SENATE . . . . . No. 02135

Senate, February 13, 2012 – New draft of House, No. 2348 reported from the committee on Health Care Financing.

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act relative to the modernization of optometric patient care.

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

SECTION 1. Section 1 of chapter 94C of the general laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in line 244, the words "sections 66 and 66B" and inserting in place thereof the following words:- "either sections 66 and 66B or sections 66 and 66C."

SECTION 2. Section 7 of said chapter 94C, as so appearing, is hereby amended by striking out, in line 191, the words "sections 66 and 66B" and inserting in place thereof the following words:-- either sections 66 and 66B or sections 66 and 66C.

SECTION 3. Section 9 of said chapter 94C, as so appearing, is hereby amended by striking out, in line 2, the words "sections 66 and 66B" and inserting in place thereof the following words:-- either sections 66 and 66B or sections 66 and 66C.

SECTION 4. Said section 9 of said chapter 94C, as so appearing, is hereby further amended by inserting after the word "podiatrist", in line 55, the following word:-- , optometrist.

SECTION 5. Section 66 of chapter 112 of the general laws, as so appearing, is hereby amended by inserting after the word "utilization", in line 7, the following words:-- and prescription.

SECTION 6. Said section 66 of said chapter 112, as so appearing, is hereby further amended by striking out, in line 12, the words " and 66B" and inserting in place thereof the following words:-- , 66B and 66C.

SECTION 7. The first paragraph of section 66A of said chapter 112, as so appearing, is hereby amended by adding the following sentence:-- “A registered optometrist may utilize epinephrine, adrenaline or other agents used in the percutaneous treatment of anaphylaxis.”

SECTION 8. Section 66B of said chapter 112, as so appearing, is hereby amended by inserting after the words "injection," in line 13, the third time it appears, the following words:-- “, except for the utilization of epinephrine, adrenaline or other agents used in the percutaneous treatment of anaphylaxis.”

SECTION 9. Said chapter 112 is hereby further amended by inserting after section 66B the following section:--

Section 66C. (a) A registered optometrist, qualified by examination for practice under section 68 after January 1, 2009, duly certified in accordance with section 68C and duly registered to issue written prescriptions in accordance with paragraph (h) of section 7 of chapter 94C may, for the purpose of diagnosing, preventing, correcting, managing or treating ocular

diseases, including glaucoma and ocular abnormalities of the human eye and adjacent tissue, utilize and prescribe topical and oral therapeutic pharmaceutical agents used in the practice of optometry as defined in section 66 and described in Title 21 U.S.C. Section 812 or in chapter 94C , including those placed in schedules III, IV, V and VI by the commissioner pursuant to section 2 of chapter 94C and including the utilization of epinephrine, adrenalin, or other agents used in the percutaneous treatment of anaphylaxis. Nothing in this section shall be construed to permit optometric utilization or prescription of: (a) therapeutic pharmaceutical agents for the treatment of systemic diseases; (b) invasive surgical procedures; or (c) pharmaceutical agents administered by subdermal injection, intramuscular injection, intravenous injection, subcutaneous injection or retrobulbar injection, except as authorized above for the percutaneous treatment of anaphylaxis. The pharmaceutical agents from schedule III shall be limited to the narcotic analgesics and shall not include the use of hallucinogenic substances or anabolic steroids. Oral steroid treatment required beyond 14 days shall be continued only in consultation with the patient's physician.

(b) If, during the course of examining or treating a patient with the aid of a diagnostic or therapeutic pharmaceutical agent, an optometrist, exercising professional judgment and that degree of expertise, care and knowledge ordinarily possessed and exercised by optometrists under like circumstances, determines the existence of the signs of previously unevaluated disease which requires treatment not included in the scope of optometric practice as set forth in section 66, such optometrist shall refer the patient to a licensed physician or other qualified health care practitioner. Optometrists may utilize and prescribe nonlegend agents.

(c) Nothing in this section shall prevent a qualified optometrist from serving as an approved investigator in a clinical trial evaluating such drugs.

(d) If a patient exam shows newly diagnosed congenital glaucoma or if, during the course of examining, managing or treating a patient with glaucoma, surgical treatment is indicated, an optometrist shall refer that patient to a qualified physician for treatment.

