HOUSE DOCKET, NO. 2350 FILED ON: 1/17/2013

HOUSE . . . . . No. 1987

The Commonwealth of Massachusetts

PRESENTED BY:

Bradley H. Jones, Jr.

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 optometrists.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Bradley H. Jones, Jr.	*20th Middlesex*
George N. Peterson, Jr.	*9th Worcester*
Bradford Hill	*4th Essex*
Elizabeth A. Poirier	*14th Bristol*
Viriato Manuel deMacedo	*1st Plymouth*
Anne M. Gobi	*5th Worcester*
Donald Humason	
Paul K. Frost	*7th Worcester*
Sheila C. Harrington	*1st Middlesex*
Nicholas A. Boldyga	*3rd Hampden*
Kimberly N. Ferguson	*1st Worcester*
Donald H. Wong	*9th Essex*
Daniel B. Winslow	*9th Norfolk*
F. Jay Barrows	*1st Bristol*
Keiko M. Orrall	*12th Bristol*
Todd M. Smola	*1st Hampden*
Antonio F. D. Cabral	*13th Bristol*
Kevin J. Kuros	*8th Worcester*

HOUSE DOCKET, NO. 2350 FILED ON: 1/17/2013

HOUSE . . . . . No. 1987

By Mr. Jones of North Reading, a petition (accompanied by bill, House, No. 1987) of Bradley H. Jones, Jr. and others relative to the use of epinephrine, adrenaline or other agents by optometrists in the treatment of anaphylaxis. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *2357* OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to optometrists.

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 most recently amended by chapter 24 of the acts of 2012, is hereby further amended by striking out 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 appearing in the 2010 Official Edition, 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 72, the following word:— , optometrist,.

15 SECTION 5. Section 66 of chapter 112 of the General Laws, as appearing in 2010
16 Official Edition, is hereby amended by inserting after the word "utilization", in line 7, the
17 following words:— and prescription.

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

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

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

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

30 Section 66C. (a) A registered optometrist, qualified by examination for practice under
31 section 68 after January 1, 2003, duly certified in accordance with section 68C and duly
32 registered to issue written prescriptions in accordance with paragraph (h) of section 7 of chapter
33 94C may, for the purpose of diagnosing, preventing, correcting, managing or treating ocular
34 diseases, including glaucoma and ocular abnormalities of the human eye and adjacent tissue,
35 utilize and prescribe topical and oral therapeutic pharmaceutical agents used in the practice of
36 optometry as defined in section 66 and described in Title 21 U.S.C. Section 812 or in chapter
37 94C, including those placed in schedules III, IV, V and VI by the commissioner pursuant to
38 section 2 of chapter 94C and including the utilization of epinephrine, adrenalin, or other agents
39 used in the percutaneous treatment of anaphylaxis.

40 Nothing in this section shall be construed to permit optometric utilization or prescription
41 of: (a) therapeutic pharmaceutical agents for the treatment of systemic diseases; (b) invasive
42 surgical procedures; or (c) pharmaceutical agents administered by sub-dermal injection,
43 intramuscular injection, intravenous injection, subcutaneous injection or retro-bulbar injection,
44 except as authorized above for the percutaneous treatment of anaphylaxis. The pharmaceutical
45 agents from schedule III shall be limited to the narcotic analgesics and shall not include the use
46 of hallucinogenic substances or anabolic steroids. Oral steroid treatment required beyond 14 days
47 shall be continued only in consultation with the patient's physician. (b) If, during the course of
48 examining or treating a patient with the aid of a diagnostic or therapeutic pharmaceutical agent,
49 an optometrist, exercising professional judgment and that degree of expertise, care and
50 knowledge ordinarily possessed and exercised by optometrists under like circumstances,
51 determines the existence of the signs of previously unevaluated disease which requires treatment

52 not included in the scope of optometric practice as set forth in section 66, such optometrist shall
53 refer the patient to a licensed physician or other qualified health care practitioner. Optometrists
54 may utilize and prescribe non-legend agents. (c) Nothing in this section shall prevent a qualified
55 optometrist from serving as an approved investigator in a clinical trial evaluating such drugs. (d)
56 If a patient exam shows newly diagnosed congenital glaucoma or if, during the course of
57 examining, managing or treating a patient with glaucoma, surgical treatment is indicated, an
58 optometrist shall refer that patient to a qualified physician for treatment. (e) Optometrists
59 licensed under this chapter and the board of registration in optometry shall participate in
60 appropriate state or federal reports or data collection efforts relative to patient safety and medical
61 error reduction coordinated by the Betsy Lehman center for patient safety and medical error
62 reduction established in section 16E of chapter 6A. Every insurer or risk management
63 organization that provides insurance to an optometrist licensed under this chapter shall make an
64 annual report to the center. The report shall list the top 10 categories of losses, claims or actions
65 for damage for personal injuries alleged to have been caused by error, omission or negligence in
66 the performance by optometrists of services the company incurred during the previous calendar
67 year. Reports shall include completed cases and settlements only and shall not include
68 information identifying providers or patients. Reports shall be provided to the center at its
69 request under annual timelines and reporting requirements established by the center with the
70 input of the advisory committee established in section subsection (c) of said section 16E of said
71 chapter 6A. The center shall use this information in the development of evidence-based best
72 practices to reduce errors and enhance patient safety as required by subsection (e) of said section
73 16E of said chapter 6A to increase awareness of error prevention strategies through public and
74 professional education as required by that subsection.

