

SENATE No. 1350

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

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 scope of practice.

PETITION OF:

NAME:

Bruce E. Tarr

DISTRICT/ADDRESS:

First Essex and Middlesex

SENATE No. 1350

By Mr. Tarr, a petition (accompanied by bill, Senate, No. 1350) of Bruce E. Tarr for legislation relative to scope of practice . Public Health.

The Commonwealth of Massachusetts

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

An Act relative to scope of practice.

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. Subsection (c) of section 2A of said chapter 12C, as so appearing, is hereby
2 amended by striking out clause (4) and inserting in place thereof the following clause:-

3 (4) develop annual research and analysis priorities for the center; provided however, that
4 the council shall not require approval of the center’s actions pursuant to section 16, section 38C
5 and 38D of chapter 3 or section 17 of chapter 176A.

6 SECTION 2. Said section 1 of said chapter 94C is hereby further amended by striking
7 out, in line 308, as appearing in the 2016 Official Edition, the words “and 66B” and inserting in
8 place thereof the following words:- , 66B and 66C.

9 SECTION 3. The definition of “Practitioner” in said section 1 of said chapter 94C, as so
10 appearing, is hereby amended by adding the following 3 clauses:-

11 (d) a nurse practitioner registered pursuant to subsection (f) of section 7 and authorized
12 by section 80E of chapter 112 to distribute, dispense, conduct research with respect to or use in

13 teaching or chemical analysis a controlled substance in the course of professional practice or
14 research in the commonwealth.

15 (e) a nurse anesthetist registered pursuant to subsection (f) of section 7 and authorized by
16 section 80H of chapter 112 to distribute, dispense, conduct research with respect to or use in
17 teaching or chemical analysis a controlled substance in the course of professional practice or
18 research in the commonwealth.

19 (f) a psychiatric nurse mental health clinical specialist registered pursuant to subsection
20 (f) of section 7 and authorized by section 80J of chapter 112 to distribute, dispense, conduct
21 research with respect to or use in teaching or chemical analysis a controlled substance in the
22 course of professional practice or research in the commonwealth.

23 SECTION 4. Section 7 of said chapter 94C is hereby amended by inserting after the word
24 “nurse”, in line 80, the second time it appears, as so appearing, the following words:- , a licensed
25 dental therapist under the supervision of a practitioner for the purposes of administering
26 analgesics, anti-inflammatories and antibiotics.

27 SECTION 5. Said section 7 of said chapter 94C is hereby further amended by inserting
28 after the word “podiatrist”, in line 122, and in lines 125 and 126, each time it appears, as so
29 appearing, the following words:- , nurse practitioner, nurse anesthetist, psychiatric nurse mental
30 health clinical specialist.

31 SECTION 6. Subsection (g) of said section 7 of said chapter 94C, as so appearing, is
32 hereby further amended by striking out the second paragraph.

33 SECTION 7. Said subsection (g) of said section 7 of said chapter 94C, as so appearing, is
34 hereby further amended by striking out the last paragraph.

35 SECTION 8. Said section 7 of said chapter 94C is hereby further amended by striking
36 out, in line 213, as so appearing, the words “and 66B” and inserting in place thereof the
37 following words:- , 66B and 66C.

38 SECTION 9. Section 9 of said chapter 94C, as so appearing, is hereby amended by
39 inserting after the word “podiatrist”, in line 1, the following words:- , nurse practitioner, nurse
40 anesthetist, psychiatric nurse mental health clinical specialist.

41 SECTION 10. Said section 9 of said chapter 94C, as so appearing, is hereby further
42 amended by striking out, in line 2, the words “and 66B” and inserting in place thereof the
43 following words:- , 66B and 66C.

44 SECTION 11. Said section 9 of said chapter 94C, as so appearing, is hereby further
45 amended by striking out, in lines 3 to 5, inclusive, the words “, nurse practitioner and psychiatric
46 nurse mental health clinical specialist as limited by subsection (g) of said section 7 and section
47 80E of said chapter 112”.