(e) Optometrists licensed under this chapter 112 and the board of registration in optometry shall participate in appropriate state or federal reports or data collection efforts relative to patient safety and medical error reduction coordinated by the Betsy Lehman center for patient safety and medical error reduction established in section 16E of chapter 6A. Every insurer or risk management organization which provides insurance to an optometrist licensed under this chapter 112 shall make an annual report to the center. The report shall list the top 10 categories of losses, claims or actions for damage for personal injuries alleged to have been caused by error, omission or negligence in the performance by optometrists of services the company incurred during the previous calendar year. Reports shall include completed cases and settlements only and shall not include information identifying providers or patients. Reports shall be provided to the center at its request under annual timelines and reporting requirements established by the center with the input of the advisory committee established in section subsection (c) of said section 16E of said chapter 6A. The center shall use this information in the development of evidence-based best practices to reduce errors and enhance patient safety as required by subsection (e) of said section 16E of said chapter 6A to increase awareness of error prevention strategies through public and professional education as required by that subsection.

SECTION 10. Said chapter 112 is hereby further amended by inserting after section 68B the following section:--

Section 68C (a) The board of registration in optometry shall administer an examination designed to measure the qualifications necessary to safely utilize and prescribe therapeutic pharmaceutical agents defined in subsection (a) of section 66C. Such examination shall be held in conjunction with examinations provided in sections 68, 68A and 68B and shall include any portion of the examination administered by the National Board of Examiners in Optometry or other appropriate examinations covering the subject matter of therapeutic pharmaceutical agents. Nothing shall prohibit the board from administering 1 examination to measure the qualifications necessary under sections 68, 68A, 68B and 68C. The board shall, subsequent to January 1, 2009, only qualify for practice in accordance with said sections 68, 68A, 68B and 68C; and any applicant that presents satisfactory evidence that he has graduated from a school or college of optometry, approved by the board, subsequent to January 1, 2009 shall have satisfied all the requirements of sections 68, 68A, 68B and 68C.

(b) Examination for the utilization and prescription of therapeutic pharmaceutical agents placed under schedules III, IV, V and VI by the commissioner pursuant to section 2 of chapter 94C and defined in subsection (a) of section 66C shall, upon application, be open to an optometrist registered under section 68, 68A or 68B and to any person who meets the qualifications for examination under sections 68, 68A and 68B. Each such applicant, registered as an optometrist under said section 68, 68A or 68B, shall possess a current Massachusetts controlled substance registration for the use of topical pharmaceutical agents described in section 66B and placed under schedule VI by the commissioner pursuant to section 2 of chapter 94C and shall furnish to the board of registration in optometry evidence of the satisfactory completion of 40 hours of didactic education and 20 hours of supervised clinical education relating to the utilization and prescription of therapeutic pharmaceutical agents defined in subsection (a) of

section 66C. Such education shall be administered by the Massachusetts Society of Optometrists, shall be accredited by a college of optometry or medicine and shall otherwise meet the guidelines and requirements of the board of registration in optometry. The board of registration in optometry shall provide to the department of public health and each successful applicant a certificate of qualification in the utilization and prescription of all therapeutic pharmaceutical agents as defined in said subsection (a) of said section 66C.

(c) An optometrist licensed in another jurisdiction shall, after January 1, 2009, be deemed an applicant under section 68C by the board of registration in optometry. An optometrist licensed in another jurisdiction may submit evidence to the board of registration in optometry of practice equivalent to that required in section 68, 68A or 68B and the board, at its discretion, may accept such evidence in order to satisfy any of the requirements of this section. An optometrist licensed in another jurisdiction to utilize and prescribe therapeutic pharmaceutical agents substantially equivalent to those placed under schedules III, IV, V and VI by the commissioner pursuant to section 2 of chapter 94C and defined in subsection (a) of section 66C may submit evidence to the board of registration in optometry of equivalent didactic and supervised clinical education in order to satisfy all the requirements of this section.

(d) A licensed optometrist who has completed a Council on Optometric Education-approved, post-graduate residency program after July 31, 1997 may submit an affidavit to the board of registration in optometry from their residency supervisor or the director of residencies at the affiliated college of optometry attesting that an equivalent level of instruction and supervision was completed in order to satisfy all the requirements of this section.

(e) As a requirement of license renewal, an optometrist licensed under this section shall submit to the board of registration in optometry evidence attesting to the completion of 3 hours of continuing education specific to glaucoma.

SECTION 11. Within 90 days after the effective date of this act, the department of public health and the board of registration in optometry shall promulgate the rules and regulations required by sections 1, 7, and 9 of chapter 94C of the general laws and sections 66, 66A, 66B, 66C and 68C of chapter 112 of the general laws.