

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

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

In the Year Two Thousand Thirteen

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 2010
2 Official Edition, is hereby amended by striking out, in line 248, the words "sections 66 and 66B"
3 and inserting in place thereof the following words:- either sections 66 and 66B or sections 66 and
4 66C.

5 SECTION 2. Section 7 of said chapter 94C, as so appearing, is hereby amended by
6 striking out, in line 202, 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 64, the following word:- , optometrist.

13 SECTION 5. Section 66 of chapter 112 of the General Laws, as so appearing, is hereby
14 amended by inserting after the word "utilization", in line 7, the following words:- and
15 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, duly certified in accordance with section 68C and duly registered to issue written prescriptions in accordance with subsection (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, described in 21 U.S.C. Section 812 or chapter 94C, which are used in the practice of optometry as defined in section 66, including those placed in schedules III, IV, V and VI by the commissioner pursuant to section 2 of said 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: (i) therapeutic pharmaceutical agents for the treatment of systemic diseases; (ii) invasive surgical procedures; or (iii) pharmaceutical agents administered by subdermal injection, intramuscular injection, intravenous injection, subcutaneous injection or retrobulbar injection, except as authorized herein for the percutaneous treatment of anaphylaxis. The use of pharmaceutical agents placed in schedule III under section 2 of said chapter 94C shall be limited to 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 signs of previously unevaluated disease which requires treatment not included in the scope of optometric practice as set forth in section 66, the 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 pharmaceutical agents for use in the practice of optometry as defined in section 66; provided, however, that such pharmaceutical agent is, or would be anticipated to be, utilized or prescribed by optometrists in accordance with subsections (a) or (b).

(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 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 including, but not limited to, any such efforts coordinated by the Betsy Lehman center for patient safety and medical error reduction established in section 16E of chapter 6A.

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.

(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 said 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 said section 2 of said 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. Such education shall be provided by the Massachusetts Society of Optometrists or a duly accredited medical school or college of optometry 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 after January 1, 2009 and seeking to become licensed as an optometrist in the commonwealth 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 under 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 of the requirements of this section.

(d) In order to satisfy all of the requirements of this section, 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.

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

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

SECTION 13. Within 90 days after the effective date of this act, the department of public health and the board of registration in optometry shall promulgate rules and regulations necessary for the implementation of the amendments to sections 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 as provided in this act.