HOUSE DOCKET, NO. 1307 FILED ON: 1/15/2015

HOUSE . . . . . No. 163

The Commonwealth of Massachusetts

PRESENTED BY:

Tackey Chan

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 adoption of the accompanying bill:

An Act establishing a board of registration of phlebotomists.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Tackey Chan	*2nd Norfolk*

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HOUSE . . . . . No. 163

By Mr. Chan of Quincy, a petition (accompanied by bill, House, No. 163) of Tackey Chan for legislation to establish a board of registration of phlebotomists. Consumer Protection and Professional Licensure.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *193* OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act establishing a board of registration of phlebotomists.

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. Chapter 13 of the General Laws is hereby amended by adding the following new sections:—

Section 101. There shall be a board of registration of phlebotomists, in section 101 to 105, inclusive, to be called the board which shall consist of 7 members, one of whom shall be the commissioner of public health, or his designee, and 6 of which shall be appointed by the governor. Members of the board shall be residents of the commonwealth and citizens of the United States. Six members of the board shall be licensed phlebotomists, under the provisions of sections 227 to 231 of chapter 112, except in cases of members originally appointed to the board, two of whom must have at least 10 years of active work experience as a phlebotomist, and one member of the board shall be a representative of the public subject to section 9B. The board of

11 registration of phlebotomists shall establish the requirements for licensure, fees, continuing
12 education, and standards for the licensure, and professional and ethical conduct in accordance
13 with the provisions of this chapter. The board shall determine the qualifications of applicants to
14 be licensed, and grant licenses to applicants who qualify under this chapter and chapter 112 and
15 meet the requirements of the board's rules and regulations. The governor shall designate the
16 chairperson of the board, and may, at any time, change such designation. Members shall be
17 appointed for terms of three years. No member shall be appointed to more than two consecutive
18 full terms but a member appointed for less than a full term may serve two full terms in addition
19 to such part of a full term. A member may be removed by the governor for neglect of duty,
20 misconduct or malfeasance or misfeasance in office after a written notice of the charges against
21 him and an opportunity to be heard. The governor may also fill any vacancy in the board for the
22 unexpired portion of the term.

23 Section 102. The members of the board shall serve without compensation; provided,
24 however, that each member shall be reimbursed for actual expenses reasonably incurred in the
25 performance of duties as a member or on behalf of the board

26 Section 103. The board shall hold at least 2 regular meetings in each calendar year, at
27 such time or places as the board shall determine, for the purpose of examining applicants for
28 registration and the transaction of other business.

29 SECTION 2. Subsection 1(e) of section 24 of Chapter 90 of the General Laws, as
30 appearing in the 2006 edition, is hereby amended by inserting in Line 481 after the words:-
31 "registered nurse" the following:- , a phlebotomist, as licensed under chapter 112 of the General
32 Laws,

33 SECTION 3. Chapter 112 of the General Laws is hereby amended by adding at the end
34 thereof the following new sections:-

35 Section 227. As used in sections 227 to 238, inclusive, the following words shall, unless
36 the context clearly means otherwise, have the following meanings: “approved national
37 certification agency”, one of the nationally recognized agencies that certify phlebotomists by
38 examination, including but not limited to:

39 (i) American Society for Clinical Pathology;

40 (ii) American Medical Technologists, National Credentialing Agency;

41 (iii) American Certification Agency; or

42 (iv) Any agency approved by the board.

43 “Board”, the board of registration of phlebotomy established by section 101 of chapter 13
44 of the General Laws.

45 “Phlebotomist”, a person whose responsibilities include, but are not limited to, collecting
46 blood samples from patients under the instruction of a physician licensed under section 2 of
47 chapter 112 of the General Laws, separating blood into different test tubes in order for it to be
48 used in medical tests, accurately labeling said tubes and insuring correct samples are sent to the
49 laboratory.

50 “Phlebotomy”, the incision into a vein or artery for the purpose of drawing blood.

51 Section 228. The board may issue necessary rules and regulations for the proper conduct
52 of its duties, including rules governing the qualifications of applicants, and shall keep a full

53 record of its proceedings and keep a record of the names of all persons examined or registered by
54 it, which shall be open to public inspection. Said record shall include the licensee name, last
55 known employer and residential address, date of licensing and license number.

56 The board shall make an annual report containing a full and complete account of all of its
57 official acts during the preceding year.

58 Section 229. No person shall represent himself to be a phlebotomist or in the business of
59 phlebotomy or use the title phlebotomist in the commonwealth on any sign, title, card, or other
60 device to indicate that such person is a phlebotomist, unless such person shall have secured from
61 the board a certificate of registration as a phlebotomist.

