

HOUSE No. 108

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to pandemic and disaster preparation and response in the Commonwealth..

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 17 of the General Laws is hereby amended by striking out section
2 2A, as appearing in the 2006 Official Edition, and inserting in place thereof the following 2
3 sections:-

4 Section 2A. (a) Upon declaration by the governor that an emergency exists which is
5 detrimental to the public health or upon declaration of a state of emergency under chapter 639 of
6 the acts of 1950, as amended, the commissioner may, during such period of emergency, take
7 such action and incur such liabilities as he may consider necessary to assure the maintenance of
8 public health and the prevention of disease. The commissioner may establish procedures to be
9 followed during such emergency to ensure the continuation of essential public health services
10 and the enforcement of the same.

11 In circumstances where the governor declares that the emergency detrimental to public
12 health is limited to a specified local area, the appropriate local public health authority, as defined
13 in section 1 of chapter 111, may, with the approval of the commissioner, during such period of
14 emergency, take such action and incur such liabilities as it may deem necessary to assure the

15 maintenance of public health and the prevention of disease. Furthermore, in such circumstances,
16 such local public health authority may, with the approval of the commissioner, establish
17 procedures to be followed during such emergency to insure the continuation of essential public
18 health services and the enforcement of the same. Nothing in this section shall supersede the
19 normal operating authority of the local public health authorities, provided that such authority
20 shall not be exercised in a manner that conflicts with any procedure or order issued by the
21 commissioner to assure the maintenance of public health and the prevention of disease during
22 such emergency.

23 (b) Upon declaring a public health emergency or state of emergency, the governor may
24 activate the state comprehensive emergency management plan and its associated processes,
25 including authority pursuant to chapter 639 of the acts of 1950. Such declaration may authorize
26 the deployment and use of any forces to which the plan applies and the use or distribution of any
27 supplies, equipment, materials, and facilities assembled, stockpiled, or available.

28 (c) During such public health emergency or state of emergency, any person who renders
29 assistance or advice during the emergency as provided in section 1 of chapter 258 shall be
30 protected from liability to the extent provided by chapter 258.

31 (d) During such public health emergency or state of emergency, any person owning or
32 controlling real estate or other premises who voluntarily and without compensation grants a
33 license or privilege, or otherwise permits the designation or use of the whole or any part or parts
34 of such real estate or premises for the purpose of assisting in responding to the emergency, shall
35 not be civilly liable for causing the death of, or injury to, any person on or about such real estate
36 or premises under such license, privilege, or other permission, or for causing loss of, or damage

37 to, the property of such person, except in the event of willful, wanton, or reckless misconduct.
38 The immunities provided in this subsection shall not apply to any person whose act or omission
39 caused in whole or in part such emergency or who would otherwise be liable therefore.

40 (e) The declaration of an emergency detrimental to the public health shall terminate when
41 so declared by the governor, or automatically after 90 days, unless renewed by the governor.
42 Each renewal shall terminate after 90 days unless renewed for an additional 90 days, or unless
43 sooner terminated by order of the general court.

44 (f) Upon termination of an emergency detrimental to the public health, all powers granted
45 to and exercised by the commissioner and local public health authorities under this section and
46 section 2B shall terminate.

47 Section 2B. (a) For the purposes of this section, the following terms shall have the
48 following meanings:

49 “Health care facility”, any nonfederal institution, building, or agency or portion thereof,
50 whether public, private, for-profit or nonprofit, that is used, operated, or designed to provide
51 health services, medical treatment, or nursing, rehabilitative, or preventive care; provided,
52 however, that “health care facility” shall include but not be limited to: ambulatory surgical
53 facilities, health maintenance organizations, home health agencies, hospices, hospitals,
54 infirmaries, intermediate care facilities, kidney treatment centers, long term care facilities,
55 medical assistance facilities, mental health centers, outpatient facilities, public health centers,
56 rehabilitation facilities, residential treatments facilities, skilled nursing facilities and adult day-
57 care centers; and provided further, that when used for or in connection with the foregoing,
58 “health care facility” shall include, but not limited to, the following related property: alternate

59 care sites, laboratories; research facilities; pharmacies; laundry facilities; health personnel
60 training and lodging facilities; patient, guest, and health personnel food service facilities; and
61 offices and office buildings for persons engaged in health care professions or services.

