

SENATE No. 1192

The Commonwealth of Massachusetts

PRESENTED BY:

Mark C. Montigny

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 for clinical laboratory personnel.

PETITION OF:

NAME:

Mark C. Montigny

DISTRICT/ADDRESS:

Second Bristol and Plymouth

SENATE No. 1192

By Mr. Montigny, a petition (accompanied by bill, Senate, No. 1192) of Mark C. Montigny for legislation to establish a board of registration for clinical laboratory personnel. Public Health.

The Commonwealth of Massachusetts

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

An Act establishing a board of registration for clinical laboratory personnel.

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. Chapter 13 of the General Laws, as appearing in the 2012 Official Edition,
2 is hereby amended by inserting after section 108 the following sections:-

3 Section 109.

4 (a) There shall be a board of registration of clinical laboratory professionals which shall
5 consist of 9 members appointed by the governor who have been residents of the Commonwealth
6 for at least two years prior to their appointment. Three members of the board shall be licensed
7 physicians certified as pathologists by the American Board of Pathology or American Board of
8 Osteopathic Pathology. One member of the board shall be a non-physician laboratory director.
9 Two members of the board shall be licensed clinical technologists, under the provisions of
10 sections 264 to 271 of chapter 112, except in cases of members originally appointed to the board.
11 One member of the board shall be a licensed clinical technician, under the provisions of sections
12 264 to 271 of chapter 112, except in cases of members originally appointed to the board. One
13 member of the board shall be an educator in the clinical laboratory sciences from an educational

14 program accredited by the National Accrediting Agency for Clinical Laboratory
15 Sciences, or its successor. One member of the board shall be a representative of the public
16 subject to section 9B.

17 (b) Board members shall serve for a term of three years and until successors are
18 appointed and qualified, except that the initial appointments shall be as follows:

19 One pathologist, one non-physician laboratory director, and one clinical technologist
20 shall be appointed to serve for three years; one public representative shall be appointed to serve
21 for two years; and the remaining members shall be appointed to serve for one year.

22 (c) Whenever a vacancy shall occur on the board by reason other than the expiration of a
23 term of office, a successor of like qualifications shall be appointed by the governor for the
24 remainder of the unexpired term. No person shall be appointed to serve for more than two
25 successive 3-year terms.

26 (d) The members of the board shall be public employees for the purposes of chapter 258
27 for all acts or omissions within the scope of their duties as board members. The members of the
28 board shall serve without compensation; provided, however, that each member shall be
29 reimbursed for actual expenses reasonably incurred in the performance of duties as a member or
30 on behalf of the board.

31 (e) A member may be removed by the governor for neglect of duty, misconduct or
32 malfeasance or misfeasance in office after a written notice of the charges against him and an
33 opportunity to be heard.

34 Section 110. The board shall have the following powers and duties:

35 (a) to promulgate regulations and adopt such rules as are necessary to regulate clinical
36 laboratory professionals;

37 (b) to establish administrative procedures for processing applications 47 for licenses and
38 license renewals and to hire or appoint such agents as are appropriate for processing applications
39 for licenses and license renewals;

40 (c) to receive, renew, approve or disprove applications for licensing, renewal and
41 reinstatement and to issue those licenses;

42 (d) to define by regulation the appropriate standards for education and experience
43 necessary to qualify for licensing, including, but not limited to, continuing professional
44 education requirements for clinical laboratory professionals; provided that such standards shall
45 be no less stringent than those adopted by the American Society for Clinical Pathology, or its
46 successor, and for the conduct and ethics which shall govern the practice of clinical laboratory
47 personnel; (e) to establish standards of supervision for students or persons in training to become
48 qualified to obtain a license in the occupation or profession it represents;

49 (f) to deny, suspend, or revoke a license or otherwise discipline licensees for violations of
50 licensure provisions under section 264 to 271 of chapter 112.

51 (g) to summarily suspend the license of a licensee who poses an imminent danger to the
52 public provided that a hearing shall be afforded to the licensee within 7 days of an adverse action
53 by the board to determine whether such action is warranted; and

54 (h) to perform such other functions and duties as may be required to carry out this
55 section.

56 SECTION 2. Said chapter 13 is hereby further amended by inserting after the word
57 “therapists” in section 9 subsection (a) the following words:- and the board of registration of
58 clinical laboratory professionals.

59 SECTION 3. Chapter 112 of the General Laws is hereby amended by adding the
60 following sections:-

61 Section 264. As used in sections 264 to 271, inclusive, the following words shall, unless
62 the context requires otherwise, have the following meanings:-

63 “Accredited program”, an educational program accredited by the National Accrediting
64 Agency for Clinical Laboratory Science, or its successor.

65 “ASCP”, American Society for Clinical Pathology, a national agency for certification and
66 recertification of clinical laboratory professionals, or its successor.

67 “Board”, the board of registration of clinical laboratory professionals.

