SENATE DOCKET, NO. 1391 FILED ON: 1/18/2013

SENATE . . . . . No. 1070

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:

An Act relative to the modernization of optometric patient care.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Richard T. Moore	*Worcester and Norfolk*
Michael O. Moore	*Second Worcester*
Anne M. Gobi	*5th Worcester*
Timothy R. Madden	*Barnstable, Dukes and Nantucket*
Randy Hunt	*5th Barnstable*
Michael R. Knapik	*Second Hampden and Hampshire*
Sheila C. Harrington	*1st Middlesex*
John V. Fernandes	*10th Worcester*
Barry R. Finegold	*Second Essex and Middlesex*
Sonia Chang-Diaz	*Second Suffolk*
James T. Welch	*Hampden*
Antonio F. D. Cabral	*13th Bristol*
Gale D. Candaras	*First Hampden and Hampshire*
Harriette L. Chandler	*First Worcester*
James J. Lyons, Jr.	*18th Essex*

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SENATE . . . . . No. 1070

By Mr. Richard T. Moore, a petition (accompanied by bill, Senate, No. 1070) of Richard T. Moore, Michael O. Moore, Anne M. Gobi, Timothy R. Madden and other members of the General Court for legislation relative to the modernization of optometric patient care. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *2249* OF 2011-2012.]

The Commonwealth of Massachusetts

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 248, 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 202, 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 64, 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.

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, is
20 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 66B
27 the following section:-

28 Section 66C. (a) A registered optometrist, qualified by examination for practice under
29 section 68, duly certified in accordance with section 68C and duly registered to issue written
30 prescriptions in accordance with subsection (h) of section 7 of chapter 94C may, for the purpose
31 of diagnosing, preventing, correcting, managing or treating ocular diseases, including glaucoma
32 and ocular abnormalities of the human eye and adjacent tissue, utilize and prescribe topical and
33 oral therapeutic pharmaceutical agents, described in 21 U.S.C. Section 812 or chapter 94C,
34 which are used in the practice of optometry as defined in section 66, including those placed in
35 schedules III, IV, V and VI by the commissioner pursuant to section 2 of said chapter 94C, and
36 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: (i) therapeutic pharmaceutical agents for the treatment of systemic
39 diseases; (ii) invasive surgical procedures; or (iii) pharmaceutical agents administered by
40 subdermal injection, intramuscular injection, intravenous injection, subcutaneous injection or
41 retrobulbar injection, except as authorized herein for the percutaneous treatment of anaphylaxis.
42 The use of pharmaceutical agents placed in schedule III under section 2 of said chapter 94C shall
43 be limited to narcotic analgesics and shall not include the use of hallucinogenic substances or
44 anabolic steroids. Oral steroid treatment required beyond 14 days shall be continued only in
45 consultation with the patient’s physician.

46 (b) If during the course of examining or treating a patient with the aid of a diagnostic or
47 therapeutic pharmaceutical agent, an optometrist, exercising professional judgment and that
48 degree of expertise, care and knowledge ordinarily possessed and exercised by optometrists
49 under like circumstances, determines the existence of signs of previously unevaluated disease
50 which requires treatment not included in the scope of optometric practice as set forth in section
51 66, the optometrist shall refer the patient to a licensed physician or other qualified health care
52 practitioner. Optometrists may utilize and prescribe nonlegend agents.

53 (c) Nothing in this section shall prevent a qualified optometrist from serving as an
54 approved investigator in a clinical trial evaluating pharmaceutical agents for use in the practice
55 of optometry as defined in section 66; provided, however, that such pharmaceutical agent is, or
56 would be anticipated to be, utilized or prescribed by optometrists in accordance with subsections
57 (a) or (b).

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

61 (e) Optometrists licensed under this chapter and the board of registration in optometry
62 shall participate in appropriate state or federal reports or data collection efforts relative to patient
63 safety and medical error reduction including, but not limited to, any such efforts coordinated by
64 the Betsy Lehman center for patient safety and medical error reduction established in section 16E
65 of chapter 6A.

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

68 Section 68C. (a) The board of registration in optometry shall administer an examination
69 designed to measure the qualifications necessary to safely utilize and prescribe therapeutic
70 pharmaceutical agents defined in subsection (a) of section 66C. Such examination shall be held
71 in conjunction with examinations provided in sections 68, 68A and 68B and shall include any
72 portion of the examination administered by the National Board of Examiners in Optometry or
73 other appropriate examinations covering the subject matter of therapeutic pharmaceutical agents.
74 Nothing shall prohibit the board from administering 1 examination to measure the qualifications
75 necessary under sections 68, 68A, 68B and 68C.

76 (b) Examination for the utilization and prescription of therapeutic pharmaceutical agents
77 placed under schedules III, IV, V and VI by the commissioner pursuant to section 2 of chapter
78 94C and defined in subsection (a) of section 66C shall, upon application, be open to an
79 optometrist registered under section 68, 68A or 68B and to any person who meets the
80 qualifications for examination under said sections 68, 68A and 68B. Each such applicant
81 registered as an optometrist under said section 68, 68A or 68B shall possess a current
82 Massachusetts controlled substance registration for the use of topical pharmaceutical agents
83 described in section 66B and placed under schedule VI by the commissioner pursuant to said
84 section 2 of said chapter 94C and shall furnish to the board of registration in optometry evidence
85 of the satisfactory completion of 40 hours of didactic education and 20 hours of supervised
86 clinical education relating to the utilization and prescription of therapeutic pharmaceutical
87 agents. Such education shall be provided by the Massachusetts Society of Optometrists or a duly
88 accredited medical school or college of optometry and shall otherwise meet the guidelines and
89 requirements of the board of registration in optometry. The board of registration in optometry

90 shall provide to the department of public health and each successful applicant a certificate of
91 qualification in the utilization and prescription of all therapeutic pharmaceutical agents as
92 defined in said subsection (a) of said section 66C.

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

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

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

110 SECTION 11. Section 66C of chapter 112 of the General Laws shall apply to registered
111 optometrists qualified by examination for practice under section 68 of said chapter 112 after
112 January 1, 2009.

113 SECTION 12. Under subsection (a) of section 68C of chapter 112 of the General Laws,
114 the board shall only qualify a person for the practice of optometry in accordance with sections
115 68, 68A, 68B and 68C of chapter 112 of the General Laws; provided, however, that any
116 applicant who presents satisfactory evidence of graduation subsequent to January 1, 2009, from a
117 school or college of optometry approved by the board shall be deemed to have satisfied all of the
118 requirements of sections 68, 68A, 68B and 68C of said chapter 112.

119 SECTION 13. Within 90 days after the effective date of this act, the department of public
120 health and the board of registration in optometry shall promulgate rules and regulations
121 necessary for the implementation of the amendments to sections 7 and 9 of chapter 94C of the
122 General Laws and sections 66, 66A, 66B, 66C and 68C of chapter 112 of the General Laws as
123 provided in this act.