62 “Health care provider”, a person or entity that provides health care services including, but
63 not limited to, health plans, health maintenance organizations, hospitals, medical clinics and
64 offices, special care facilities, medical laboratories, physicians, pharmacists, dentists, physician
65 assistants, nurse practitioners, registered and other nurses, paramedics, and emergency medical
66 or laboratory technicians.

67 “Health care professional”, includes, but is not limited to, a registered nurse, licensed
68 practical nurse, physician, physician assistant, dentist, pharmacist, pharmacy technician,
69 psychologist and social worker.

70 (b) Specifically, but without limiting the generality of section 2A and notwithstanding the
71 provisions of any other law, the commissioner shall have and may exercise, or may direct or
72 authorize other state or local government agencies to exercise, authority relative to any one or
73 more of the following if necessary to protect the public health during an emergency declared
74 pursuant to section 2A or a state of emergency declared under chapter 639 of the acts of 1950..
75 During either type of declared emergency, a local public health authority as defined in section 1
76 of chapter 111 may exercise authority relative to the following subparagraphs (1), (2), (3), (4),
77 (6), (7), (13), (14), and (15); and with the approval of the Commissioner may exercise authority
78 relative to the following subparagraphs (5), (8), (9), (10), and (11):

79 (1) to require the owner or occupier of premises to permit entry into and investigation of
80 the premises;

81 (2) to close, direct, and compel the evacuation of, or to decontaminate or cause to be
82 decontaminated any building or facility, and to allow the reopening of the building or facility
83 when the danger has ended;

84 (3) to decontaminate or cause to be decontaminated, or to destroy any material;

85 (4) to restrict or prohibit assemblages of persons;

86 (5) to require a health care facility to provide services or the use of its facility, or to
87 transfer the management and supervision of the health care facility to the department or to a local
88 public health authority;

89 (6) to control ingress to and egress from any stricken or threatened public area, and the
90 movement of persons and materials within the area;

91 (7) to adopt and enforce measures to provide for the safe disposal of infectious waste and
92 human remains, provided that religious, cultural, family, and individual beliefs of the deceased
93 person shall be followed to the extent possible when disposing of human remains, whenever that
94 may be done without endangering the public health;

95 (8) to procure, take immediate possession from any source, store, or distribute any anti-
96 toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or
97 medical supplies located within the commonwealth as may be necessary to respond to the
98 emergency;

99 (9) to require in-state health care providers to assist in the performance of vaccination,
100 treatment, examination, or testing of any individual as a condition of licensure, authorization, or
101 the ability to continue to function as a health care provider in the commonwealth;

102 (10) to waive the commonwealth’s licensing requirements for health care professionals
103 with a valid license from another state in the United States or whose professional training would
104 otherwise qualify them for an appropriate professional license in the commonwealth;

105 (11) to allow for the dispensing of controlled substances by appropriate personnel
106 consistent with federal statutes as necessary for the prevention or treatment of illness;

107 (12) to authorize the chief medical examiner to appoint and prescribe the duties of such
108 emergency assistant medical examiners as may be required for the proper performance of the
109 duties of the office;

110 (13) to collect specimens and perform tests on any animal, living or deceased;

111 (14) to exercise authority under sections 95 and 96 of chapter 111;

112 (15) to care for any emerging mental health or crisis counseling needs that individuals
113 may exhibit, with the consent of the individuals.

114 Notwithstanding any provision of this section to the contrary, provided that, based on a
115 periodic review, the Commissioner has found that within the City of Boston, the local public
116 health authority has adequate and appropriate resources to exercise authority relative to
117 subparagraph (5), said local public health authority, after notifying the Commissioner, may
118 exercise authority relative to subparagraph (5) of this section during either type of declared
119 emergency unless such action is deemed by the Commissioner, after consultation with the local
120 public health authority, to be contrary to the interests of the Commonwealth.

121 Upon request or issuance of an order by the commissioner or his designee, or by a local
122 public health authority or its designee, an officer authorized to serve criminal process may arrest

123 without a warrant any person whom the officer has probable cause to believe has violated an
124 order given to effectuate the purposes of this subsection and shall use reasonable diligence to
125 enforce such order.

