

SENATE No. 1239

The Commonwealth of Massachusetts

PRESENTED BY:

Sal N. DiDomenico

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 ensuring consumer choice and equal access to eye care.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/31/2019</i>
<i>Nick Collins</i>	<i>First Suffolk</i>	<i>4/23/2019</i>

SENATE No. 1239

By Mr. DiDomenico, a petition (accompanied by bill, Senate, No. 1239) of Sal N. DiDomenico and Jason M. Lewis for legislation to ensure consumer choice and equal access to eye care. Public Health.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act ensuring consumer choice and equal access to eye 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. Chapter 112 of the General Laws, as appearing in the 2016 Official Edition,
2 is hereby amended by striking out section 66, and inserting in place thereof the following
3 section:-

4 Section 66. As used in this chapter, “practice of optometry” shall mean the diagnosis,
5 prevention, correction, management or treatment of optical deficiencies, optical deformities,
6 visual anomalies, muscular anomalies, ocular diseases and ocular abnormalities of the human eye
7 and adjacent tissue, including removal of superficial foreign bodies and misaligned eyelashes, by
8 utilization of pharmaceutical agents, by the prescription, adaption and application of ophthalmic
9 lenses, devices containing lenses, prisms, contact lenses, orthoptics, vision therapy, prosthetic
10 devices and other optical aids and the utilization of corrective procedures to preserve, restore or
11 improve vision, consistent with sections 66A, 66B and 66C.

12 SECTION 2. Section 66B of said chapter 112, as so appearing, is hereby amended by
13 striking out, in line 31, the following words:- , except glaucoma.

14 SECTION 3. Said chapter 112 is hereby further amended by inserting after section 66B
15 the following section:-

16 Section 66C. (a) A registered optometrist who is qualified by an examination for practice
17 under section 68, certified under section 68C and registered to issue written prescriptions
18 pursuant to subsection (h) of section 7 of chapter 94C, may: (i) use and prescribe topical and oral
19 therapeutic pharmaceutical agents, as defined in section 66B, that are used in the practice of
20 optometry, including those placed in schedules III, IV, V and VI pursuant to section 2 of said
21 chapter 94C, for the purpose of diagnosing, preventing, correcting, managing or treating
22 glaucoma and other ocular abnormalities of the human eye and adjacent tissue; and (ii) prescribe
23 all necessary eye-related medications, including oral anti-infective medications; provided,
24 however, that a registered optometrist shall not use or prescribe: (1) therapeutic pharmaceutical
25 agents for the treatment of systemic diseases; (2) invasive surgical procedures; (3)
26 pharmaceutical agents administered by subdermal injection, intramuscular injection, intravenous
27 injection, subcutaneous injection, intraocular injection or retrobulbar injection; or (4) an opioid
28 substance or drug product.

29 (b) If an optometrist, while examining or treating a patient with the aid of a diagnostic or
30 therapeutic pharmaceutical agent and exercising professional judgment and the degree of
31 expertise, care and knowledge ordinarily possessed and exercised by optometrists under like
32 circumstances, encounters a sign of a previously unevaluated disease that would require

33 treatment not included in the scope of the practice of optometry, the optometrist shall refer the
34 patient to a licensed physician or other qualified health care practitioner.

35 (c) If an optometrist diagnoses a patient with congenital glaucoma or if, during the course
36 of examining, managing or treating a patient with glaucoma, the optometrist determines that
37 surgical treatment is indicated, the optometrist shall refer the patient to a qualified health care
38 provider for treatment.

39 (d) An optometrist licensed under this chapter shall participate in any relevant state or
40 federal report or data collection effort relative to patient safety and medical error reduction
41 coordinated by the Betsy Lehman center for patient safety and medical error reduction
42 established in section 15 of chapter 12C.

43 SECTION 4. Said chapter 112 is hereby further amended by inserting after section 68B
44 the following section:-

45 Section 68C. (a) The board of registration in optometry shall administer an examination
46 to permit the use and prescription of therapeutic pharmaceutical agents as authorized in section
47 66C. The examination shall: (i) be held in conjunction with examinations provided for in
48 sections 68, 68A and 68B; and (ii) include any portion of the examination administered by the
49 National Board of Examiners in Optometry or other appropriate examination covering the
50 subject matter of therapeutic pharmaceutical agents as authorized in said section 66C. The board
51 may administer a single examination to measure the qualifications necessary under said sections
52 68, 68A, 68B and this section. The board shall qualify optometrists to use and prescribe
53 therapeutic pharmaceutical agents in accordance with said sections 68, 68A, 68B and this
54 section.

