

HOUSE No. 2243

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 relative to the oversight of health professions.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	<i>1/29/2021</i>

HOUSE No. 2243

By Mr. Chan of Quincy, a petition (accompanied by bill, House, No. 2243) of Tackey Chan relative to the oversight of health professions. Public Health.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to the oversight of health professions.

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 9 of chapter 13 of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by inserting after the word “workers”, in line 8, the
3 following words:- , the board of registration in naturopathy, the board of registration of recovery
4 coaches, the board of registration of social workers, the board of registration of psychologists,
5 the board of registration of allied mental health and human services professions, the board of
6 allied health professions, the board of registration of dieticians and nutritionists, the board of
7 registration in podiatry, the board of registration in optometry, the board of registration of
8 dispensing opticians, the board of registration of chiropractors, the board of registration of
9 speech-language pathology and audiology, the board of registration of hearing instrument
10 specialists.

11 SECTION 2. Section 11D of said chapter 13, as so appearing, is hereby amended by
12 striking out, in lines 1 and 2, the words “division of professional licensure” and inserting in place
13 thereof, the following words:- department of public health.

14 SECTION 3. Section 79 of said chapter 13, as so appearing, is hereby amended by
15 striking out, in lines 17 and 18 and in line 27, the words “director of consumer affairs and
16 business regulations” and inserting in place thereof, each time they appear, the following words:-
17 commissioner of public health.

18 SECTION 4. Section 84 of said chapter 13, as so appearing, is hereby amended by
19 striking out, in lines 8 and 9, the words “division of professional licensure” and inserting in place
20 thereof the following words:- department of public health.

21 SECTION 5. Said section 84 of said chapter 13, as so appearing, is hereby further
22 amended by striking out, in lines 44 and 45, inclusive, the words “Division of Professional
23 Licensure Trust Fund established in section 35V” and inserting in place thereof the following
24 words:- Quality in Health Professions Trust Fund established in section 35X.

25 SECTION 6. Section 88 of said chapter 13, as so appearing, is hereby amended by
26 striking out, in lines 1 and 2, the words “division of professional licensure” and inserting in place
27 thereof the following words:- department of public health.

28 SECTION 7. The first paragraph of section 90 of said chapter 13, as so appearing, is
29 hereby amended by striking out the third sentence.

30 SECTION 8. Said section 90 of said chapter 13, as so appearing, is hereby amended by
31 striking out the third paragraph and inserting in place thereof the following paragraph:- The
32 commissioner of public health shall have authority to review and approve rules and regulations
33 proposed by the board.

34 SECTION 9. Section 94 of said chapter 13, as so appearing, is hereby amended by
35 striking out, in line 13, the words “director of registration” and inserting in place thereof, the
36 following words:- commissioner of public health.

37 SECTION 10. Section 1 of chapter 112 of the General Laws, as appearing in the 2018
38 Official Edition, is hereby amended by inserting after the word “dentistry”, in line 12, the
39 following words:- , the board of registration of genetic counselors, the board of registration of
40 community health workers, the board of registration in naturopathy, the board of registration of
41 recovery coaches, the board of registration of social workers, the board of registration of
42 psychologists, the board of registration of allied mental health and human services professions,
43 the board of allied health professions, the board of registration of dieticians and nutritionists, the
44 board of registration in podiatry, the board of registration in optometry, the board of registration
45 of dispensing opticians, the board of registration of chiropractors, the board of registration of
46 speech-language pathology and audiology, the board of registration of hearing instrument
47 specialists.

48 SECTION 11. Section 16 of said chapter 112, as appearing in the 2018 Official Edition,
49 is hereby amended by adding the following paragraph:- All application fees and civil
50 administrative penalties and fines collected by the board under sections 13 to 23, inclusive, and
51 section 61, shall be deposited into the Quality in Health Professions Trust Fund established in
52 section 35X of chapter 10.

53 SECTION 12. Section 23B of said chapter 112, as so appearing, is hereby amended by
54 adding the following paragraph:- All application fees and civil administrative penalties and fines

55 collected by the board under sections 23A to 23P½, inclusive, and section 61, shall be deposited
56 into the Quality in Health Professions Trust Fund established in section 35X of chapter 10.

57 SECTION 13. Section 23M½ of said chapter 112, as so appearing, is hereby amended by
58 striking out, in lines 78 to 79, the words “Division of Professional Licensure Trust Fund
59 established by section 35V” and inserting in place thereof the following words:- Quality in
60 Health Professions Trust Fund established in section 35X.

