

HOUSE No. 920

The Commonwealth of Massachusetts

PRESENTED BY:

David M. Nangle

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 consumer choice of vision and eyecare services.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|------------------------|-----------------------|------------------|
| <i>David M. Nangle</i> | <i>17th Middlesex</i> | <i>1/14/2015</i> |
| <i>Daniel J. Ryan</i> | <i>2nd Suffolk</i> | <i>9/5/2019</i> |

HOUSE No. 920

By Mr. Nangle of Lowell, a petition (accompanied by bill, House, No. 920) of David M. Nangle and Daniel J. Ryan relative to consumer choice of vision and eyecare services. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to consumer choice of vision and eyecare services.

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. Chapter 175, as appearing in the 2014 Official Edition, shall be amended by
2 inserting the following new section-:

3 Section 193V. Consumer Choice of Vision and Eyecare Services.

4 (a) For purposes of this section the following terms shall have the following
5 meanings:

6 “Carrier”, an insurer licensed or otherwise authorized to transact accident or health
7 insurance under chapter 175; a nonprofit hospital service corporation organized under chapter
8 176A; a nonprofit medical service corporation organized under chapter 176B; an optometric
9 services corporation organized under chapter 176F; a health maintenance organization organized
10 under chapter 176G; an organization entering into a preferred provider arrangement under
11 chapter 176I; a contributory group general or blanket insurance for persons in the service of the
12 commonwealth under chapter 32A; a contributory group general or blanket insurance for persons

13 in the service of counties, cities, towns and districts, and their dependents under chapter 32B; the
14 medical assistance program administered by the division of medical assistance pursuant to
15 chapter 118E and in accordance with Title XIX of the Social Security Act or any successor
16 statute; and any other medical assistance program operated by a governmental unit for persons
17 categorically eligible for such program.

18 “Covered services”, vision and eyecare services and materials for which reimbursement
19 from a vision plan or health insurance plan is provided by a member’s or subscriber’s plan
20 contract, or for which a reimbursement would be available but for application of the deductible,
21 co-payment, or coinsurance requirements under the member’s or subscriber’s health insurance
22 plan.

23 “Health insurance plan”, any health insurance policy or health benefit plan offered by a
24 carrier, health insurer or a subcontractor of a health insurer, as well as Medicaid and any other
25 public health care assistance program offered or administered by the Commonwealth or by any
26 subdivision or instrumentality of the Commonwealth. This term includes vision plans, regardless
27 of whether stand-alone or limited in scope, but does not include policies or plans providing
28 coverage for a specified disease or other limited benefit coverage.

29 “Materials” includes lenses, devices containing lenses, prisms, lens treatments and
30 coatings, contact lenses, and prosthetic devices to correct, relieve, or treat defects or abnormal
31 conditions of the human eye or its adnexa.

32 “Ophthalmologist” means a person licensed pursuant to Section 2 of Chapter 112 who
33 has completed specialized training in the field of ophthalmology.

34 “Optometrist” means a person licensed pursuant to Section 68 of Chapter 112.

35 (b) To the extent a health insurance plan provides coverage for vision care or health
36 care services, it shall cover those services whether provided by a licensed optometrist or by a
37 licensed ophthalmologist, provided the health care provider is acting within his or her authorized
38 scope of practice and participates in the plan's network.

39 (c) A health insurance plan shall impose no greater co-payment, coinsurance, or other
40 cost-sharing amount for services when provided by an optometrist than for the same service
41 when provided by an ophthalmologist.

42 (d) A health insurance plan shall provide to a licensed health care provider acting
43 within his or her scope of practice the same level of reimbursement or other compensation for
44 providing vision care and health care services that are within the lawful scope of practice of the
45 professions of medicine and optometry, regardless of whether the health care provider is an
46 optometrist or an ophthalmologist.

47 (e) (1) A carrier, health insurer, third party administrator, entity that writes vision or
48 health insurance, or entity that manages a vision or health insurance plan for a carrier or health
49 insurer shall permit a licensed optometrist to participate in plans or contracts providing for vision
50 care or health care services to the same extent as it does an ophthalmologist, regardless of
51 whether such plan is a plan of insurance or vision care discount program that is not an insurance
52 plan. (2) A carrier, health insurer, third party administrator, entity that writes vision or health
53 insurance, or entity that manages a vision and/or health insurance plan for a carrier or health
54 insurer shall not require a licensed optometrist or ophthalmologist to provide discounted
55 materials or benefits, nor shall a carrier require a licensed optometrist or ophthalmologist to
56 participate as a provider in another vision or health insurance plan or contract as a condition or

57 requirement for the optometrist's or ophthalmologist's participation as a provider in any health
58 or vision care plan or contract. (3) A carrier, health insurer, third party administrator, entity that
59 writes vision or health insurance, or entity that manages a vision and/or health insurance plan for
60 an insurer shall not refuse to allow an optometrist or ophthalmologist to continue to provide
61 covered services through its health insurance plans and other product lines when the provider
62 opts out of a particular product line.

63 (f) (1) An agreement between a carrier, health insurer, third party administrator,
64 entity that writes vision or health insurance, or entity that manages a vision or health insurance
65 plan for a carrier or insurer, and an optometrist or ophthalmologist for the provision of vision or
66 health care services to plan members or subscribers in connection with coverage under a stand-
67 alone vision or eyecare plan or other health insurance plan shall not require that an optometrist
68 or ophthalmologist provide services or materials at a fee limited or set by the plan, carrier or
69 insurer unless the services or materials are reimbursed as covered services under the contract. (2)
70 An optometrist or ophthalmologist shall not charge more for services and materials that are non-
71 covered services under a vision or health insurance plan than his or her usual and customary rate
72 for those services and materials. (3) Reimbursement paid by a vision or health insurance plan for
73 covered services and materials shall be reasonable and shall not provide nominal reimbursement
74 in order to claim that services and materials are covered services. (4) For all commercially
75 insured plans, the covered services under any vision or health insurance plan shall not limit,
76 directly or indirectly, the choice of sources and suppliers of materials by a patient of a vision or
77 health care provider.

78 (g) No carrier, health insurer, third party administrator, entity that writes vision or
79 health insurance, or entity that manages a vision or health insurance plan for a carrier or insurer

80 shall change the terms, discounts or rates provided under a vision or health insurance plan, policy
81 or discount program that is not an insurance plan, without first obtaining the health care
82 provider's concurrence and agreement to such change.

83 (h) If the insured has more than one vision or health insurance plan that provides
84 coverage for vision or health care services, the provider rendering such service may submit a
85 claim for reimbursement from either plan, but not both.

86 (i) This act shall take effect on January 1, 2016.

87 SECTION 2. Section 3 of Chapter 176D, as appearing in the 2014 Official Edition, shall
88 be amended by striking out subsection 12 in its entirety and inserting in its place the following-:

89 “(12) A violation of section 2B, 95, 113X, 181 to 183, inclusive, 187B to 187D,
90 inclusive, 189, 193E, 193K or 193V of chapter 175.”

91 SECTION 3. Section 2 of Chapter 176G, as appearing in the 2014 Official Edition, shall
92 be amended by inserting, after the words “seventy-five”, the following-:

93 “, section 1 through 193U,”