126 Any person who knowingly violates an order of the commissioner or his or her designee,
127 or of a local public health authority or its designee, given to effectuate the purposes of this
128 subsection shall be punished by imprisonment for not more than 6 months, or by a fine of not
129 more than \$1,000 or both.

130 (c) During an emergency declared pursuant to section 2A or a state of emergency
131 declared under chapter 639 of the acts of 1950 the commissioner may request assistance from the
132 Massachusetts emergency management agency and the department of state police.

133 (d) All state and local agencies of the commonwealth engaged in responding to a public
134 health emergency declared pursuant to section 2A or a state of emergency declared under chapter
135 639 of the acts of 1950 shall consult and cooperate in:

136 (1) the exercise of their powers over routes of transportation and over materials and
137 facilities including but not limited to communication devices, carriers, public utilities, fuels,
138 food, clothing, and shelter; and

139 (2) informing the people of the commonwealth about how to protect themselves during
140 the emergency and its aftermath and what actions are being taken to control the emergency. For
141 the benefit of people of the commonwealth who lack sufficient skills in English to understand the
142 information, reasonable efforts shall be made to provide the information in the primary
143 languages of those people as well as in English; and reasonable efforts shall be made to provide
144 the information in a manner accessible to individuals with disabilities.

145 (e) All state and local agencies of the Commonwealth engaged in responding to a public
146 health emergency declared pursuant to section 2A or a state of emergency declared under
147 chapter 639 of the acts of 1950 are authorized to share and disclose information to the extent
148 necessary for the treatment, control, and investigation of the emergency.

149 (f) To the extent practicable consistent with the protection of public health, prior
150 to the destruction of any property during the emergency, the department of public health or a
151 local public health authority shall institute appropriate civil proceedings against the property to
152 be destroyed in accordance with the existing laws and rules of the courts of this commonwealth
153 or any such rules that may be developed by the courts for use during the emergency. Any
154 property acquired by the department of public health or a local public health authority through
155 such proceedings shall, after entry of the decree, be disposed of by destruction as the court may
156 direct.

157 SECTION 2. Section 1 of chapter 111 of the General Laws, as so appearing, is hereby
158 amended by inserting after the definition of “Inland waters” the following definition:-

159 “Local public health authority”, any body politic or political subdivision of the
160 commonwealth that acts as a board of health, public health commission, or health department for
161 a city or town and includes any board of health as defined in this section and any regional board
162 of health or regional health district as defined in section 27B.

163 SECTION 3. Section 5 of said chapter 111, as so appearing, is hereby amended by
164 inserting after the word “disease”, in line 4, the following words:- and adverse health conditions.

165 SECTION 4. Section 5A of said chapter 111, as so appearing is hereby amended by
166 striking out the first paragraph and inserting in place thereof the following two paragraphs:-

167 The department may purchase, produce, and distribute anti-toxins, serums, vaccines,
168 immunizing agents, antibiotics, and other pharmaceutical or medical supplies in the interest of
169 preparing for or controlling diseases dangerous to the public health.

170 Whenever the commissioner determines that the inoculation of or administration to the
171 general public, or a subset of the general public, of any antitoxin, serum, vaccine or other
172 analogous product is essential in the interest of the public health and that an emergency exists by
173 reason of a shortage or threatened shortage of such product, the department may purchase,
174 produce, take immediate possession from any source, and distribute such product under such
175 conditions and restrictions as it may prescribe; and while such shortage exists, as determined by
176 the commissioner, the commissioner may establish by written order or orders, rules and priorities
177 for the distribution and use of any such product within the commonwealth. Whoever violates
178 any provision of any such order shall be punished by a fine of not less than \$50 nor more than
179 \$200 or by imprisonment for not more than 6 months, or both.

180 SECTION 5. Said chapter 111, as so appearing, is hereby amended by striking out
181 section 6 and inserting in place thereof the following section:-

182 The department shall have the power to define, and shall from time to time define,
183 what diseases shall be deemed to be dangerous to the public health, and shall make such
184 rules and regulations consistent with law for the control and prevention of such diseases, injuries,
185 health conditions, and threats to health as it deems advisable for the protection of the public
186 health. The department shall also have the power to define, and shall from time to time so define,
187 what diseases, injuries, health conditions, and threats to health shall be included within the term
188 venereal diseases in the provisions of the laws relative to public health.

