HOUSE DOCKET, NO. 2636 FILED ON: 1/20/2011

HOUSE . . . . . No. 2348

The Commonwealth of Massachusetts

PRESENTED BY:

Patricia A. Haddad

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:

An Act relative to the modernization of optometric patient care.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Patricia A. Haddad	*5th Bristol*
Sean Garballey	*23rd Middlesex*
Sarah K. Peake	*4th Barnstable*
Thomas M. Stanley	*9th Middlesex*
Geraldine M. Creedon	*11th Plymouth*
Thomas J. Calter	*12th Plymouth*
Anne M. Gobi	*5th Worcester*
Linda Campbell	*15th Essex*
William N. Brownsberger	☐ *[District]* ☐
Paul J. Donato	*35th Middlesex*
Alice K. Wolf	*25th Middlesex*
Dennis A. Rosa	*4th Worcester*
Kevin Aguiar	*7th Bristol*
Ruth B. Balser	*12th Middlesex*
Michael D. Brady	*9th Plymouth*
Christine E. Canavan	*10th Plymouth*

Stephen R. Canessa	*12th Bristol*
Gailanne M. Cariddi	*1st Berkshire*
Tackey Chan	*2nd Norfolk*
Nick Collins	*4th Suffolk*
Sean Curran	*9th Hampden*
Mark J. Cusack	*5th Norfolk*
James J. Dwyer	*30th Middlesex*
Carolyn C. Dykema	*8th Middlesex*
John V. Fernandes	*10th Worcester*
William C. Galvin	*6th Norfolk*
Denise C. Garlick	*13th Norfolk*
Thomas A. Golden, Jr.	*16th Middlesex*
Kate Hogan	*3rd Middlesex*
John D. Keenan	*7th Essex*
David Paul Linsky	*5th Middlesex*
Paul McMurtry	*11th Norfolk*
Richard T. Moore	☐ *[District]* ☐
James M. Murphy	*4th Norfolk*
Michael J. Rodrigues	☐ *[District]* ☐
George T. Ross	*2nd Bristol*
Byron Rushing	*9th Suffolk*
Jeffrey Sánchez	*15th Suffolk*
Frank I. Smizik	*15th Norfolk*
Todd M. Smola	*1st Hampden*
Joseph F. Wagner	*8th Hampden*
Brian M. Ashe	*2nd Hampden*
Antonio F. D. Cabral	*13th Bristol*
James M. Cantwell	*4th Plymouth*
Thomas P. Conroy	*13th Middlesex*
Edward F. Coppinger	*10th Suffolk*
Robert F. Fennell	*10th Essex*
Donald F. Humason, Jr.	*4th Hampden*
Peter V. Kocot	*1st Hampshire*
Stephen Kulik	*1st Franklin*
Angelo J. Puppolo, Jr.	*12th Hampden*

Kathi-Anne Reinstein	*16th Suffolk*
Theodore C. Speliotis	*13th Essex*
Ellen Story	*3rd Hampshire*
Walter F. Timilty	*7th Norfolk*
David M. Torrisi	*14th Essex*
James E. Vallee	*10th Norfolk*
Chris Walsh	*6th Middlesex*
Martin J. Walsh	*13th Suffolk*

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HOUSE . . . . . No. 2348

By Ms. Haddad of Somerset, a petition (accompanied by bill, House, No. 2348) of Patricia A. Haddad and others relative to optometric patient care. Public Health.

The Commonwealth of Massachusetts

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:

SECTION 1. Section 1 of chapter 94C of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 244, the words "sections 66 and 66B" and inserting in place thereof the following words:- either sections 66 and 66B or sections 66 and 66C.

SECTION 2. Section 7 of said chapter 94C, as so appearing, is hereby amended by striking out, in line 191, the words "sections 66 and 66B" and inserting in place thereof the following words:- either sections 66 and 66B or sections 66 and 66C.

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

SECTION 4. Said section 9 of said chapter 94C, as so appearing, is hereby further amended by inserting after the word "podiatrist", in line 55, the following word:- , optometrist.

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

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

SECTION 7. The first paragraph of section 66A of said chapter 112, as so appearing, is hereby amended by adding the following sentence:- A registered optometrist may utilize 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.