

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

**The Commonwealth of Massachusetts**

PRESENTED BY:

**Moore, Richard (SEN)**

*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 passage of the accompanying bill:

**An Act Relative to the Modernization of Optometric Patient Care**

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Daniel E. Bosley	1st Berkshire
Moore, Richard (SEN)	Worcester and Norfolk
Joseph F. Wagner	8th Hampden
Geraldine Creedon	11th Plymouth
Stephen L. DiNatale	3rd Worcester
James H. Fagan	3rd Bristol
Patricia A. Haddad	5th Bristol
Angelo J. Puppolo, Jr.	12th Hampden
John F. Quinn	9th Bristol

# The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine  
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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, as appearing in the 2006  
2 Official Edition, is hereby amended by striking out, in line 244, 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 striking out,  
6 in line 168, the words "sections 66 and 66B" and inserting in place thereof the following words:-  
7 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 striking out,  
9 in line 2, the words "sections 66 and 66B" and inserting in place thereof the following words:-  
10 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 amended by  
12 inserting after the word "podiatrist", in line 64, 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 amended by  
17 striking out, in line 12, the words " and 66B" and inserting in place thereof the following words:-  
18 , 66B and 66C.

19 SECTION 7. The first paragraph of section 66A of said chapter 112, as so appearing, is hereby  
20 amended by adding the following sentence:- A registered optometrist may utilize epinephrine,  
21 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 inserting  
23 after the words "injection," in line 13, the third time it appears, the following words:-, except for  
24 the utilization of epinephrine, adrenaline or other agents used in the percutaneous treatment of  
25 anaphylaxis.

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

28 Section 66C. (a) A registered optometrist, qualified by examination for practice under section 68  
29 after January 1, 2007, duly certified in accordance with section 68C and duly registered to issue  
30 written prescriptions in accordance with paragraph (h) of section 7 of chapter 94C may, for the  
31 purpose of diagnosing, preventing, correcting, managing or treating ocular diseases, including  
32 glaucoma and ocular abnormalities of the human eye and adjacent tissue, utilize and prescribe  
33 topical and oral therapeutic pharmaceutical agents used in the practice of optometry as defined in  
34 section 66 and described in Title 21 U.S.C. Section 812 or in chapter 94C, including those placed

35 in schedules III, IV, V and VI by the commissioner pursuant to section 2 of chapter 94C and  
36 including the utilization of epinephrine, adrenalin, or other agents used in the percutaneous  
37 treatment of anaphylaxis. Nothing in this section shall be construed to permit optometric  
38 utilization or prescription of: (a) therapeutic pharmaceutical agents for the treatment of systemic  
39 diseases; (b) invasive surgical procedures; or (c) pharmaceutical agents administered by  
40 subdermal injection, intramuscular injection, intravenous injection, subcutaneous injection or  
41 retrobulbar injection, except as authorized above for the percutaneous treatment of anaphylaxis.

42 The pharmaceutical agents from schedule III shall be limited to the narcotic analgesics and shall  
43 not include the use of hallucinogenic substances or anabolic steroids. Oral steroid treatment  
44 required beyond 14 days shall be continued only in consultation with the patient's physician.

45 (b) If, during the course of examining or treating a patient with the aid of a diagnostic or  
46 therapeutic pharmaceutical agent, an optometrist, exercising professional judgment and that  
47 degree of expertise, care and knowledge ordinarily possessed and exercised by optometrists  
48 under like circumstances, determines the existence of the signs of previously unevaluated disease  
49 which requires treatment not included in the scope of optometric practice as set forth in section  
50 66, such 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 a qualified optometrist from serving as an approved  
53 investigator in a clinical trial evaluating such drugs.

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

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

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

75 Section 68C (a) The board of registration in optometry shall administer an examination designed  
76 to measure the qualifications necessary to safely utilize and prescribe therapeutic pharmaceutical  
77 agents defined in subsection (a) of section 66C. Such examination shall be held in conjunction  
78 with examinations provided in sections 68, 68A and 68B and shall include any portion of the  
79 examination administered by the National Board of Examiners in Optometry or other appropriate

80 examinations covering the subject matter of therapeutic pharmaceutical agents. Nothing shall  
81 prohibit the board from administering 1 examination to measure the qualifications necessary  
82 under sections 68, 68A, 68B and 68C. The board shall, subsequent to January 1, 2007, only  
83 qualify for practice in accordance with said sections 68, 68A, 68B and 68C; and any applicant  
84 that presents satisfactory evidence that he has graduated from a school or college of optometry,  
85 approved by the board, subsequent to January 1, 2007 shall have satisfied all the requirements of  
86 sections 68, 68A, 68B and 68C.

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

102 qualification in the utilization and prescription of all therapeutic pharmaceutical agents as  
103 defined in said subsection (a) of said section 66C.

104 (c) An optometrist licensed in another jurisdiction shall, after January 1, 2007, be deemed an  
105 applicant under section 68C by the board of registration in optometry. An optometrist licensed in  
106 another jurisdiction may submit evidence to the board of registration in optometry of practice  
107 equivalent to that required in section 68, 68A or 68B and the board, at its discretion, may accept  
108 such evidence in order to satisfy any of the requirements of this section. An optometrist licensed  
109 in another jurisdiction to utilize and prescribe therapeutic pharmaceutical agents substantially  
110 equivalent to those placed under schedules III, IV, V and VI by the commissioner pursuant to  
111 section 2 of chapter 94C and defined in subsection (a) of section 66C may submit evidence to the  
112 board of registration in optometry of equivalent didactic and supervised clinical education in  
113 order to satisfy all the requirements of this section.

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

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

122 SECTION 11. Within 90 days after the effective date of this act, the department of public health  
123 and the board of registration in optometry shall promulgate the rules and regulations required by

124 sections 1, 7, and 9 of chapter 94C of the General Laws and sections 66, 66A, 66B, 66C and 68C  
125 of chapter 112 of the General Laws.