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

77 Section 68C (a) The board of registration in optometry shall administer an examination
78 designed to measure the qualifications necessary to safely utilize and prescribe therapeutic
79 pharmaceutical agents defined in subsection (a) of section 66C. Such examination shall be held
80 in conjunction with examinations provided in sections 68, 68A and 68B and shall include any
81 portion of the examination administered by the National Board of Examiners in Optometry or
82 other appropriate examinations covering the subject matter of therapeutic pharmaceutical agents.
83 Nothing shall prohibit the board from administering an examination to measure the qualifications
84 necessary under sections 68, 68A, 68B and 68C. The board shall, subsequent to January 1, 2003,
85 only qualify for practice in accordance with said sections 68, 68A, 68B and 68C and any
86 applicant that presents satisfactory evidence that he has graduated from a school or college of
87 optometry, approved by the board, subsequent to January 1, 2003 shall have satisfied all the
88 requirements of sections 68, 68A, 68B and 68C. (b) Examination for the utilization and
89 prescription of therapeutic pharmaceutical agents placed under schedules III, IV, V and VI by the
90 commissioner pursuant to section 2 of chapter 94C and defined in subsection (a) of section 66C

91 shall, upon application, be open to an optometrist registered under section 68, 68A or 68B and to
92 any person who meets the qualifications for examination under sections 68, 68A and 68B. Each
93 such applicant, registered as an optometrist under said section 68, 68A or 68B, shall possess a
94 current Massachusetts controlled substance registration for the use of topical pharmaceutical
95 agents described in section 66B and placed under schedule VI by the commissioner pursuant to
96 section 2 of chapter 94C and shall furnish to the board of registration in optometry evidence of
97 the satisfactory completion of 40 hours of didactic education and 20 hours of supervised clinical
98 education relating to the utilization and prescription of therapeutic pharmaceutical agents defined
99 in subsection (a) of section 66C. Such education shall be administered by the Massachusetts
100 Society of Optometrists, shall be accredited by a college of optometry or medicine and shall
101 otherwise meet the guidelines and requirements of the board of registration in optometry. The
102 board of registration in optometry shall provide to the department of public health and each
103 successful applicant a certificate of qualification in the utilization and prescription of all
104 therapeutic pharmaceutical agents as defined in said subsection (a) of said 43 section 66C. (c) An
105 optometrist licensed in another jurisdiction shall, after January 1, 2003, be deemed an applicant
106 under section 68C by the board of registration in optometry. An optometrist licensed in another
107 jurisdiction may submit evidence to the board of registration in optometry of practice equivalent
108 to that required in section 68, 49 68A or 68B and the board, at its discretion, may accept such
109 evidence in order to satisfy any of the requirements of this section. An optometrist licensed in
110 another jurisdiction to utilize and prescribe therapeutic pharmaceutical agents substantially
111 equivalent to those placed under schedules III, IV, V and VI by the commissioner pursuant to
112 section 2 of chapter 94C and defined in subsection (a) of section 66C may submit evidence to the
113 board of registration in optometry of equivalent didactic and supervised clinical education in
114 order to satisfy all the requirements of this section. (d) A licensed optometrist who has completed
115 a Council on Optometric Education- approved, post-graduate residency program after July 31,
116 1997 may submit an affidavit to the board of registration in optometry from their residency
117 supervisor or the director of residencies at the affiliated college of optometry attesting that an
118 equivalent level of instruction and supervision was completed in order to satisfy all the
119 requirements of this section. (e) As a requirement of license renewal, an optometrist licensed
120 under this section shall submit to the board of registration in optometry evidence attesting to the
121 completion of 3 hours of continuing education specific to glaucoma.

122 SECTION 11. Within 90 days after the effective date of this act, the department of public
123 health and the board of registration in optometry shall promulgate the rules and regulations
124 required by sections 1, 7, 9 and 27 of chapter 94C of the General Laws and sections 66, 66A,
125 66B, 66C and 68C of chapter 112 of the General Laws.