

SENATE No. 2334

The Commonwealth of Massachusetts

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

SENATE, Monday, June 13, 2016

The committee on Ways and Means, to whom was referred the 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, reports the accompanying bill (Senate, No. 2334).

For the committee,
Karen E. Spilka

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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 is hereby amended by
2 striking out, in line 286, as appearing in the 2014 Official Edition, the words "sections 66 and
3 66B" and inserting in place thereof the following words:- section 66 and section 66B or 66C.

4 SECTION 2. Section 7 of said chapter 94C is hereby amended by striking out, in line
5 212, as so appearing, the words "sections 66 and 66B" and inserting in place thereof the
6 following words:- section 66 and section 66B or 66C.

7 SECTION 3. Section 9 of said chapter 94C, as so appearing, is hereby amended by
8 striking out, in line 2, the words "sections 66 and 66B" and inserting in place thereof the
9 following words:- section 66 and section 66B or 66C.

10 SECTION 4. Said section 9 of said chapter 94C, as so appearing, is hereby further
11 amended by inserting after the word "podiatrist", in line 69, the following word:- , optometrist.

12 SECTION 5. Section 66 of chapter 112 of the General Laws, as so appearing, is hereby
13 amended by inserting after the word "utilization", in line 7, the following words:- and
14 prescription.

15 SECTION 6. Said section 66 of said chapter 112, as so appearing, is hereby further
16 amended by striking out, in lines 12 and 13, the words "and 66B" and inserting in place thereof
17 the following words:- , 66B and 66C.

18 SECTION 7. The first paragraph of section 66A of said chapter 112, as so appearing, is
19 hereby amended by adding the following sentence:- A registered optometrist may administer
20 epinephrine, adrenaline or other agents used in the percutaneous treatment of anaphylaxis.

21 SECTION 8. Section 66B of said chapter 112, as so appearing, is hereby amended by
22 inserting after the word "injection," in line 14, the second time it appears, the following words:-,
23 except for the administration of epinephrine, adrenaline or other agents used in the percutaneous
24 treatment of anaphylaxis.

25 SECTION 9. Said chapter 112 is hereby further amended by inserting after section 66B
26 the following section:-

27 Section 66C. (a) A registered optometrist, qualified by an examination for practice under
28 section 68 after January 1, 2013, certified under section 68C and registered to issue written
29 prescriptions pursuant to subsection (h) of section 7 of chapter 94C, may utilize and prescribe
30 topical and oral therapeutic pharmaceutical agents used in the practice of optometry, as defined
31 in section 66 and described in 21 U.S.C. 812 or in said chapter 94C, including those placed in
32 schedules III, IV, V and VI by the commissioner pursuant to section 2 of said chapter 94C for the
33 purpose of diagnosing, preventing, correcting, managing or treating ocular diseases, including

34 glaucoma and ocular abnormalities of the human eye and adjacent tissue and the administration
35 of epinephrine, adrenalin or other agents used in the percutaneous treatment of anaphylaxis;
36 provided, however, a registered optometrist, when utilizing or prescribing a pharmaceutical agent
37 in schedule III shall be limited to the utilization and prescription of narcotic analgesics.

38 Nothing in this section shall permit optometric utilization or prescription of: (i)
39 therapeutic pharmaceutical agents for the treatment of systemic diseases; (ii) invasive surgical
40 procedures; or (iii) pharmaceutical agents administered by subdermal injection, intramuscular
41 injection, intravenous injection, subcutaneous injection or retrobulbar injection, except as
42 authorized in this section for the percutaneous treatment of anaphylaxis. Oral steroid treatment
43 required beyond 14 days shall be continued only in consultation with the patient's primary care
44 provider and noted in a patient's medical record.

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

52 (c) Nothing in this section shall prevent an optometrist authorized under this section from
53 serving as an approved investigator in a clinical trial evaluating pharmaceutical agents described
54 in subsection (a).

55 (d) If a patient exam results in a diagnosis of 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 health care provider for treatment.

