

HOUSE No. 3608

The Commonwealth of Massachusetts

PRESENTED BY:

Tackey Chan

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 adoption of the accompanying bill:

An Act relative to updating the licensure of optometrists.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	<i>1/19/2023</i>
<i>Patrick M. O'Connor</i>	<i>First Plymouth and Norfolk</i>	<i>4/5/2023</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>4/6/2023</i>

HOUSE No. 3608

By Representative Chan of Quincy, a petition (accompanied by bill, House, No. 3608) of Tackey Chan relative to optometrist licensure. Public Health.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to updating the licensure of optometrists.

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 16 of chapter 13 of the General Laws, as appearing in the 2020
2 Official Edition, is hereby amended, in the third sentence, by striking out the words “a member
3 of the faculty or on the board of trustees thereof”.

4 SECTION 2. Chapter 112, as so appearing, is hereby amended by striking out section 66
5 and inserting in place thereof the following section:-

6 Section 66. As used in this chapter, the “practice of optometry” is the examination,
7 diagnosis, treatment and management of diseases, injuries, and disorders of the visual system,
8 the eye and associated structures as well as the diagnosis of related systemic conditions.”

9 SECTION 3. Section 66A of said chapter 112, as so appearing, is hereby amended by
10 inserting at the end thereof the following sentence:-

11 Any optometrist licensed before January 1, 1984, and who has not taken the board
12 approved testing outlined in section 68A of this chapter by January 1, 2022, must retake and pass
13 an applicable licensing examination to allow for the use of diagnostic pharmaceutical agents.

14 SECTION 4. Section 66B of said chapter 112, as so appearing, is hereby amended by
15 inserting at the end thereof the following sentence:-

16 Any optometrist licensed before January 1, 1994, and has not taken the board approved
17 testing outlined in section 68B of this chapter by January 1, 2022, must retake and pass an
18 applicable licensing examination that allows for the use of therapeutic pharmaceutical agents
19 including glaucoma and oral medications as outlined in section 66C of this chapter.

20 SECTION 5. Section 66C of said chapter 112, as so appearing, is hereby amended by
21 inserting at the end thereof the following sentence:-

22 Any optometrist licensed before January 1, 2021 and has not taken the Board approved
23 testing outlined in 68C of this chapter by January 1, 2025 must take and pass an applicable
24 licensing examination that allows for the use of therapeutic pharmaceutical agents, including
25 glaucoma medications and oral medications.

26 SECTION 6. Said chapter 112, as so appearing, is hereby amended by striking out
27 section 68 and inserting in place thereof the following section:-

28 Section 68. No person, except as otherwise provided in this section, shall practice
29 optometry until the individual shall have passed a doctorate optometry degree program at an
30 accredited school or college of optometry and passed any applicable licensing examinations. Any
31 person who shall present to the board a certified copy or certificate of registration or license

32 which was issued to the individual after examination by a board of registration in optometry in
33 any other state, where the requirements for registration are in the opinion of the board equivalent
34 to those of this commonwealth, may be registered and given a certificate of registration in this
35 commonwealth without a written examination; provided, that the individual has been engaged in
36 the reputable practice of optometry, and that the individual intends to practice optometry in this
37 commonwealth. The fee for such registration shall be determined in accordance with section 3b
38 of chapter 7.

39 Notwithstanding the foregoing, the board shall require as a condition of granting or
40 renewing an optometrist's certificate of registration, that the optometrist apply to participate in
41 the medical assistance program administered by the secretary of health and human services in
42 accordance with chapter 118E and Title XIX of the Social Security Act and any federal
43 demonstration or waiver relating to such medical assistance program for the limited purposes of
44 ordering and referring services covered under such program, provided that regulations governing
45 such limited participation are promulgated under said chapter 118E. An optometrist who chooses
46 to participate in such medical assistance program as a provider of services shall be deemed to
47 have fulfilled this requirement.

48 SECTION 7. Section 68A of said chapter 112, as so appearing, is hereby amended by
49 inserting at the end thereof the following sentence:-

50 Any optometrist licensed before January 1, 1984, and has not taken the board approved
51 testing outlined in 68A by January 1, 2022, must retake and pass an applicable licensing
52 examination that allows for the use of diagnostic pharmaceutical agents and present these to the
53 board to be considered for the use of diagnostic pharmaceuticals.

54 SECTION 8. Section 68B of said chapter 112, as so appearing, is hereby amended by
55 striking the second paragraph and inserting in place thereof the following paragraph:-

56 Any optometrist licensed before January 1, 1994, and who has not taken the Board
57 approved testing outlined in section 68B by January 1, 2022, must retake and pass an applicable
58 licensing examination that allows for the use of therapeutic pharmaceutical agents including
59 glaucoma and oral medications as outlined in section 66C and present these to the board to be
60 considered for the use of therapeutic pharmaceuticals including glaucoma medications and oral
61 medications. The board shall transmit to all successful applicants a certificate of qualification.

62 SECTION 9. Section 68C of said chapter 112, as so appearing, is hereby amended by
63 inserting at the end thereof the following sentence:-

64 Any optometrist licensed before January 1, 2021 and has not taken the Board approved
65 testing outlined in 68C by January 1, 2025 must take and pass an applicable licensing
66 examination that allows for the use of therapeutic pharmaceutical agents, including glaucoma
67 medications and oral medications and present these to the board to be considered for the use of
68 therapeutic pharmaceuticals, including glaucoma medications and oral medications.

