

HOUSE No. 01473

The Commonwealth of Massachusetts

PRESENTED BY:

Brian Dempsey

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to the disclosure of postoperative ocular care..

PETITION OF:

NAME:

Brian Dempsey

DISTRICT/ADDRESS:

3rd Essex

HOUSE No. 01473

By Mr. Dempsey of Haverhill, a petition (accompanied by bill, House, No. 1473) of Brian Dempsey relative to the disclosure of postoperative ocular care. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ HOUSE
□ , NO. 2039 OF 2009-2010.]

The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven
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An Act to the disclosure of postoperative ocular care..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 SECTION 1. Chapter 112 of the General Laws, as appearing in the 2004 Official Edition, is
- 2 hereby amended by adding the following new section:-
- 3 Chapter 12 DD: Postoperative Care After Eye Surgery
- 4 (a) If a surgeon delegates the responsibility for postoperative care for a patient for whom the
- 5 surgeon performed eye surgery, the surgeon may do so only by entering into a comanagement
- 6 agreement with an ophthalmologist or optometrist under the provisions of this section.

7 (b) Except as provided in section (c), a surgeon who performs eye surgery shall be physically
8 available to the patient for postoperative care in the community in which the operation was
9 performed for at least 48 hours after the surgery is completed.

10 (c) A surgeon who performs eye surgery may delegate the responsibility for the first 48 hours
11 of postoperative care for the patient to another person if the delegation occurs through a
12 management agreement that meets the requirements of this section and the person to whom the
13 responsibility is delegated is

14 i. An optometrist; or

15 ii. An ophthalmologist

16 (d) In order to satisfy the requirements of this section, a comanagement agreement for post
17 operative care of a patient must meet the following requirements:

18 i. The agreement may only be entered into when

19 1. the distance the patient would have to travel to the regular office of the operating surgeon
20 would result in an unreasonable hardship for the patient, as determined by the patient;

21 2. the surgeon will not be available for postoperative care of the patient as a result of the
22 surgeon's personal travel, illness;

23 3. other justifiable circumstance exist, as determined by the Board of Registration in

24 Medicine

45 d. A notice that, notwithstanding the delegation of care, the patient may receive postoperative
46 care for the surgeon at the patient's request without the payment of additional fees;

47 e. A statement that the surgeon will be ultimately responsible for the patient's care until the
48 patient is postoperatively stable;

49 f. A statement that there is no fixed date on which the patient will be required to return to
50 the referring health care provider; and

51 g. A description of special risks to the patient that may result from the comanagement
52 agreement.

53 (e) A surgeon may not enter into a comanagement agreement governed by this section:

54 a. Under which two or more physicians or optometrists agree to comanage patients of the
55 surgeon as a matter of routine policy rather than on case by case basis;

56 b. That is not clinically appropriate for the patient

57 c. That is made with the intent to induce surgical referrals; or

58 d. That is based on economic consideration affecting the surgeon

59 (f) An ophthalmologist or optometrist may not require, as a condition of making referrals to a
60 surgeon, that the surgeon must enter into a comanagement agreement with the ophthalmologist
61 or optometrist for the postoperative care of the patient who is referred.

62 (g) An ophthalmologist or optometrist to whom postoperative care is delegated under a
63 comanagement agreement governed by this section may not further delegate the care to another

64 person, regardless of whether the other person is under the supervision of the ophthalmologist or
65 optometrist.

66 (h) It is an affirmative defense to a prosecution under this section or in disciplinary proceeding
67 for violation of this section that the surgeon delegated postoperative care of a patient because of
68 unanticipated circumstances that were not reasonably foreseeable by the surgeon before the
69 surgery was performed.

70 Section 2. The board shall promulgate rules and regulations to implement section 1.