58 (e) Optometrists licensed under this chapter shall participate in relevant state and federal
59 reports or data collection efforts relative to patient safety and medical error reduction
60 coordinated by the Betsy Lehman center for patient safety and medical error reduction
61 established in section 15 of chapter 12C.

62 (f) An insurer or risk management organization that provides insurance to an optometrist
63 licensed under this chapter shall make an annual report to the Betsy Lehman center for patient
64 safety and medical error reduction. The report shall provide the 10 most common categories of
65 losses, claims or actions for damages for personal injuries alleged to have been caused by error,
66 omission or negligence in optometrists' performance of services the company incurred during the
67 previous calendar year. Reports shall include completed cases and settlements only and shall not
68 include information identifying providers or patients. Reports shall be provided to the Betsy
69 Lehman center for patient safety and medical error reduction at the center's request under annual
70 timelines and reporting requirements established by the center with the input of the patient safety
71 and medical errors reduction board established in subsection (c) of said section 15 of said chapter
72 12C. The center shall use this information in the development of evidence-based best practices
73 to reduce errors and enhance patient safety as required by subsection (e) of said section 15 of
74 said chapter 12C to increase awareness of error prevention strategies through public and
75 professional education.

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

78 Section 68C. (a) The board of registration in optometry shall administer an examination
79 to permit the utilization and prescription of therapeutic pharmaceutical agents as defined under
80 section 66C. The examination shall: (i) be held in conjunction with examinations provided in
81 sections 68, 68A and 68B; and (ii) include any portion of the examination administered by the
82 National Board of Examiners in Optometry or other appropriate examinations covering the
83 subject matter of therapeutic pharmaceutical agents. The board may administer a single
84 examination to measure the qualifications necessary under said sections 68, 68A and 68B and
85 this section. The board shall qualify optometrists to use and prescribe therapeutic
86 pharmaceutical agents in accordance with said sections 68, 68A and 68B and this section. An
87 applicant that presents satisfactory evidence of graduating from a school or college of optometry
88 approved by the board subsequent to January 1, 2013, shall have satisfied all the requirements of
89 sections 68, 68A and 68B and this section.

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

99 hours of didactic education and 20 hours of supervised clinical education relating to the
100 utilization and prescription of therapeutic pharmaceutical agents defined under said section 66C.
101 The education shall: (i) be administered by the Massachusetts Society of Optometrists, Inc.:(ii)
102 be accredited by a college of optometry or medicine; and (iii) meet guidelines and requirements
103 of the board of registration in optometry. The board of registration in optometry shall provide to
104 the department of public health and each successful applicant a certificate of qualification in the
105 utilization and prescription of all therapeutic pharmaceutical agents as defined under said section
106 66C.

107 (c) An optometrist licensed in another jurisdiction shall be deemed an applicant under
108 this section by the board of registration in optometry. An optometrist licensed in another
109 jurisdiction may submit evidence to the board of registration in optometry of practice equivalent
110 to that required in section 68, 68A or 68B and the board, at its discretion, may accept the
111 evidence in order to satisfy any of the requirements of this section. An optometrist licensed in
112 another jurisdiction to utilize and prescribe therapeutic pharmaceutical agents substantially
113 equivalent to those placed under schedules III, IV, V and VI by the commissioner pursuant to
114 section 2 of chapter 94C and defined in subsection (a) of section 66C may submit evidence to the
115 board of registration in optometry of equivalent didactic and supervised clinical education in
116 order to satisfy all the requirements of this section.

117 (d) A licensed optometrist who has completed a post-graduate residency program
118 approved by the Accreditation Council on Optometric Education after July 31, 1997 may submit
119 an affidavit to the board of registration in optometry from licensed optometrist's residency
120 supervisor or the director of residencies at the affiliated college of optometry attesting that an

121 equivalent level of instruction and supervision was completed in order to satisfy all the
122 requirements of this section.

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

126 SECTION 11. Not more than 90 days after the effective date of this act, the department
127 of public health and the board of registration in optometry shall promulgate the rules and
128 regulations required by sections 7 and 9 of chapter 94C of the General Laws and sections 66A,
129 66B, 66C and 68C of chapter 112 of the General Laws.