68 “Clinical laboratory”, a laboratory facility as defined under chapter 111D.

69 “Clinical laboratory test”, an exempt, simple, or complex laboratory test as defined in
70 chapter 111D.

71 “Clinical laboratory technologist”, an individual who performs clinical laboratory tests
72 pursuant to established and approved protocols requiring the exercise of independent technical
73 judgment subject to the supervision, control, responsibility, and direction of the clinical
74 laboratory director.

75 “Clinical laboratory technician”, an individual who performs tests pursuant to established
76 and approved protocols which require limited exercise of independent technical judgment and
77 which are performed under the supervision, control, responsibility, and direction of the clinical
78 laboratory director or subordinate appointed by such director.

79 “Independent technical judgment”, the performance or conduct of clinical laboratory tests
80 and assumption of responsibility for determination of the validity of clinical laboratory test
81 results without intervention by or the supervision of another health care provider authorized by
82 law to assume responsibility for the conduct and validity of clinical laboratory tests.

83 “Licensed clinical laboratory professional”, a trained health care professional who
84 performs clinical laboratory tests according to his or her qualifications, and includes clinical
85 laboratory technologists and technicians, but does not include persons employed by a clinical
86 laboratory to perform supportive functions not related to the direct performance of laboratory
87 tests.

88 “Provisional licensed clinical laboratory personnel”, a person with a provisional license
89 issued under section 267.

90 Section 265. An application for original license or license renewal shall be made on
91 forms approved by the board and accompanied by the appropriate fee. The fee for original
92 licenses and renewals shall be determined by the secretary of administration and finance. An
93 applicant for original license shall be sworn and shall furnish satisfactory proof that the person is
94 at least 18 years old, of good moral character and has met the educational and professional
95 experience requirements prerequisite to licensure.

96 Section 266. An applicant for registration as clinical laboratory professional shall have:

97 (a) successfully completed a clinical laboratory science education program approved by
98 the National Accrediting Agency for Clinical Laboratory Sciences, or its successor, and satisfied
99 certification requirements promulgated by ASCP; or

100 (b) earned at least an associate degree in the chemical or biological sciences and
101 completed such experience as may be required by the board.

102 Section 267. A person who meets the qualifications for licensure may, between the date
103 of filing an application for licensure and notification by the board, perform clinical laboratory
104 tests as a provisional licensed clinical laboratory personnel upon filing an approved application
105 with the board and payment of a fee to be determined by the secretary of administration and
106 finance. A provisional license will cease immediately upon notification from the board that an
107 application has been denied.

108 Section 268. No person shall hold himself out as a clinical 138 laboratory professional
109 unless that person is licensed in accordance with section 110 of chapter 13. Nothing in this
110 section shall be construed to prevent or restrict the practice, service, or activities of:

111 (a) any person licensed in the Commonwealth under any other Act from engaging in the
112 practice for which the person is licensed;

113 (b) a pathologist, cytotechnologist, or histologist;

114 (c) an individual trained as a phlebotomist;

115 (d) clinical laboratory professionals employed by the United States government or any
116 bureau, division, or agency of that government while in the discharge of that person's official
117 duties;

118 (e) clinical laboratory educators engaged in teaching or research, provided that the
119 results of any test performed are not used in health maintenance, diagnosis, or treatment of
120 disease;

121 (f) students or trainees enrolled in an accredited program;

122 (g) individuals performing solely limited function tests;

123 (h) persons in the Commonwealth to provide service as part of an ongoing emergency or
124 disaster relief effort.

125 Section 269. The board may deny or refuse to renew a license or, after a hearing pursuant
126 to section 110 of chapter 13, revoke, suspend or cancel the license or otherwise discipline a
127 licensee upon satisfactory proof to a majority of the board that the person has:

128 (a) obtained or attempted to obtain a license by fraud or deception;

129 (b) been convicted of a felony under state or federal law or committed any other offense
130 involving moral turpitude;

131 (c) been adjudged mentally ill or incompetent by a court of competent jurisdiction;

132 (d) used illicit drugs or intoxicating liquors to the extent which adversely affects that
133 person's performance;

134 (e) engaged in unethical or unprofessional conduct including, but not limited to, willful
135 acts, reckless disregard for patient safety or gross negligence in the course of professional
136 practice;

137 (f) violated any lawful order, rule or regulation rendered or adopted by the board; or

138 (g) been refused issuance or been disciplined in connection with a license issued by any
139 other state or country.

140 Section 270. Whoever, not being lawfully authorized to perform clinical laboratory tests
141 who performs or attempts to perform clinical laboratory tests shall be punished by a fine of not
142 less than one hundred nor more than one thousand dollars or by imprisonment for not less than
143 one month nor more than one year, or both.

144 Section 271. The board shall maintain a roster of the names and addresses of persons
145 licensed and registered under the provision of this Act, and of all persons whose licenses have
146 been suspended, revoked, or cancelled.