48 SECTION 12. Said section 9 of said chapter 94C, as so appearing, is hereby further
49 amended by striking out, in lines 8 and 9, the words “, nurse anesthetist, as limited by subsection
50 (g) of said section 7 and section 80H of said chapter 112”.

51 SECTION 13. Subsection (a) of said section 9 of said chapter 94C, as so appearing, is
52 hereby amended by adding the following paragraph:-

53 A practitioner may cause controlled substances to be administered under the
54 practitioner’s direction by a licensed dental therapist, for the purposes of administering
55 analgesics, anti-inflammatories and antibiotics.

56 SECTION 14. Said section 9 of said chapter 94C, as so appearing, is hereby further
57 amended by inserting after the word “nurse-midwifery”, in line 32, the following words:- ,
58 advanced practice nursing.

59 SECTION 15. Said section 9 of said chapter 94C, as so appearing, is hereby further
60 amended by inserting after the word “podiatrist”, in lines 72 and 80, each time it appears, the
61 following word:- , optometrist.

62 SECTION 16. Subsection (c) of said section 9 of said chapter 94C, as so appearing, is
63 hereby amended by adding the following paragraph:-

64 A licensed dental therapist who has obtained a controlled substance from a practitioner
65 for dispensing to an ultimate user under subsection (a) shall return any unused portion of the
66 substance that is no longer required by the patient to the practitioner.

67 SECTION 17. Said section 9 of said chapter 94C, as so appearing, is hereby further
68 amended by inserting after the word “practitioner”, in lines 100 and 107, each time it appears,
69 the following words:- , nurse anesthetist, psychiatric nurse mental health clinical specialist.

70 SECTION 18. Section 18 of said chapter 94C is hereby amended by striking out, in lines
71 10, 39 and 72, as so appearing, the words “to practice medicine” and inserting in place thereof, in
72 each instance, the following words:- and authorized to engage in prescriptive practice.

73 SECTION 19. Said section 18 of said chapter 94C, as so appearing, is hereby further
74 amended by striking out the word “physician”, in lines 25, 38, 72 and 74, and inserting in place
75 thereof, in each instance, the following word:- practitioner.

76 SECTION 20. Said section 18 of said chapter 94C, as so appearing, is hereby further
77 amended by striking out, in lines 27, 54 and 55, and in line 88, the word “medicine”.

78 SECTION 21. Said chapter 112 is hereby further amended by striking out section 13, as
79 so appearing, and inserting in place thereof the following section:-

80 Section 13. (a) As used in this chapter, “podiatry” shall mean the diagnosis and treatment,
81 by medical, mechanical, electrical or surgical means, of ailments of the human foot and lower
82 leg.

83 (b) As used in sections 12B, 12G and 80B, “physician” shall include a podiatrist
84 registered under section 16.

85 (c) Sections 13 to 18, inclusive, shall not apply to surgeons of the United States army,
86 United States navy or of the United States Public Health Service or to physicians registered in
87 the commonwealth.

88 SECTION 22. Said chapter 112 is hereby further amended by striking out section 66, as
89 appearing in the 2016 Official Edition, and inserting in place thereof the following section:-

90 Section 66. As used in this chapter, “practice of optometry” shall mean the diagnosis,
91 prevention, correction, management or treatment of optical deficiencies, optical deformities,
92 visual anomalies, muscular anomalies, ocular diseases and ocular abnormalities of the human eye
93 and adjacent tissue, including removal of superficial foreign bodies and misaligned eyelashes, by

94 utilization of pharmaceutical agents, by the prescription, adaptation and application of
95 ophthalmic lenses, devices containing lenses, prisms, contact lenses, orthoptics, vision therapy,
96 prosthetic devices and other optical aids and the utilization of corrective procedures to preserve,
97 restore or improve vision, consistent with sections 66A, 66B and 66C.

98 SECTION 23. Section 66B of said chapter 112, as so appearing, is hereby amended by
99 striking out, in line 31, the following words:- , except glaucoma.