189 (b) The department shall have the power to specify, and shall from time to time specify,
190 the responsibilities of health care providers, medical examiners, and others to report, to the
191 department or to a local public health authority, diseases, injuries, health conditions, and threats
192 to health specified by the department. For purposes of this section, “health care provider” shall
193 include out-of-state medical laboratories, provided that such laboratories have agreed to the
194 reporting requirements of this commonwealth. The department shall have the power to specify,
195 and shall from time to time specify, the responsibilities of local public health authorities to report
196 diseases, injuries, health conditions, and threats to health to the department. The department may
197 specify the responsibilities of pharmacists to report to the department unusual or increased
198 prescription rates, unusual types of prescriptions, or unusual trends in pharmacy visits that may
199 indicate a threat to public health. Nothing in this section shall preempt the authority of a local
200 public health authority to require direct reporting of diseases, injuries, health conditions, and
201 threats to health to the local public health authority.

202 (c) Every local public health authority shall keep a record of all reports received under
203 this section, containing the name and location of all persons reported, their disease, injury, or
204 health condition, the name of the person reporting the case, the date of such report, and other
205 information required by the department. Such records shall be kept in the manner or upon forms
206 prescribed by the department. If a report concerns a student in or an employee of a public
207 school, the local public health authority shall notify the school health authorities. Every local
208 public health authority shall appoint some person who shall have the responsibility to make
209 reports to the department as provided in subsection (b).

210 (d) This subsection governs the confidentiality of information in the possession of the
211 department, a local public health authority, or any other governmental agency pursuant to their

212 authority under this section, section 2B of chapter 17, and sections 7, 95 and 96 of chapter 111.
213 Information that relates to an individual's past, present, or future physical or mental health,
214 condition, treatment, service, products purchased, or provisions of care, that reveals the identity
215 of the individual, or where there is a reasonable basis to believe that such information could be
216 utilized to reveal the identity of that individual, either alone or with other information that is, or
217 should reasonably be known to be, available to predictable recipients of such information, shall
218 not be considered a public record as defined in clause twenty-sixth of section 7 of chapter 4.
219 Such information shall be kept confidential except when necessary for disease investigation,
220 control, treatment, and prevention purposes. Only those individuals who have a specific need to
221 review such information to carry out the responsibilities of their employment shall be entitled to
222 access to such information.

223 (e) Whenever a person required to report learns of a case of a reportable disease or health
224 condition, an unusual cluster, or a suspicious event, that he or she reasonably believes may have
225 been caused by a criminal act, in addition to his or her other reporting responsibilities, he or she
226 shall immediately notify the state police. Whenever the department learns of a case of a
227 reportable disease or health condition, an unusual cluster, or a suspicious event, that it reasonably
228 believes may have been caused by a criminal act or that may result in an emergency detrimental
229 to the public health under section 2A of chapter 17 or a declared state of emergency as defined
230 under chapter 639 of the acts of 1950, as amended, it shall immediately notify the appropriate
231 public safety authorities, which may include the Massachusetts emergency management agency,
232 the department of the state police, and the police department in the city or town where the event
233 occurred, and it shall notify the appropriate federal health and safety authorities. Whenever a
234 local public health authority learns of a case of a reportable disease or health condition, an

235 unusual cluster, or a suspicious event, that it reasonably believes may have been caused by a
236 criminal act or that may result in an emergency detrimental to the public health under section 2A
237 of chapter 17 or a declared state of emergency as defined under chapter 639 of the acts of 1950,
238 it shall immediately notify the department and the police department in the city or town where
239 the event occurred, and may notify other appropriate public safety authorities, which may
240 include the Massachusetts emergency management agency the department of state police, and
241 the executive office of public safety and security. Sharing of such information shall be restricted
242 to that necessary for treatment and control of illness, investigation of the incident, and prevention
243 or control of the emergency.

244 (f) No person making a report under this section shall be liable in any civil or criminal
245 action by reason of such report if it was made in good faith.

246 (g) Any person required to report who refuses to file a report required by this section
247 shall be subject to a fine of not more than \$1,000. An individual health care provider shall be
248 subject to suspension or revocation of his license or certification if the refusal to file a report is
249 gross, wanton, or willful misconduct and poses a serious risk to the public health.

