SENATE DOCKET, NO. 1725 FILED ON: 1/21/2011

SENATE . . . . . No. 833

The Commonwealth of Massachusetts

PRESENTED BY:

Richard T. Moore

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:
Richard T. Moore	☐ *[District]* ☐
James E. Timilty	☐ *[District]* ☐
Robert M. Koczera	*11th Bristol*
Christine E. Canavan	*10th Plymouth*
Harriette L. Chandler	☐ *[District]* ☐
Sonia Chang-Diaz	☐ *[District]* ☐
James J. Dwyer	*30th Middlesex*
James B. Eldridge	☐ *[District]* ☐

John V. Fernandes	*10th Worcester*
Linda Dorcena Forry	*12th Suffolk*
Bradley H. Jones, Jr.	*20th Middlesex*
Jay R. Kaufman	*15th Middlesex*
Michael R. Knapik	☐ *[District]* ☐
Timothy R. Madden	*Barnstable, Dukes and Nantucket*
Thomas M. McGee	*Third Essex and Middlesex*
Marc R. Pacheco	☐ *[District]* ☐
John W. Scibak	*2nd Hampshire*
James T. Welch	☐ *[District]* ☐
Barry R. Finegold	☐ *[District]* ☐
Brian A. Joyce	*Norfolk, Bristol, and Plymouth*
Angelo J. Puppolo, Jr.	*12th Hampden*
Michael J. Rodrigues	☐ *[District]* ☐

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SENATE . . . . . No. 833

By Mr. Moore, a petition (accompanied by bill, Senate, No. 833) of Richard T. Moore, James E. Timilty, Robert M. Koczera, Christine E. Canavan and other members of the General Court for legislation relative to the modernization of optometric patient care. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *1756* OF 2009-2010.]

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.

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

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

23 SECTION 8. Section 66B of said chapter 112, as so appearing, is hereby
24 amended by inserting after the words "injection," in line 13, the third time it appears, the
25 following words:-- , except for the utilization of epinephrine, adrenaline or other agents used in
26 the percutaneous treatment of anaphylaxis.

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

29 Section 66C. (a) A registered optometrist, qualified by examination for practice under
30 section 68 after January 1, 2009, duly certified in accordance with section 68C and duly
31 registered to issue written prescriptions in accordance with paragraph (h) of section 7 of chapter
32 94C may, for the purpose of diagnosing, preventing, correcting, managing or treating ocular
33 diseases, including glaucoma and ocular abnormalities of the human eye and adjacent tissue,
34 utilize and prescribe topical and oral therapeutic pharmaceutical agents used in the practice of
35 optometry as defined in section 66 and described in Title 21 U.S.C. Section 812 or in chapter
36 94C , including those placed in schedules III, IV, V and VI by the commissioner pursuant to
37 section 2 of chapter 94C and including the utilization of epinephrine, adrenalin, or other agents
38 used in the percutaneous treatment of anaphylaxis. Nothing in this section shall be construed to
39 permit optometric utilization or prescription of: (a) therapeutic pharmaceutical agents for the
40 treatment of systemic diseases; (b) invasive surgical procedures; or (c) pharmaceutical agents
41 administered by subdermal injection, intramuscular injection, intravenous injection,
42 subcutaneous injection or retrobulbar injection, except as authorized above for the percutaneous
43 treatment of anaphylaxis. The pharmaceutical agents from schedule III shall be limited to the
44 narcotic analgesics and shall not include the use of hallucinogenic substances or anabolic
45 steroids. Oral steroid treatment required beyond 14 days shall be continued only in consultation
46 with the patient's physician.

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

54 (c) Nothing in this section shall prevent a qualified optometrist from serving as
55 an approved investigator in a clinical trial evaluating such drugs.

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

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

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

77 Section 68C (a) The board of registration in optometry shall administer an
78 examination designed to measure the qualifications necessary to safely utilize and prescribe
79 therapeutic pharmaceutical agents defined in subsection (a) of section 66C. Such examination
80 shall be held in conjunction with examinations provided in sections 68, 68A and 68B and shall
81 include any portion of the examination administered by the National Board of Examiners in
82 Optometry or other appropriate examinations covering the subject matter of therapeutic
83 pharmaceutical agents. Nothing shall prohibit the board from administering 1 examination to
84 measure the qualifications necessary under sections 68, 68A, 68B and 68C. The board shall,
85 subsequent to January 1, 2009, only qualify for practice in accordance with said sections 68,
86 68A, 68B and 68C; and any applicant that presents satisfactory evidence that he has graduated
87 from a school or college of optometry, approved by the board, subsequent to January 1, 2009
88 shall have satisfied all the requirements of sections 68, 68A, 68B and 68C.

89 (b) Examination for the utilization and prescription of therapeutic
90 pharmaceutical agents placed under schedules III, IV, V and VI by the commissioner pursuant to

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

106 (c) An optometrist licensed in another jurisdiction shall, after January 1, 2009,
107 be deemed an applicant under section 68C by the board of registration in optometry. An
108 optometrist licensed in another jurisdiction may submit evidence to the board of registration in
109 optometry of practice equivalent to that required in section 68, 68A or 68B and the board, at its
110 discretion, may accept such evidence in order to satisfy any of the requirements of this section.
111 An optometrist licensed in another jurisdiction to utilize and prescribe therapeutic
112 pharmaceutical agents substantially equivalent to those placed under schedules III, IV, V and VI
113 by the commissioner pursuant to section 2 of chapter 94C and defined in subsection (a) of
114 section 66C may submit evidence to the board of registration in optometry of equivalent didactic
115 and supervised clinical education in order to satisfy all the requirements of this section.

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

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

124 SECTION 11. Within 90 days after the effective date of this act, the department
125 of public health and the board of registration in optometry shall promulgate the rules and
126 regulations required by sections 1, 7, and 9 of chapter 94C of the General Laws and sections 66,
127 66A, 66B, 66C and 68C of chapter 112 of the General Laws.