

**SENATE . . . . . No. 1151**

---

**The Commonwealth of Massachusetts**

PRESENTED BY:

***Jennifer L. Flanagan***

*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>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</i>
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>
<i>Viriato M. deMacedo</i>	<i>Plymouth and Barnstable</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>
<i>Jeffrey Sánchez</i>	<i>15th Suffolk</i>

**SENATE . . . . . No. 1151**

By Ms. Flanagan, a petition (accompanied by bill, Senate, No. 1151) of Jennifer L. Flanagan, Thomas J. Calter, Viriato M. deMacedo, Sal N. DiDomenico and other members of the General Court for legislation relative to the modernization of optometric patient care. Public Health.

**The Commonwealth of Massachusetts**

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

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 2012  
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  
4 and 66C.

5 SECTION 2. Section 7 of said chapter 94C, as so appearing, is hereby amended by  
6 striking out, in line 191, 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 55, 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.

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 after January 1, 2009, duly certified in accordance with section 68C and duly  
30 registered to issue written prescriptions in accordance with paragraph (h) of section 7 of chapter  
31 94C may, for the purpose of diagnosing, preventing, correcting, managing or treating ocular  
32 diseases, including glaucoma and ocular abnormalities of the human eye and adjacent tissue,  
33 utilize and prescribe topical and oral therapeutic pharmaceutical agents used in the practice of  
34 optometry as defined in section 66 and described in Title 21 U.S.C. Section 812 or in chapter

35 94C , including those placed in schedules III, IV, V and VI by the commissioner pursuant to  
36 section 2 of chapter 94C and including the utilization of epinephrine, adrenalin, or other agents  
37 used in the percutaneous treatment of anaphylaxis. Nothing in this section shall be construed to  
38 permit optometric utilization or prescription of: (a) therapeutic pharmaceutical agents for the  
39 treatment of systemic diseases; (b) invasive surgical procedures; or (c) pharmaceutical agents  
40 administered by subdermal injection, intramuscular injection, intravenous injection,  
41 subcutaneous injection or retrobulbar injection, except as authorized above for the percutaneous  
42 treatment of anaphylaxis. The pharmaceutical agents from schedule III shall be limited to the  
43 narcotic analgesics and shall not include the use of hallucinogenic substances or anabolic  
44 steroids. Oral steroid treatment required beyond 14 days shall be continued only in consultation  
45 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 the signs of previously unevaluated disease  
50 which requires treatment not included in the scope of optometric practice as set forth in section  
51 66, such 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 such drugs.

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

58 (e) Optometrists licensed under this chapter 112 and the board of registration in  
59 optometry shall participate in appropriate state or federal reports or data collection efforts  
60 relative to patient safety and medical error reduction coordinated by the Betsy Lehman center for  
61 patient safety and medical error reduction established in section 16E of chapter 6A. Every  
62 insurer or risk management organization which provides insurance to an optometrist licensed  
63 under this chapter 112 shall make an annual report to the center. The report shall list the top 10  
64 categories of losses, claims or actions for damage for personal injuries alleged to have been  
65 caused by error, omission or negligence in the performance by optometrists of services the  
66 company incurred during the previous calendar year. Reports shall include completed cases and  
67 settlements only and shall not include information identifying providers or patients. Reports  
68 shall be provided to the center at its request under annual timelines and reporting requirements  
69 established by the center with the input of the advisory committee established in section  
70 subsection (c) of said section 16E of said chapter 6A. The center shall use this information in the  
71 development of evidence-based best practices to reduce errors and enhance patient safety as  
72 required by subsection (e) of said section 16E of said chapter 6A to increase awareness of error  
73 prevention strategies through public and professional education as required by that subsection.

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

76           Section 68C (a) The board of registration in optometry shall administer an examination  
77 designed to measure the qualifications necessary to safely utilize and prescribe therapeutic  
78 pharmaceutical agents defined in subsection (a) of section 66C. Such examination shall be held  
79 in conjunction with examinations provided in sections 68, 68A and 68B and shall include any  
80 portion of the examination administered by the National Board of Examiners in Optometry or  
81 other appropriate examinations covering the subject matter of therapeutic pharmaceutical agents.  
82 Nothing shall prohibit the board from administering 1 examination to measure the qualifications  
83 necessary under sections 68, 68A, 68B and 68C. The board shall, subsequent to January 1, 2009,  
84 only qualify for practice in accordance with said sections 68, 68A, 68B and 68C; and any  
85 applicant that presents satisfactory evidence that he has graduated from a school or college of  
86 optometry, approved by the board, subsequent to January 1, 2009 shall have satisfied all the  
87 requirements of sections 68, 68A, 68B and 68C.

88           (b) Examination for the utilization and prescription of therapeutic pharmaceutical agents  
89 placed under schedules III, IV, V and VI by the commissioner pursuant to section 2 of chapter  
90 94C and defined in subsection (a) of section 66C shall, upon application, be open to an  
91 optometrist registered under section 68, 68A or 68B and to any person who meets the  
92 qualifications for examination under sections 68, 68A and 68B. Each such applicant, registered  
93 as an optometrist under said section 68, 68A or 68B, shall possess a current Massachusetts  
94 controlled substance registration for the use of topical pharmaceutical agents described in section  
95 66B and placed under schedule VI by the commissioner pursuant to section 2 of chapter 94C and  
96 shall furnish to the board of registration in optometry evidence of the satisfactory completion of  
97 40 hours of didactic education and 20 hours of supervised clinical education relating to the  
98 utilization and prescription of therapeutic pharmaceutical agents defined in subsection (a) of

99 section 66C. Such education shall be administered by the Massachusetts Society of  
100 Optometrists, shall be accredited by a college of optometry or medicine and shall otherwise meet  
101 the guidelines and requirements of the board of registration in optometry. The board of  
102 registration in optometry shall provide to the department of public health and each successful  
103 applicant a certificate of qualification in the utilization and prescription of all therapeutic  
104 pharmaceutical agents as defined in said subsection (a) of said section 66C.

105 (c) An optometrist licensed in another jurisdiction shall, after January 1, 2009, be deemed  
106 an applicant under section 68C by the board of registration in optometry. An optometrist licensed  
107 in another jurisdiction may submit evidence to the board of registration in optometry of practice  
108 equivalent to that required in section 68, 68A or 68B and the board, at its discretion, may accept  
109 such evidence in order to satisfy any of the requirements of this section. An optometrist licensed  
110 in 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.

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

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

123 SECTION 11. Within 90 days after the effective date of this act, the department of public  
124 health and the board of registration in optometry shall promulgate the rules and regulations  
125 required by sections 1, 7, and 9 of chapter 94C of the General Laws and sections 66, 66A, 66B,  
126 66C and 68C of chapter 112 of the General Laws.