250 SECTION 6. Said chapter 111 is hereby further amended by striking out section 7, as so
251 appearing, and inserting in place thereof the following section:-

252 Section 7. (a) If a disease or condition dangerous to the public health exists or is likely to
253 exist in any place within the commonwealth, the department shall make an investigation of it and
254 of the means of preventing its spread, and shall consult with the local authorities. It shall have
255 concurrent powers with the local public health authority in every city or town.

256 (b) The department is authorized to obtain, upon request, medical records and other
257 information that the department considers necessary to carry out its responsibilities to
258 investigate, monitor, prevent, and control diseases or conditions dangerous to the public health.

259 SECTION 7. Said chapter 111 is hereby further amended by inserting after section 25N
260 the following 2 sections:-

261 Section 25O. (a) The department of public health shall establish a registry of volunteer
262 personnel who are available to provide services, including but not limited to health and medical
263 services. The registry shall be known as the Massachusetts system for advance registration. The
264 department may establish requirements for registration including but not limited to completion of
265 training.

266 (b) The department shall establish a process to identify personnel in the Massachusetts
267 system for advance registration, which may include a requirement for photographic
268 identification.

269 (c) The commissioner of public health may activate the Massachusetts system for
270 advance registration:

271 (1) during an emergency detrimental to the public health declared by the governor under
272 section 2A of chapter 17;

273 (2) during a state of emergency declared by the governor under chapter 639 of the acts of
274 1950, as amended;

275 (3) during a public health incident that demands an urgent response;

276 (4) pursuant to a request from a local public health authority when local resources have
277 been or are expected to be exhausted during a public health incident that demands an urgent
278 response; or

279 (5) pursuant to an official request from another state or from a province of Canada.

280 The location of duty may be within the commonwealth, or may be in another state or a
281 province of Canada if an official request for assistance has been received from such state or
282 province.

283 (d) If the situation within Massachusetts for which the Massachusetts system for advance
284 registration is activated requires either numbers or expertise of personnel that are beyond the
285 capacity of said system to provide, the commissioner may request personnel from other states
286 having similar personnel registries. In such a case, out of state personnel when acting as
287 authorized personnel in Massachusetts shall receive the protections provided in subsections (g)
288 and (h) to members of the Massachusetts system for advance registration. This subsection shall
289 not apply to or affect a deployment under chapter 339 of the acts of 2000, known as the Interstate
290 Emergency Management Assistance Compact, or under section 58 of chapter 300 of the acts of
291 2002, known as the International Emergency Management Assistance Compact.

292 (e) Any mobile assets and response resources of the National Disaster Medical System in
293 Massachusetts may be activated for duty when they are not formally activated in federal service,
294 by the commissioner under the circumstances stated in subsection (c), subparagraphs (1) through
295 (4). When so activated, individuals who are members of the National Disaster Medical System
296 shall receive the protections provided in subsections (g) and (h) to members of the Massachusetts
297 system for advance registration.

298 (f) Any Massachusetts medical reserve corps established pursuant to 42 U.S.C. section
299 300hh-15 may be activated for duty under the circumstances stated in subsection (c),
300 subparagraphs (1) through (4), and when such activation is authorized by the commissioner,
301 members of such corps shall receive the protections provided in subsections (g) and (h) to
302 members of the Massachusetts system for advance registration.

303 (g) In the absence of any other protections provided by law, whenever activated for duty,
304 members of the Massachusetts system for advance registration shall be construed to be
305 employees of the commonwealth for the purposes of chapter 258.

306 (h) In the absence of any other benefits provided by law, any member of the
307 Massachusetts system for advance registration who dies or who sustains disability or injury
308 while activated for duty shall be construed to be an employee of the commonwealth and shall be
309 compensated in like manner as state employees are compensated under the provisions of sections
310 69 to 75, inclusive, of chapter 152.

311 (i) The department of public health is authorized to promulgate rules and regulations to
312 implement this section.

313 Section 25P. (a) The governor may declare that a supply emergency exists, after
314 conferring with the attorney general and the director of consumer affairs and business regulation,
315 as a result of a natural disaster, military act, civil disorder, terrorist act, bio-terrorist act or other
316 extraordinary circumstance. The governor shall support said declaration of a supply emergency
317 by making written findings regarding the market disruption, the products or services that are in
318 short supply, and the products or services that are essential to the health, safety or welfare of the
319 people. This written declaration shall be filed with the house and senate clerks, the attorney

320 general and the office of consumer affairs and business regulation. The supply emergency shall
321 automatically terminate 90 days after its declaration but may be renewed once more by the
322 governor under the same standards and procedures set forth in this paragraph.