62 Section 230. Every person, before engaging in the practice of phlebotomy in this
63 commonwealth, shall make application to the board. Applications for registration as
64 phlebotomists shall be made upon a form to be prescribed by the board and in the handwriting of
65 the applicant and furnished by the board. No person shall be registered by the board as a
66 phlebotomist unless he has been found by the board to be eighteen years of age or over, a
67 resident of the commonwealth, is of good moral character, files an application with evidence of
68 current certification granted by a board approved by a national certification agency, provides
69 proof of meeting educational standards as established by the board, and a registration fee to be
70 determined by the commissioner of administration under the provision of section 3B of chapter
71 7. If the board deems an applicant's qualifications are satisfactory, the board shall issue to him a
72 license. The board shall make such rules as they deem proper for the performance of their duties
73 and rules governing the qualifications of applicants for examination.

74 Section 231. Each registration granted under sections two-hundred twenty eight to two
75 hundred twenty nine shall expire two years after issuance and shall be renewed upon the filing of
76 an application therefore, evidence of current certification from an approved national certification
77 agency, evidence of completion of continuing education as determined by the board through rule
78 or regulation, and the payment of the prescribed renewal fee, on or before its expiration, and any
79 further requirements as established by the board through rule or regulation. No person registered
80 under said sections as a phlebotomist shall engage in the occupation covered by such registration
81 until the prescribed renewal requirements as established by the board have been performed and
82 evidence thereof submitted. Any phlebotomist whose registration has not been renewed within
83 three years following the date of expiration thereof shall be entitled to renewal of such
84 registration upon filing an application, accompanied by the proper fee therefore, by submitting
85 evidence of certification from an approved national certification agency and any further
86 requirements as established by the board through rule or regulation. A licensee must maintain
87 certification from an approved national certification agency at all times.

88 Section 232. Upon payment to the board of a fee and the submission of a written
89 application provided by said board, the board shall issue a license to a person who holds a valid
90 license or registration issued by another jurisdiction which has standards substantially equivalent
91 to or exceeding the standards of the commonwealth, as determined by the board, and extends
92 similar privileges to persons licensed by the commonwealth.

93 Section 233. Any person aggrieved by the refusal of the board to grant, or by its
94 suspension or cancellation of, a registration, or by its refusal to again register him, may, within
95 ten days after such action, appeal to the district court within the judicial district of which he
96 resides by bringing a petition in said court addressed to the justice of the court, praying for a

97 rehearing by the court. Upon the filing of the petition for a rehearing in the case of a suspension
98 or cancellation of a registration, such suspension or cancellation shall be stayed pending the final
99 decision of the court. After such notice to the board as the court deems necessary, the court shall
100 hear the witnesses and shall affirm the decision of the board, unless it shall appear that it was
101 made without proper cause or in bad faith, in which case the decision of the board shall be
102 reversed. The court shall hear the petition within thirty days of the filing of it in said court. The
103 decision of the court shall be final and conclusive.

104 Section 234. The board may establish by rule or regulation the minimum educational and
105 experience qualifications which the applicant must possess before being allowed to apply for a
106 license under this chapter.

107 Section 235. Every person engaged in the business of phlebotomy not lawfully registered
108 or licensed under this board is forbidden to do so under sections 227 to 237 inclusive and every
109 person so licensed violating any provision of sections one to fifteen, inclusive, of this chapter or
110 any ordinance, by-law, rule or regulation made there under, shall be punished by a fine not
111 exceeding one hundred dollars per day.

112 Section 236. Notwithstanding any general or special law to the contrary, the board shall
113 issue a phlebotomist license without examination to an applicant who meets the requirements of
114 sections 227 to 237 and provides to the board satisfaction that he is and actually has been in the
115 paid professional practice for 5 years out of the last 10 years in the field of phlebotomy,
116 preceding the effective date of this act. The board, in its discretion, may waive the education
117 requirements for an applicant if it determines that an applicant's combined professional and

118 education credentials meet the intent of this act. The provisions of this section shall expire one
119 year following the effective date of this act.

120 Section 237. The requirements contained in sections 227 to 237, inclusive, shall not be
121 construed to prevent any of the following persons from acting within the scope of their
122 profession:

123 (i) Certified clinical laboratory scientists;

124 (ii) Medical technologists;

125 (iii) Medical laboratory technicians; or

126 (iv) Physicians licensed under section 2 of Chapter 112 of the General laws.