100 SECTION 24. Said chapter 112 is hereby further amended by inserting after section 66B
101 the following section:-

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

115 (b) If an optometrist, while examining or treating a patient with the aid of a diagnostic or
116 therapeutic pharmaceutical agent and exercising professional judgment and the degree of
117 expertise, care and knowledge ordinarily possessed and exercised by optometrists under like
118 circumstances, encounters a sign of a previously unevaluated disease that would require
119 treatment not included in the scope of the practice of optometry, the optometrist shall refer the
120 patient to a licensed physician or other qualified health care practitioner.

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

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

129 SECTION 24. Said chapter 112 is hereby further amended by inserting after section 68B
130 the following section:-

131 Section 68C. (a) The board of registration in optometry shall administer an examination
132 to permit the use and prescription of therapeutic pharmaceutical agents as authorized in section
133 66C. The examination shall: (i) be held in conjunction with examinations provided for in
134 sections 68, 68A and 68B; and (ii) include any portion of the examination administered by the
135 National Board of Examiners in Optometry or other appropriate examination covering the
136 subject matter of therapeutic pharmaceutical agents as authorized in said section 66C. The board

137 may administer a single examination to measure the qualifications necessary under said sections
138 68, 68A, 68B and this section. The board shall qualify optometrists to use and prescribe
139 therapeutic pharmaceutical agents in accordance with said sections 68, 68A, 68B and this
140 section.

141 (b) Examination for the use and prescription of therapeutic pharmaceutical agents placed
142 in schedules III, IV, V and VI under section 2 of chapter 94C and defined in section 66C shall,
143 upon application, be open to an optometrist registered under section 68, 68A or 68B and to any
144 person who meets the qualifications for examination under said sections 68, 68A and 68B. An
145 applicant registered as an optometrist under said section 68, 68A or 68B shall: (i) be registered
146 pursuant to paragraph (h) of section 7 to use or prescribe pharmaceutical agents for the purpose
147 of diagnosing or treating glaucoma and other ocular abnormalities of the human eye and adjacent
148 tissue; and (ii) furnish to the board of registration in optometry evidence of the satisfactory
149 completion of 40 hours of didactic education and 20 hours of supervised clinical education
150 relating to the use and prescription of therapeutic pharmaceutical agents under section 66C;
151 provided, however, that such education shall: (1) be administered by the Massachusetts Society
152 of Optometrists, Inc.; (2) be accredited by a college of optometry or medicine; and (3) meet the
153 guidelines and requirements of the board of registration in optometry. The board of registration
154 in optometry shall provide to each successful applicant a certificate of qualification in the use
155 and prescription of all therapeutic pharmaceutical agents as authorized under said section 66C
156 and shall forward to the department of public health notice of such certification for each
157 successful applicant.

158 (c) An optometrist licensed in another jurisdiction shall be deemed an applicant under
159 this section by the board of registration in optometry. An optometrist licensed in another

160 jurisdiction may submit evidence to the board of registration in optometry of practice equivalent
161 to that required in section 68, 68A or 68B and the board, in its discretion, may accept the
162 evidence in order to satisfy any of the requirements of this section. An optometrist in another
163 jurisdiction licensed to utilize and prescribe therapeutic pharmaceutical agents for treating
164 glaucoma and other ocular abnormalities of the human eye and adjacent tissue may submit
165 evidence to the board of registration in optometry of equivalent didactic and supervised clinical
166 education, and the board, in its discretion, may accept the evidence in order to satisfy any of the
167 requirements of this section.

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

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

179 SECTION 25. Section 80B of said chapter 112, as appearing in the 2016 Official Edition,
180 is hereby amended by inserting after the word "practitioners", in line 12, the following words:- ,
181 nurse anesthetists.

182 SECTION 26. Said section 80B of said chapter 112, as so appearing, is hereby further
183 amended by striking out the seventh paragraph and inserting in place thereof the following
184 paragraph:-

185 The board shall promulgate advanced practice nursing regulations which govern the
186 provision of advanced practice nursing services and related care including, but not limited to, the
187 ordering and interpreting of tests, the ordering and evaluation of treatment and the use of
188 therapeutics.