61 SECTION 14. Section 61 of said chapter 112, as appearing in the 2018 Official Edition,
62 is hereby amended by striking out the words “A board of registration”, in line 18, and inserting
63 in place thereof the following words:- each board of registration under the supervision of the
64 department of public health may discipline a holder of a license, certificate, registration or
65 authority issued pursuant to this chapter, and each board of registration.

66 SECTION 15. Said section 61 of said chapter 112, as so appearing, is hereby further
67 amended by striking out the words “a board of registration”, in lines 49 through 50, and inserting
68 in place thereof the following words:- Each board of registration under the supervision of the
69 department of public health and each board of registration.

70 SECTION 16. Section 65B of said chapter 112, as so appearing, is hereby amended by
71 striking out the words “a board of registration”, in line 1, and inserting in place thereof the
72 following words:- Each board of registration under the supervision of the department of public
73 health and each board of registration.

74 SECTION 17. Section 65F of said chapter 112, as so appearing, is hereby amended by
75 inserting, after the word "licensure" in line 4, the following words:- , or a board of registration
76 under the supervision of the department of public health,.

77 SECTION 18. Section 68 of said chapter 112, as appearing in the 2018 Official Edition,
78 is hereby amended by adding the following paragraph:- All application fees and civil
79 administrative penalties and fines collected by the board under sections 61, 66 to 73B, inclusive,
80 shall be deposited into the Quality in Health Professions Trust Fund established in section 35X
81 of chapter 10.

82 SECTION 19. Section 73E of said chapter 112, as appearing in the 2018 Official Edition,
83 is hereby amended by adding the following paragraph:- All application fees and civil
84 administrative penalties and fines collected by the board under sections 61, and 73C to 73M,
85 inclusive, shall be deposited into the Quality in Health Professions Trust Fund established in
86 section 35X of chapter 10.

87 SECTION 20. Section 91 of said chapter 112, as so appearing, is hereby amended by
88 adding the following paragraph:- All application fees and civil administrative penalties and fines
89 collected by the board under sections 61 and 89 to 97, inclusive, shall be deposited into the
90 Quality in Health Professions Trust Fund established in section 35X of chapter 10.

91 SECTION 21. Section 126 of said chapter 112, as so appearing, is hereby amended by
92 adding the following paragraph:- All application fees and civil administrative penalties and fines
93 collected by the board under sections 61 and 118 to 129B, inclusive, shall be deposited into the
94 Quality in Health Professions Trust Fund established in section 35X of chapter 10.

95 SECTION 22. Section 136 of said chapter 112, as so appearing, is hereby amended by
96 adding the following paragraph:- All application fees and civil administrative penalties and fines
97 collected by the board under sections 61 and 130 to 137, inclusive, shall be deposited into the
98 Quality in Health Professions Trust Fund established in section 35X of chapter 10.

99 SECTION 23. Section 140 of said chapter 112, as so appearing, is hereby amended by
100 adding the following paragraph:- All application fees and civil administrative penalties and fines
101 collected by the board under sections 61 and 138 to 147, inclusive, shall be deposited into the
102 Quality in Health Professions Trust Fund established in section 35X of chapter 10.

103 SECTION 24. Section 168 of said chapter 112, as so appearing, is hereby amended by
104 adding the following paragraph:- All application fees and civil administrative penalties and fines
105 collected by the board under sections 61 and 163 to 172, inclusive, shall be deposited into the
106 Quality in Health Professions Trust Fund established in section 35X of chapter 10.

107 SECTION 25. Section 197 of said chapter 112, as so appearing, is hereby amended by
108 adding the following subsection:-

109 (h) All application fees and civil administrative penalties and fines collected by the board
110 under sections 61 and this section to 200, inclusive, shall be deposited into the Quality in Health
111 Professions Trust Fund established in section 35X of chapter 10.

112 SECTION 26. Section 203 of said chapter 112, as so appearing, is hereby amended by
113 adding the following paragraph:- All application fees and civil administrative penalties and fines
114 collected by the board under sections 61 and 201 to 210, inclusive, shall be deposited into the
115 Quality in Health Professions Trust Fund established in section 35X of chapter 10.

116 SECTION 27. (a) As used in this section the following words shall, unless the context
117 clearly requires otherwise, have the following meanings:-

118 “Department”, the department of public health.

119 “Division”, the division of professional licensure.

120 “Transferring Boards”, the board of registration of social workers, the board of
121 registration of psychologists, the board of registration of allied mental health and human services
122 professions, the board of allied health professions, the board of registration of dieticians and
123 nutritionists, the board of registration in podiatry, the board of registration in optometry, the
124 board of registration of dispensing opticians, the board of registration of chiropractors, the board
125 of registration of speech-language pathology and audiology, and the board of registration of
126 hearing instrument specialists.

