03 Use of diagnostic pharmaceutical agents.

Opt 6.04 Use of therapeutic pharmaceutical agents and removal of foreign bodies from eyes.

**Opt 6.01 Authority.** The rules in this chapter are adopted under authority in ss. 15.08 (5) (b), 227.11 (2), 449.17 and 449.18, Stats.

**History:** Cr. Register, December, 1990, No. 420, eff. 1-1-91; CR 06-116: am. Register May 2007 No. 617, eff. 6-1-07.

**Opt 6.02 Definitions.** In this chapter:

(1) “Adverse drug reaction” has the meaning given under s. SPS 10.01.

(1m) “Adverse drug reaction referral plan” has the meaning given under s. SPS 10.01.

(3) “DPA” or “diagnostical pharmaceutical agent” has the meaning given under s. SPS 10.01.

(4) “100 hours of approved study” means a course of study offered on or after January 1, 1987 by an institution approved by the board in accordance with s. 449.18, Stats.

(6) “TPA” or “therapeutic pharmaceutical agent” has the meaning given under s. SPS 10.01.

**History:** Cr. Register, December, 1990, No. 420, eff. 1-1-91; r. (3), Register, September, 1997, No. 501, eff. 10-1-97; CR 05-036: cr. (intro.) and (3) Register January 2006 No. 601, eff. 2-1-06; CR 06-116: renum. (1) to be (1m), cr. (1), r. (2) and (5), r. and recr. (3) and am. (6), Register May 2007 No. 617, eff. 6-1-07; **correction in (1), (1m), (3), (6) made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671.**

**Opt 6.03 Use of diagnostic pharmaceutical agents.**

(1) **APPLICABILITY.** An optometrist may use topical ocular diagnostic pharmaceutical agents only if the optometrist establishes an adverse reaction plan, as provided under sub. (3), and if one of the following applies:

(a) The board initially issues a license to practice optometry to the optometrist on or after August 1, 2006.

(b) The department issued a certificate to the optometrist under s. 449.17, 2003 Stats.

(c) The board issues a certificate under sub. (2) to an optometrist issued a license to practice optometry before August 1, 2006.

(2) **LICENSES ISSUED BEFORE AUGUST 1, 2006.** (a) The board shall certify an optometrist to use topical ocular diagnostic pharmaceutical agents if the optometrist was issued a license to practice optometry before August 1, 2006, and the optometrist satisfies the education requirements under par. (b) and successfully completes the examination required under par. (c).

(b) In addition to the requirements under par. (c), the board may issue certificates under par. (a) only to optometrists who successfully complete 60 classroom hours of study in general and ocular pharmacology as it relates to optometry with particular emphasis on the use of topical ocular diagnostic pharmaceutical agents. At least 30 of the 60 classroom hours of study shall be in ocular pharmacology and shall emphasize the systemic effects of and reactions to pharmaceutical agents, including the treatment of any adverse reactions that may occur. The course of study shall be offered by an institution approved by the board and accredited by a regional or professional accrediting organization which is recognized by the Council for Higher Education Accreditation or its successor or the federal department of education, and shall be

completed prior to entering the examination required under par. (c).

(c) The board may issue certificates under par. (a) only to optometrists who successfully complete an examination approved or conducted by the board on the subject of general and ocular pharmacology as it relates to optometry with particular emphasis on the use of topical ocular diagnostic pharmaceutical agents, including the treatment of adverse reactions to such pharmaceutical agents. The examination shall be prepared or approved by the board. The board shall periodically review the validity, reliability, and appropriateness of the examination. The board may do any of the following:

1. Prepare, administer, and grade the examination.

2. Approve in whole or in part an examination prepared, administered, and graded by the national board of examiners in optometry or another examination provider approved by the board.

3. Approve and administer an examination prepared and graded by or under the direction of the national board of examiners in optometry or another examination provider approved by the board.

(d) No fee may be charged for a certificate issued under this subsection. A certificate issued under this subsection or s. 449.17, 2003 Stats., remains in effect while the optometrist’s license to practice optometry remains in effect unless the certificate is suspended or revoked by the board.

(3) **ADVERSE REACTION PLAN.** Topical ocular diagnostic pharmaceutical agents may be used only by optometrists who have established a plan for the referral of patients who experience adverse reactions from the application of those agents to appropriate medical services.

(4) **USE OF DIAGNOSTIC PHARMACEUTICAL AGENTS.** An optometrist who is allowed under sub. (1) to use diagnostic pharmaceutical agents may not use any pharmaceutical agent that he or she is prohibited from using under ch. SPS 10.

**History:** Cr. Register, December, 1990, No. 420, eff. 1-1-91; am. (1) (a) and (b), Register, September, 1997, No. 501, eff. 10-1-97; CR 06-116: r. and recr. Register May 2007 No. 617, eff. 6-1-07; **correction in (4) made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671.**

**Opt 6.04 Use of therapeutic pharmaceutical agents and removal of foreign bodies from eyes. (1) APPLICABILITY.**

No optometrist may use therapeutic pharmaceutical agents or remove foreign bodies from an eye or from an appendage to the eye unless one of the following applies:

(a) The board initially issues a license to practice optometry to the optometrist on or after August 1, 2006.

(b) The board issued a certificate to the optometrist under s. 449.18, 2003 Stats.

(c) The board issues a certificate under sub. (2) to an optometrist issued a license to practice optometry before August 1, 2006.

