

# HOUSE . . . . . No. 2044

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By Mr. Bosley of North Adams, petition of Daniel E. Bosley for legislation to improve the care of optometric patients. Public Health.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand and Seven.

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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  
2 appearing in the 2002 Official Edition, is hereby amended by  
3 striking out, in line 247, the words “sections 66 and 66B” and  
4 inserting in place thereof the following words:— either sections 66  
5 and 66B or sections 66 and 66C.

1 SECTION 2. Section 7 of said chapter 94C, as so appearing, is  
2 hereby amended by striking out, in line 166, the words “sections 66  
3 and 66B” and inserting in place thereof the following words:—  
4 either sections 66 and 66B or sections 66 and 66C.

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

1 SECTION 4. Said section 9 of said chapter 94C, as so appearing,  
2 is hereby further amended by inserting after the word “podiatrist”, in  
3 line 65, the following word:— , optometrist.

1 SECTION 5. Section 27 of said chapter 94C, as so appearing, is  
2 hereby amended by striking out, in line 21, the word “seven” and  
3 inserting in place thereof the following words:— 7, or an optometrist  
4 who has received a registration from the board of registration in  
5 optometry stating that he is competent in the utilization of epineph-

6 rine, adrenaline or other agents used in the percutaneous treatment of  
7 anaphylaxis.

1 SECTION 6. Said section 27 of said chapter 94C, as so appearing,  
2 is hereby further amended by inserting after the word “dentist”, in  
3 line 26, the following word:— , optometrist,.

1 SECTION 7. Section 66 of chapter 112 of the General Laws, as so  
2 appearing, is hereby amended by inserting after the word “utiliza-  
3 tion”, in line 7, the following words:— and prescription.

1 SECTION 8. Said section 66 of said chapter 112, as so appearing,  
2 is hereby further amended by striking out, in lines 11 and 12, the  
3 words “ and 66B” and inserting in place thereof the following  
4 words:— , 66B and 66C.

1 SECTION 9. The first paragraph of section 66A of said chap-  
2 ter 112, as so appearing, is hereby amended by adding the following  
3 sentence:— A registered optometrist may utilize epinephrine,  
4 adrenaline or other agents used in the percutaneous treatment of  
5 anaphylaxis.

1 SECTION 10. Section 66B of said chapter 112, as so appearing,  
2 is hereby amended by inserting after the words “injection,” in  
3 line 13, the third time it appears, the following words:— , except for  
4 the utilization of epinephrine, adrenaline or other agents used in the  
5 percutaneous treatment of anaphylaxis.

1 SECTION 11. Said chapter 112 is hereby further amended by  
2 inserting after section 66B the following section:—  
3 Section 66C. (a) A registered optometrist, qualified by examina-  
4 tion for practice under section 68 after January 1, 2003, duly certi-  
5 fied in accordance with section 68C and duly registered to issue  
6 written prescriptions in accordance with paragraph (h) of section 7  
7 of chapter 94C may, for the purpose of diagnosing, preventing, cor-  
8 recting, managing or treating ocular diseases, including glaucoma  
9 and ocular abnormalities of the human eye and adjacent tissue, uti-  
10 lize and prescribe topical and oral therapeutic pharmaceutical agents  
11 used in the practice of optometry as defined in section 66 and

12 described in Title 21 U.S.C. Section 812 or in chapter 94C, including  
13 those placed in schedules III, IV, V and VI by the commissioner pur-  
14 suant to section 2 of chapter 94C and including the utilization of epi-  
15 nephrine, adrenalin, or other agents used in the percutaneous  
16 treatment of anaphylaxis. Nothing in this section shall be construed  
17 to permit optometric utilization or prescription of: (a) therapeutic  
18 pharmaceutical agents for the treatment of systemic diseases;  
19 (b) invasive surgical procedures; or (c) pharmaceutical agents  
20 administered by subdermal injection, intramuscular injection, intra-  
21 venous injection, subcutaneous injection or retrobulbar injection,  
22 except as authorized above for the percutaneous treatment of ana-  
23 phylaxis. The pharmaceutical agents from schedule III shall be lim-  
24 ited to the narcotic analgesics and shall not include the use of  
25 hallucinogenic substances or anabolic steroids. Oral steroid treat-  
26 ment required beyond 14 days shall be continued only in consulta-  
27 tion with the patient's physician.

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

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

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

45 (e) Optometrists licensed under this chapter 112 and the board of  
46 registration in optometry shall participate in appropriate state or fed-  
47 eral reports or data collection efforts relative to patient safety and  
48 medical error reduction coordinated by the Betsy Lehman center for  
49 patient safety and medical error reduction established in section 16E  
50 of chapter 6A . Every insurer or risk management organization

51 which provides insurance to an optometrist licensed under this  
52 chapter 112 shall make an annual report to the center. The report  
53 shall list the top 10 categories of losses, claims or actions for  
54 damage for personal injuries alleged to have been caused by error,  
55 omission or negligence in the performance by optometrists of serv-  
56 ices the company incurred during the previous calendar year.  
57 Reports shall include completed cases and settlements only and shall  
58 not include information identifying providers or patients. Reports  
59 shall be provided to the center at its request under annual timelines  
60 and reporting requirements established by the center with the input  
61 of the advisory committee established in section subsection (c) of  
62 said section 16E of said chapter 6A. The center shall use this infor-  
63 mation in the development of evidence-based best practices to  
64 reduce errors and enhance patient safety as required by subsection  
65 (e) of said section 16E of said chapter 6A to increase awareness of  
66 error prevention strategies through public and professional education  
67 as required by that subsection.

