

HOUSE No. 02348

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 bill:

An Act relative to the modernization of optometric patient care.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>Geraldine Creedon</i>	<i>11th Plymouth</i>
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>
<i>Anne M. Gobi</i>	<i>5th Worcester</i>
<i>Linda Dean Campbell</i>	<i>15th Essex</i>
<i>William N. Brownsberger</i>	<i>24th Middlesex</i>
<i>Paul J. Donato</i>	<i>35th Middlesex</i>
<i>Alice K. Wolf</i>	<i>25th Middlesex</i>
<i>Dennis A. Rosa</i>	<i>4th Worcester</i>
<i>Kevin Aguiar</i>	<i>7th Bristol</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Michael D. Brady</i>	<i>9th Plymouth</i>
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>
<i>Stephen R. Canessa</i>	<i>12th Bristol</i>

<i>Gailanne Cariddi</i>	<i>1st Berkshire</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>
<i>Nick Collins</i>	<i>4th Suffolk</i>
<i>Sean Curran</i>	<i>9th Hampden</i>
<i>Mark Cusack</i>	<i>5th Norfolk</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>John V. Fernandes</i>	<i>10th Worcester</i>
<i>William C. Galvin</i>	<i>6th Norfolk</i>
<i>Denise Garlick</i>	<i>13th Norfolk</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>
<i>John D. Keenan</i>	<i>7th Essex</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>Richard T. Moore</i>	<i>Worcester and Norfolk</i>
<i>James M. Murphy</i>	<i>4th Norfolk</i>
<i>Michael J. Rodrigues</i>	<i>First Bristol and Plymouth</i>
<i>George Ross</i>	<i>2nd Bristol</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>
<i>Jeffrey Sánchez</i>	<i>15th Suffolk</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>Joseph F. Wagner</i>	<i>8th Hampden</i>
<i>Brian Ashe</i>	<i>2nd Hampden</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>
<i>Thomas P. Conroy</i>	<i>13th Middlesex</i>
<i>Edward Coppinger</i>	<i>10th Suffolk</i>
<i>Robert F. Fennell</i>	<i>10th Essex</i>
<i>Donald F. Humason, Jr.</i>	<i>4th Hampden</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>
<i>Kathi-Anne Reinstein</i>	<i>16th Suffolk</i>
<i>Theodore C. Speliotis</i>	<i>13th Essex</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>
<i>Walter F. Timilty</i>	<i>7th Norfolk</i>
<i>David M. Torrisi</i>	<i>14th Essex</i>

James E. Vallee

10th Norfolk

Chris Walsh

6th Middlesex

Martin J. Walsh

13th Suffolk

HOUSE No. 02348

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

In the Year Two Thousand Eleven

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 2008 Official
2 Edition, is hereby amended by striking out, in line 244, the words "sections 66 and 66B" and
3 inserting in place thereof the following words:- either sections 66 and 66B or sections 66 and
4 66C.

5 SECTION 2. Section 7 of said chapter 94C, as so appearing, is hereby amended by striking out,
6 in line 191, 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 55, 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, 2009, 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
35 placed in schedules III, IV, V and VI by the commissioner pursuant to section 2 of chapter 94C
36 and 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, 2009, 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, 2009 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, 2009, 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.