55 (b) Examination for the use and prescription of therapeutic pharmaceutical agents placed
56 in schedules III, IV, V and VI under section 2 of chapter 94C and defined in section 66C shall,
57 upon application, be open to an optometrist registered under section 68, 68A or 68B and to any
58 person who meets the qualifications for examination under said sections 68, 68A and 68B. An
59 applicant registered as an optometrist under said section 68, 68A or 68B shall: (i) be registered
60 pursuant to paragraph (h) of section 7 to use or prescribe pharmaceutical agents for the purpose
61 of diagnosing or treating glaucoma and other ocular abnormalities of the human eye and adjacent
62 tissue; and (ii) furnish to the board of registration in optometry evidence of the satisfactory
63 completion of 40 hours of didactic education and 20 hours of supervised clinical education
64 relating to the use and prescription of therapeutic pharmaceutical agents under section 66C;
65 provided, however, that such education shall: (1) be administered by the Massachusetts Society
66 of Optometrists, Inc.; (2) be accredited by a college of optometry or medicine; and (3) meet the
67 guidelines and requirements of the board of registration in optometry. The board of registration
68 in optometry shall provide to each successful applicant a certificate of qualification in the use
69 and prescription of all therapeutic pharmaceutical agents as authorized under said section 66C
70 and shall forward to the department of public health notice of such certification for each
71 successful applicant.

72 (c) An optometrist licensed in another jurisdiction shall be deemed an applicant under
73 this section by the board of registration in optometry. An optometrist licensed in another
74 jurisdiction may submit evidence to the board of registration in optometry of practice equivalent
75 to that required in section 68, 68A or 68B and the board, in its discretion, may accept the
76 evidence in order to satisfy any of the requirements of this section. An optometrist in another
77 jurisdiction licensed to utilize and prescribe therapeutic pharmaceutical agents for treating

78 glaucoma and other ocular abnormalities of the human eye and adjacent tissue may submit
79 evidence to the board of registration in optometry of equivalent didactic and supervised clinical
80 education, and the board, in its discretion, may accept the evidence in order to satisfy any of the
81 requirements of this section.

82 (d) A licensed optometrist who has completed a postgraduate residency program
83 approved by the Accreditation Council on Optometric Education of the American Optometric
84 Association may submit an affidavit to the board of registration in optometry from the licensed
85 optometrist's residency supervisor or the director of residencies at the affiliated college of
86 optometry attesting that the optometrist has completed an equivalent level of instruction and
87 supervision and the board, in its discretion, may accept the evidence in order to satisfy any of the
88 requirements of this section.

89 (e) As a condition of license renewal, an optometrist licensed under this section shall
90 submit to the board of registration in optometry evidence attesting to the completion of 3 hours
91 of continuing education specific to glaucoma and the board, in its discretion, may accept the
92 evidence to satisfy this condition for license renewal.

93 SECTION 5. The department shall designate hospitals pursuant to section 51M of chapter
94 111 of the General Laws not later than 180 days after the effective date of this act.

95 SECTION 6. The department shall establish protocols pursuant to section 51N of chapter
96 111 of the General Laws not later than 90 days after the effective date of this act. SECTION 202.
97 The department shall establish the data oversight process pursuant to section 51O of chapter 111
98 of the General Laws not later than 180 days after the effective date of this act. SECTION 203.
99 Section 66C of chapter 112 of the General Laws shall apply to registered optometrists who are

100 qualified by an examination for practice under section 68 of said chapter 112 after January 1,
101 2013.

102 SECTION 7. An applicant for examination to permit the use and prescription of
103 therapeutic agents pursuant to section 68C of chapter 112 of the General Laws who presents
104 satisfactory evidence of graduation from a school or college of optometry approved by the board
105 after January 1, 2013 shall be deemed to have satisfied sections 68 to 68B, inclusive, of said
106 chapter 112.

107 SECTION 8. Subsection (d) of section 68C of chapter 112 of the General Laws shall
108 apply to licensed optometrists who have completed a postgraduate residency program approved
109 by the Accreditation Council on Optometric Education of the American Optometric Association
110 after July 31, 1997.