69 SECTION 10. Said chapter 112, as so appearing, is hereby amended by striking out
70 section 69 and inserting in place thereof the following section:-

71 Section 69. Every registered optometrist shall, annually, before February first, pay to the
72 board a license fee to be determined annually by the secretary of administration and finance, in
73 consultation with the department of public health, under the provision of section 3B of chapter
74 seven, in default of which the board may revoke his certificate and his authority to practice
75 optometry thereunder, after a hearing as provided by section seventy-one; but the payment of

76 said fee at or before the time of the hearing, with such additional sum as determined under the
77 aforementioned provision, shall remove the default. An optometrist duly registered and licensed
78 to practice in this commonwealth, whose license has not been revoked, but who shall have
79 temporarily retired from practice or removed from the commonwealth for not exceeding five
80 years, and shall have notified the board of such retirement or removal, may register upon paying
81 the lapsed annual license fees and filing with the board his affidavit as to the facts aforesaid.

82 Every optometrist registered under the provisions of this chapter shall, as a condition of
83 continuation of the individual registration, present to the board, on or before February first in
84 each year on such form as it may provide, evidence satisfactory to the board that in the preceding
85 year the optometrist attended an educational conference or pursued an educational program
86 within the commonwealth, in conformity with such requirements relating thereto as the board
87 may from time to time establish by regulation.

88 SECTION 11. Said chapter 112, as so appearing, is hereby amended by striking out
89 section 70 and inserting in place thereof the following section:-

90 Section 70. Every person to whom a certificate of registration has been granted shall
91 cause the same to be recorded in the office of the clerk of the city or town where the optometrist
92 principally carries on the practice of optometry; and if the optometrist removes their principal
93 office from one city or town to another in the commonwealth, the optometrist shall, before
94 engaging in practice in such other city or town, notify the board in writing of the place where the
95 optometrist is to engage in practice, and obtain from the clerk of the city or town where their
96 certificate is recorded a certified copy thereof and file the same with the clerk of such other city
97 or town. The fee for recording such certificate or issuing a certified copy thereof shall be as

98 provided by clause (57) of section thirty-four of chapter two hundred and sixty-two. Every
99 registered optometrist shall display their certificate of registration in a conspicuous place in the
100 principal office wherein the optometrist practices optometry, and shall, whenever so required,
101 exhibit it to said board or its authorized representative; and whenever practicing optometry
102 outside of or away from their principal office or place of business, the optometrist shall deliver to
103 each customer or person fitted with glasses by the optometrist a memorandum of purchase,
104 containing their signature, home post office address and the number of their certificate of
105 registration, together with a specification of the lenses and frames or mountings furnished and
106 the price charged therefor.

107 SECTION 12. Section 71 of said chapter 112, as so appearing, is hereby amended by
108 striking out the words “habitual drunkenness” and inserting in place thereof the following
109 words:- “substance misuse”.

110 SECTION 13. Said chapter 112, as so appearing, is hereby amended by striking out
111 section 72 and inserting in place thereof the following section:-

112 Section 72. Optometrists may practice and advertise under a trade or service name;
113 provided however, that the names of the optometrist or optometrists are prominently displayed at
114 all locations of their practice and in all advertisements that identify the location or locations
115 where optometric services are provided. The name of the optometrist shall also be printed on any
116 prescription form.

117 SECTION 14. Said chapter 112, as so appearing, is hereby amended by striking out
118 section 72A and inserting in place thereof the following section:-

119 Section 72A. Whoever, not being lawfully authorized to practice optometry, practices
120 optometry, or holds himself out as a practitioner of, or as being able to practice, optometry, or
121 whoever personates another practitioner, or violates any other provision of sections 66 to 73,
122 inclusive, or any rule or regulation made under authority thereof, shall, except as provided in
123 section 65, be punished for the first offense by a fine of not less than one hundred nor more than
124 four hundred dollars, or by imprisonment for not more than three months, or both; and for a
125 subsequent offense, by a fine of not less than four hundred nor more than one thousand dollars,
126 or by imprisonment for not less than three nor more than six months, or both.

127 SECTION 15. Said chapter 112, as so appearing, is hereby amended by striking out
128 section 73A and inserting in place thereof the following section:-

129 Section 73A. Persons may advertise the sale price of eyeglasses, contact lenses or
130 eyeglass frames provided they shall not include in any newspaper, radio, internet or electronic
131 media display sign or other advertisements any statement of a character tending to deceive or
132 mislead the public, or, any statement which in any way misrepresents any material or service or
133 credit terms, or, any statement containing the words "free examination of eyes", "free advice",
134 "free consultation", "consultation without obligation", or any other words or phrases of similar
135 import which convey the impression that eyes are examined for free. Any advertisement offering
136 contact lenses, eyeglasses, or eyeglass frames at a fixed price shall include a statement which
137 indicates that said price does not include eye examination and professional services. Such
138 statement shall indicate whether said price includes the lens and, if so, the type of lens and the
139 strength thereof. The optometrist may advertise using the terms "optometrist", "doctor of
140 optometry", and "optometric physician".

141 Whoever violates any provision of this section shall be punished for the first offense by a
142 fine of not less than one hundred dollars nor more than four hundred dollars or by imprisonment
143 for not more than three months, or both, and for a subsequent offense by a fine of not less than
144 four hundred dollars nor more than one thousand dollars or by imprisonment for not less than
145 three nor more than six months, or both.