

SENATE No. 00833

The Commonwealth of Massachusetts

PRESENTED BY:

Richard T. Moore

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 relative to the modernization of optometric patient care.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Richard T. Moore</i>	<i>Worcester and Norfolk</i>
<i>James E. Timilty</i>	<i>Bristol and Norfolk</i>
<i>Robert M. Koczera</i>	<i>11th Bristol</i>
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>
<i>Harriette L. Chandler</i>	<i>First Worcester</i>
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>John V. Fernandes</i>	<i>10th Worcester</i>
<i>Linda Dorcena Forry</i>	<i>12th Suffolk</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>Jay Kaufman</i>	<i>15th Middlesex</i>
<i>Michael R. Knapik</i>	<i>Second Hampden and Hampshire</i>
<i>Timothy R. Madden</i>	<i>Barnstable, Dukes and Nantucket</i>
<i>Thomas M. McGee</i>	<i>Third Essex and Middlesex</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>

<i>James T. Welch</i>	<i>Hampden</i>
<i>Barry R. Finegold</i>	<i>Second Essex and Middlesex</i>
<i>Brian A. Joyce</i>	<i>Norfolk, Bristol, and Plymouth</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>
<i>Michael J. Rodrigues</i>	<i>First Bristol and Plymouth</i>

SENATE No. 00833

By Mr. Moore, petition (accompanied by bill, Senate, No. 833) of Welch, Scibak, Rodrigues and other members of the General Court for legislation relative to the modernization of optometric patient care [Joint Committee on the Judiciary].

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ SENATE
□ , NO. 1756 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

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:

1 SECTION 1. Section 1 of chapter 94C of the General Laws, as appearing in the 2008
2 Official Edition, is hereby amended by striking out, in line 244, the words "sections 66 and 66B"
3 and inserting in place thereof the following words:- either sections 66 and 66B or sections 66
4 and 66C.

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

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

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

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

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

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

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

26 SECTION 9. Said chapter 112 is hereby further amended by inserting after section
27 66B the following section:--

28 Section 66C. (a) A registered optometrist, qualified by examination for practice under section 68
29 after January 1, 2009, duly certified in accordance with section 68C and duly registered to issue
30 written prescriptions in accordance with paragraph (h) of section 7 of chapter 94C may, for the
31 purpose of diagnosing, preventing, correcting, managing or treating ocular diseases, including
32 glaucoma and ocular abnormalities of the human eye and adjacent tissue, utilize and prescribe
33 topical and oral therapeutic pharmaceutical agents used in the practice of optometry as defined in
34 section 66 and described in Title 21 U.S.C. Section 812 or in chapter 94C , including those
35 placed in schedules III, IV, V and VI by the commissioner pursuant to section 2 of chapter 94C
36 and including the utilization of epinephrine, adrenalin, or other agents used in the percutaneous
37 treatment of anaphylaxis. Nothing in this section shall be construed to permit optometric
38 utilization or prescription of: (a) therapeutic pharmaceutical agents for the treatment of systemic
39 diseases; (b) invasive surgical procedures; or (c) pharmaceutical agents administered by
40 subdermal injection, intramuscular injection, intravenous injection, subcutaneous injection or
41 retrobulbar injection, except as authorized above for the percutaneous treatment of anaphylaxis.
42 The pharmaceutical agents from schedule III shall be limited to the narcotic analgesics and shall
43 not include the use of hallucinogenic substances or anabolic steroids. Oral steroid treatment
44 required beyond 14 days shall be continued only in consultation with the patient's physician.

45 (b) If, during the course of examining or treating a patient with the aid of a diagnostic
46 or therapeutic pharmaceutical agent, an optometrist, exercising professional judgment and that
47 degree of expertise, care and knowledge ordinarily possessed and exercised by optometrists
48 under like circumstances, determines the existence of the signs of previously unevaluated disease
49 which requires treatment not included in the scope of optometric practice as set forth in section

50 66, such optometrist shall refer the patient to a licensed physician or other qualified health care
51 practitioner. Optometrists may utilize and prescribe nonlegend agents.

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

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

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

71 required by subsection (e) of said section 16E of said chapter 6A to increase awareness of error
72 prevention strategies through public and professional education as required by that subsection.

73 SECTION 10. Said chapter 112 is hereby further amended by inserting after section
74 68B the following section:--

75 Section 68C (a) The board of registration in optometry shall administer an
76 examination designed to measure the qualifications necessary to safely utilize and prescribe
77 therapeutic pharmaceutical agents defined in subsection (a) of section 66C. Such examination
78 shall be held in conjunction with examinations provided in sections 68, 68A and 68B and shall
79 include any portion of the examination administered by the National Board of Examiners in
80 Optometry or other appropriate examinations covering the subject matter of therapeutic
81 pharmaceutical agents. Nothing shall prohibit the board from administering 1 examination to
82 measure the qualifications necessary under sections 68, 68A, 68B and 68C. The board shall,
83 subsequent to January 1, 2009, only qualify for practice in accordance with said sections 68,
84 68A, 68B and 68C; and any applicant that presents satisfactory evidence that he has graduated
85 from a school or college of optometry, approved by the board, subsequent to January 1, 2009
86 shall have satisfied all the requirements of sections 68, 68A, 68B and 68C.

87 (b) Examination for the utilization and prescription of therapeutic pharmaceutical
88 agents placed under schedules III, IV, V and VI by the commissioner pursuant to section 2 of
89 chapter 94C and defined in subsection (a) of section 66C shall, upon application, be open to an
90 optometrist registered under section 68, 68A or 68B and to any person who meets the
91 qualifications for examination under sections 68, 68A and 68B. Each such applicant, registered
92 as an optometrist under said section 68, 68A or 68B, shall possess a current Massachusetts

93 controlled substance registration for the use of topical pharmaceutical agents described in section
94 66B and placed under schedule VI by the commissioner pursuant to section 2 of chapter 94C and
95 shall furnish to the board of registration in optometry evidence of the satisfactory completion of
96 40 hours of didactic education and 20 hours of supervised clinical education relating to the
97 utilization and prescription of therapeutic pharmaceutical agents defined in subsection (a) of
98 section 66C. Such education shall be administered by the Massachusetts Society of
99 Optometrists, shall be accredited by a college of optometry or medicine and shall otherwise meet
100 the guidelines and requirements of the board of registration in optometry. The board of
101 registration in optometry shall provide to the department of public health and each successful
102 applicant a certificate of qualification in the utilization and prescription of all therapeutic
103 pharmaceutical agents as defined in said subsection (a) of said section 66C.

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

114 (d) A licensed optometrist who has completed a Council on Optometric Education-
115 approved, post-graduate residency program after July 31, 1997 may submit an affidavit to the

116 board of registration in optometry from their residency supervisor or the director of residencies at
117 the affiliated college of optometry attesting that an equivalent level of instruction and
118 supervision was completed in order to satisfy all the requirements of this section.

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

122 SECTION 11. Within 90 days after the effective date of this act, the department of
123 public health and the board of registration in optometry shall promulgate the rules and
124 regulations required by sections 1, 7, and 9 of chapter 94C of the General Laws and sections 66,
125 66A, 66B, 66C and 68C of chapter 112 of the General Laws.