127 (b) Notwithstanding any general or special law to the contrary, the division and the
128 department shall develop and implement a transfer agreement providing for the orderly transfer
129 of personnel, proceeds, rules and regulations, property and legal obligations and functions of the
130 transferring boards from the division to the department.

131 (c) All petitions, requests, investigations, filings and other proceedings appropriately and
132 duly brought before, or pending before, the transferring boards, before the transfer, shall
133 continue unabated and remain in force, and shall be assumed and completed by the transferring
134 boards after transfer to the department.

135 (d) All orders, advisories, findings, rules and regulations duly made and all approvals
136 duly granted by the transferring boards, which are in force immediately before the transfer, shall
137 continue in force and shall thereafter be enforced, until superseded, revised, rescinded or
138 canceled, in accordance with law, by the transferring boards after transfer to the department.

139 (e) All books, papers, records, documents, equipment, cash and other property, both
140 personal and real, including all such property held in trust, which immediately before the transfer

141 are in the custody of the transferring board or the division on behalf of the transferring board,
142 shall be transferred to the department.

143 (f) All duly existing contracts, leases and obligations of the transferring boards, shall
144 continue in effect after transfer to the department. No such existing right or remedy of any
145 character shall be lost, impaired or affected by this act.

146 (g) In consultation with the secretary of administration and finance, the department and
147 the division, in developing the transfer agreement required under subsection (b), shall identify
148 the portion of unexpended balances of the Division of Professional Licensure Trust Fund
149 established in section 35V of chapter 10 that are allocated to the operations of the transferring
150 boards, including but not limited to payment of salaries, wages, fringe and indirect costs, and all
151 compensation for those employees identified in subsection (i); administrative expenses;
152 information technology expenses; and indirect expenses. Notwithstanding any general or special
153 law to the contrary, upon transfer of the transferring boards, the comptroller shall transfer such
154 portion of the unexpended balances of the Division of Professional Licensure Trust Fund
155 established in section 35V of chapter 10 of the General Laws to the Quality in Health Professions
156 Trust Fund established in section 35X of chapter 10 of the General Laws.

157 (h) The comptroller shall take the overall cash flow needs of the commonwealth into
158 consideration in determining the timing of any transfer of funds provided for in subsection (g).
159 The comptroller shall provide a schedule of transfers to the secretary of administration and
160 finance and to the chairs of the house and senate committees on ways and means.

161 (i) The transfer agreement required under subsection (b) shall identify the number of
162 allocated employees of the division, rounded to the nearest full time employee equivalent, who

163 are engaged in the work of the transferring boards, in whole or in part, including but not limited
164 to licensing functions, investigation, prosecution and adjudication. Notwithstanding any general
165 or special law to the contrary, an equivalent number of division employees shall become
166 employees of the department upon the execution of the transfer agreement required under
167 subsection (b) or 18 months from the effective date of this act, whichever occurs first. The
168 employees selected to transfer from the division to the department shall have been engaged in the
169 work of the transferring boards, in whole or in part, prior to the transfer.

170 All officers and employees of the division transferred to the department as required under
171 subsection (i) shall be transferred without impairment of seniority, retirement or other statutory
172 rights of employees, without loss of accrued rights to holidays, sick leave, vacation and other
173 benefits, and without change in union representation or certified collective bargaining unit as
174 certified by the state labor relations commission or in local union representation or affiliation,
175 except as otherwise provided in this act. Terms of service of employees of the program shall not
176 be deemed to be interrupted by virtue of transfer to the department.

177 Nothing in this section shall be construed to confer upon any employee of the division
178 transferred to the department as required under subsection (i) any right not held immediately
179 before the date of said transfer or to prohibit any reduction of salary grade, transfer,
180 reassignment, suspension, discharge, layoff or abolition of position not prohibited before such
181 date.

182 (j) Notwithstanding any general or special law to the contrary, the terms and conditions
183 of any collective bargaining agreement that is in effect upon the transfer with respect to
184 employees of the division transferred to the department as required under subsection (i) shall

185 continue in effect until the stated expiration date of such agreement, at which point the
186 agreement shall expire; provided, however, that all such employees shall continue to retain their
187 right to collectively bargain under chapter 150E of the General Laws and shall be considered
188 employees of the department.

189 SECTION 28. This act shall take effect upon the execution of a transfer agreement
190 between the department of public health and the division of professional licensure or 18 months
191 after the effective date of this act, whichever occurs first.