1 SECTION 12. Said chapter 112 is hereby further amended by  
2 inserting after section 68B the following section:—

3 Section 68C (a) The board of registration in optometry shall  
4 administer an examination designed to measure the qualifications  
5 necessary to safely utilize and prescribe therapeutic pharmaceutical  
6 agents defined in subsection (a) of section 66C. Such examination  
7 shall be held in conjunction with examinations provided in sec-  
8 tions 68, 68A and 68B and shall include any portion of the examina-  
9 tion administered by the National Board of Examiners in Optometry  
10 or other appropriate examinations covering the subject matter of  
11 therapeutic pharmaceutical agents. Nothing shall prohibit the board  
12 from administering 1 examination to measure the qualifications nec-  
13 essary under sections 68, 68A, 68B and 68C. The board shall, sub-  
14 sequent to January 1, 2003, only qualify for practice in accordance  
15 with said sections 68, 68A, 68B and 68C and any applicant that  
16 presents satisfactory evidence that he has graduated from a school or  
17 college of optometry, approved by the board, subsequent to Janu-  
18 ary 1, 2003 shall have satisfied all the requirements of sections 68,  
19 68A, 68B and 68C.

20 (b) Examination for the utilization and prescription of therapeutic  
21 pharmaceutical agents placed under schedules III, IV, V and VI by

22 the commissioner pursuant to section 2 of chapter 94C and defined  
23 in subsection (a) of section 66C shall, upon application, be open to  
24 an optometrist registered under section 68, 68A or 68B and to any  
25 person who meets the qualifications for examination under sections  
26 68, 68A and 68B. Each such applicant, registered as an optometrist  
27 under said section 68, 68A or 68B, shall possess a current Massa-  
28 chusetts controlled substance registration for the use of topical phar-  
29 maceutical agents described in section 66B and placed under  
30 schedule VI by the commissioner pursuant to section 2 of chap-  
31 ter 94C and shall furnish to the board of registration in optometry  
32 evidence of the satisfactory completion of 40 hours of didactic edu-  
33 cation and 20 hours of supervised clinical education relating to the  
34 utilization and prescription of therapeutic pharmaceutical agents  
35 defined in subsection (a) of section 66C. Such education shall be  
36 administered by the Massachusetts Society of Optometrists, shall be  
37 accredited by a college of optometry or medicine and shall otherwise  
38 meet the guidelines and requirements of the board of registration in  
39 optometry. The board of registration in optometry shall provide to  
40 the department of public health and each successful applicant a cer-  
41 tificate of qualification in the utilization and prescription of all thera-  
42 peutic pharmaceutical agents as defined in said subsection (a) of said  
43 section 66C.

44 (c) An optometrist licensed in another jurisdiction shall, after Jan-  
45 uary 1, 2003, be deemed an applicant under section 68C by the  
46 board of registration in optometry. An optometrist licensed in  
47 another jurisdiction may submit evidence to the board of registration  
48 in optometry of practice equivalent to that required in section 68,  
49 68A or 68B and the board, at its discretion, may accept such evi-  
50 dence in order to satisfy any of the requirements of this section. An  
51 optometrist licensed in another jurisdiction to utilize and prescribe  
52 therapeutic pharmaceutical agents substantially equivalent to those  
53 placed under schedules III, IV, V and VI by the commissioner pur-  
54 suant to section 2 of chapter 94C and defined in subsection (a) of  
55 section 66C may submit evidence to the board of registration in  
56 optometry of equivalent didactic and supervised clinical education in  
57 order to satisfy all the requirements of this section.

58 (d) A licensed optometrist who has completed a Council on Opto-  
59 metric Education- approved, post-graduate residency program after  
60 July 31, 1997 may submit an affidavit to the board of registration in

61 optometry from their residency supervisor or the director of residen-  
62 cies at the affiliated college of optometry attesting that an equivalent  
63 level of instruction and supervision was completed in order to satisfy  
64 all the requirements of this section.

65 (e) As a requirement of license renewal, an optometrist licensed  
66 under this section shall submit to the board of registration in optom-  
67 etry evidence attesting to the completion of 3 hours of continuing  
68 education specific to glaucoma.

1 SECTION 13. Within 90 days after the effective date of this act,  
2 the department of public health and the board of registration in  
3 optometry shall promulgate the rules and regulations required by  
4 sections 1, 7, 9 and 27 of chapter 94C of the General Laws and sec-  
5 tions 66, 66A, 66B, 66C and 68C of chapter 112 of the General  
6 Laws.