(2) **LICENSES ISSUED BEFORE AUGUST 1, 2006.** (a) The board shall certify an optometrist to use therapeutic pharmaceutical agents and remove foreign bodies from an eye or from an appendage to the eye if the optometrist was issued a license to practice

optometry before August 1, 2006, and the optometrist satisfies all of the following:

1. The optometrist is certified under s. 449.17, 2003 Stats., or s. 449.17 (1m) (a), Stats., to use topical ocular diagnostic pharmaceutical agents.

2. The optometrist has successfully completed 100 hours of approved study in the use of therapeutic pharmaceutical agents and the removal of superficial foreign bodies from an eye or from an appendage to the eye. The course of study shall be offered by an institution approved by the board and accredited by a regional or professional accrediting organization that is recognized by the Council for Higher Education Accreditation or its successor or the federal department of education.

3. The optometrist has passed an examination conducted or approved by the board. The board shall periodically review the validity, reliability, and appropriateness of the examination that it conducts or approves under this subdivision.

(b) No fee may be charged for the issuance of a certificate under par. (a).

(c) A certificate issued under par. (a) or s. 449.18, 2003 Stats., remains in effect while the optometrist's license to practice optometry remains in effect unless the certificate is suspended or revoked by the board.

**(3) REMOVALS FROM EYES.** An optometrist who is allowed under sub. (1) to remove a foreign body from an eye or from an appendage to the eye may not remove a foreign body from an eye

or from an appendage to the eye if the foreign body is deeper than Bowman's layer of the cornea or deeper than the conjunctiva.

**(4) USE OF THERAPEUTIC PHARMACEUTICAL AGENTS.** (a) An optometrist who is allowed under sub. (1) to use therapeutic pharmaceutical agents may not do any of the following:

1. Prescribe or administer any therapeutic pharmaceutical agent that he or she is prohibited from prescribing or administering under ch. SPS 10.

2. Dispense, as defined in s. 450.01 (7), Stats., other than by prescribing or administering. This subdivision does not prohibit the optometrist from providing a complimentary sample of a therapeutic pharmaceutical agent to a patient to whom the optometrist has rendered therapeutic care.

(b) An optometrist who is allowed under sub. (1) to use therapeutic pharmaceutical agents shall include with each prescription order all of the following:

1. A statement that he or she is allowed under sub. (1) to use therapeutic pharmaceutical agents.

2. The indicated use of the therapeutic pharmaceutical agent so prescribed.

**History:** Cr. Register, December, 1990, No. 420, eff. 1-1-91; am. (2), (4) and (5), Register, January, 1993, No. 445, eff. 2-1-93; renum. (1) to be (1) (a) and am., cr. (1) (b), Register, April, 1994, No. 460, eff. 5-1-94; am. (1) (a), Register, April, 1996, No. 484, eff. 5-1-96; renum. (1) (a) to be (1) and am., r. (1) (b), am. (2) to (5), Register, September, 1997, No. 501, eff. 10-1-97; CR 05-036: am. (1), renum. (2) to be (2m), cr. (2), (6) and (7) Register January 2006 No. 601, eff. 2-1-06; CR 06-116: r. and recr. Register May 2007 No. 617, eff. 6-1-07; correction in (4) (a) 1. made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671.

## Chapter Opt 7

### RENEWAL OF CERTIFICATE OF REGISTRATION

Opt 7.02 Certificate of registration.  
Opt 7.03 Renewal of certificate of registration.

Opt 7.04 Failure to renew.  
Opt 7.05 Late renewal.

**Opt 7.02 Certificate of registration.** Persons practicing optometry are required to hold a valid certificate of registration.

**History:** Cr. Register, January, 1993, No. 445, eff. 2-1-93.

**Opt 7.03 Renewal of certificate of registration.** Persons practicing optometry shall on or before December 15 of each odd-numbered year renew their certificates of registration by registering with the department, certifying completion of the continuing education hours required under s. Opt 8.02, and paying the renewal fee specified in s. 440.08 (2) (a), Stats.

**History:** Cr. Register, January, 1993, No. 445, eff. 2-1-93; CR 06-116: am. Register May 2007 No. 617, eff. 6-1-07.

**Opt 7.04 Failure to renew.** An optometrist who fails to renew a certificate of registration by the renewal date may not practice optometry until the certificate is renewed under s. Opt 7.05.

**History:** Cr. Register, January, 1993, No. 445, eff. 2-1-93; am. Register, September, 1997, No. 501, eff. 10-1-97.

**Opt 7.05 Late renewal.** An optometrist who fails to renew a certificate of registration by the renewal date may renew the certificate by satisfying the following requirements:

(1) If applying less than 5 years after the renewal date, submit an application on a form provided by the department, certify completion of the continuing education hours required under s. Opt 8.02, and pay the renewal fees specified in s. 440.08 (2) (a) and (3), Stats.

(2) If applying 5 years or more after the renewal date, submit an application on a form provided by the department, certify completion of the continuing education hours required under s. Opt 8.02, pay the renewal fees specified in s. 440.08 (2) (a) and (3), Stats., and submit proof of all of the following, as ordered by the board:

(a) Successful completion of educational coursework required by the board to ensure protection of the public health, safety and welfare.

(b) Successful completion of an examination required by the board to ensure protection of the public health, safety and welfare.

**History:** Cr. Register, January, 1993, No. 445, eff. 2-1-93; am. (1) and (2) (intro.), Register, April, 1996, No. 484, eff. 5-1-96; am. (intro.), (2) (intro.) and (a), Register, September, 1997, No. 501, eff. 10-1-97; CR 06-116: am. (1) and (2) (intro.) Register May 2007 No. 617, eff. 6-1-07.

## 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 Examination and Education, P.O. Box 8935, Madison, Wisconsin, 53708, or from the department’s website at: <http://drl.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.