189 SECTION 27. Said section 80B of said chapter 112, as so appearing, is hereby further
190 amended by striking out, in lines 64 and 65, the words “in the ordering of tests, therapeutics and
191 the prescribing of medications, to” and inserting in place thereof the following word:- to.

192 SECTION 28. Said chapter 112 is hereby further amended by striking out section 80E, as
193 so appearing, and inserting in place thereof the following section:-

194 Section 80E. (a) A nurse practitioner or psychiatric nurse mental health clinical specialist
195 may issue written prescriptions and medication orders and order tests and therapeutics pursuant
196 to guidelines mutually developed and agreed upon by the nurse and either a supervising nurse
197 practitioner or psychiatric nurse mental health clinical specialist who has independent practice
198 authority or a supervising physician, in accordance with regulations promulgated by the board. A
199 prescription issued by a nurse practitioner or psychiatric nurse mental health clinical specialist
200 under this subsection shall include the name of the nurse practitioner or the psychiatric nurse
201 mental health clinical specialist who has independent practice authority or the supervising
202 physician with whom the nurse practitioner or psychiatric nurse mental health clinical specialist
203 developed and signed mutually agreed upon guidelines.

204 A nurse practitioner or psychiatric nurse mental health clinical specialist shall have
205 independent practice authority to issue written prescriptions and medication orders and order
206 tests and therapeutics without the supervision described in this subsection if the nurse
207 practitioner or psychiatric nurse mental health clinical specialist has completed not less than 2
208 years of supervised practice following certification from a board-recognized certifying body;
209 provided, however, that supervision of clinical practice shall be conducted by a health care
210 professional who meets minimum qualification criteria promulgated by the board, which shall
211 include a minimum number of years of independent practice authority.

212 The board may allow a nurse practitioner or psychiatric nurse mental health clinical
213 specialist to exercise such independent practice authority upon satisfactory demonstration of not
214 less than 2 years of alternative professional experience; provided, however, that the board
215 determines that the nurse practitioner or psychiatric nurse mental health clinical specialist has a
216 demonstrated record of safe prescribing and good conduct consistent with professional licensure
217 obligations required by each jurisdiction in which the nurse practitioner or psychiatric nurse
218 mental health clinical specialist has been licensed.

219 (b) The board shall promulgate regulations to implement this section.

220 SECTION 29. Said chapter 112 is hereby further amended by striking out section 80H, as
221 so appearing, and inserting in place thereof the following section:-

222 Section 80H. (a) A nurse anesthetist may issue written prescriptions and medication
223 orders and order tests and therapeutics pursuant to guidelines mutually developed and agreed
224 upon by the nurse and either a supervising nurse anesthetist with independent practice authority
225 or a supervising physician, in accordance with regulations promulgated by the board; provided,

226 however, that supervision under this section by a nurse anesthetist with independent practice
227 authority or by a physician shall be limited to written prescriptions and medication orders and the
228 ordering of tests and therapeutics. A prescription issued by a nurse anesthetist under this
229 subsection shall include the name of the nurse anesthetist with independent practice authority or
230 the supervising physician with whom the nurse anesthetist developed and signed mutually agreed
231 upon guidelines. Nothing in this section shall require a nurse anesthetist to obtain prescriptive
232 authority to deliver anesthesia care, including the proper administration of the drugs or medicine
233 necessary for the delivery of anesthesia care.

234 A nurse anesthetist shall have independent practice authority to issue written
235 prescriptions and medication orders and order tests and therapeutics without the supervision
236 described in this subsection if the nurse anesthetist has completed not less than 2 years of
237 supervised practice following certification from a board-recognized certifying body; provided,
238 however, that supervision of practice shall be conducted by a health care professional who meets
239 minimum qualification criteria promulgated by the board which shall include a minimum number
240 of years of independent practice experience.

241 The board, in its discretion, may allow a nurse anesthetist to exercise such independent
242 practice authority upon satisfactory demonstration of alternative professional experience if the
243 board determines that the nurse anesthetist has a demonstrated record of safe prescribing and
244 good conduct consistent with professional licensure obligations required by each jurisdiction in
245 which the nurse anesthetist has been licensed.

246 (b) The board shall promulgate regulations to implement this section.