323 (b) By a majority vote, the general court may terminate a declaration of a supply
324 emergency upon finding that the market disruption has ended, the product(s) or service(s) are no
325 longer in short supply, and/or that the product(s) or service(s) are not essential to the health,
326 safety or welfare of the people.

327 (c) The attorney general, in consultation with the office of consumer affairs and
328 business regulation, and upon the declaration by the governor that a supply emergency exists,
329 shall take appropriate action to ensure that no person shall sell a product or service that is at a
330 price that unreasonably exceeds the price charged before the emergency. The attorney general
331 may make reasonable rules and regulations governing exceptions for the additional costs
332 incurred in connection with the acquisition, production, distribution or sale of an energy
333 resource, as well as rules and regulations regarding violations of this section. Nothing in this
334 paragraph shall preempt chapter 93A or any rules or regulations promulgated under such chapter.

335 SECTION 8. Section 26E of said chapter 111, as appearing in the 2006 Official Edition
336 is hereby further amended by adding the following paragraph:-

337 The authority of the commissioner of health to employ necessary officers, agents and
338 assistants in order to execute health laws and its regulations includes the exclusive authority to
339 supervise and otherwise oversee said officers, agents and assistants. Authority pursuant to this
340 section preempts any ordinance, by-law, regulation or other state or local law that provides for
341 the employment and supervision of department of health officers, agents and assistants.

342 SECTION 9. Section 27 of said chapter 111, as so appearing, is further amended by
343 adding the following paragraph:-

344 The authority of the Board of Health to employ necessary officers, agents and assistants
345 in order to execute health laws and its regulations includes the exclusive authority to supervise
346 and otherwise oversee said officers, agents and assistants. Authority pursuant to this section
347 preempts any ordinance, bylaw, regulation or other state or local law that provides for the
348 employment and supervision of local board of health officers, agents and assistants.

349 SECTION 10. Section 94A of said chapter 111, as so appearing, is hereby amended by
350 striking out subsection (d) and inserting in place thereof the following subsection:-

351 (d) Law enforcement authorities, upon order of the commissioner or his agent or at the
352 request of a local public health authority pursuant to such order, shall assist appropriate medical
353 personnel in the transportation of such person to the tuberculosis treatment center.

354 SECTION 11. Said chapter 111 is hereby further amended by striking out section 95, as
355 so appearing, and inserting in place thereof the following section:-

356 Section 95. (a) Whenever the commissioner, or a local public health authority within its
357 jurisdiction, determines that there is reasonable cause to believe that a disease or condition
358 dangerous to the public health exists or may exist or that there is an immediate risk of an
359 outbreak of such a disease or condition, and that certain measures are necessary to decrease or
360 eliminate the risk to public health, the commissioner or local public health authority may issue an
361 order. The order may be a verbal order in exigent circumstances, and in such case it shall be
362 followed by a written order as soon as reasonably possible. The written order shall specify the
363 reasons for it, and may include, but is not limited to:

364 (1) requiring the owner or occupier of premises to permit entry into and investigation of
365 the premises;

366 (2) requiring the owner or occupier of premises to close the premises or a specific part of
367 the premises, and allowing reopening of the premises when the danger has ended;

368 (3) requiring the placarding of premises to give notice of an order requiring the closing of
369 the premises;

370 (4) requiring the cleaning or disinfection, or both, of the premises or the thing specified in
371 the order;

372 (5) requiring the destruction of the matter or thing specified in the order.

373 The written order shall be delivered personally to the person to whom it is directed, but if
374 that is not possible, it shall be delivered in a manner that is reasonably calculated to notify such
375 person of it.

376 If a person does not comply with the order, and if the commissioner or the local public
377 health authority determines that non-compliance poses a serious danger to public health, upon
378 request or issuance of an order by the commissioner or local public health authority, an officer
379 authorized to serve criminal process may arrest without a warrant any person whom the officer
380 has probable cause to believe has violated such an order and shall use reasonable diligence to
381 enforce such order.

382 If a person does not comply with the order within the time specified in the order, but the
383 non-compliance does not pose a serious danger to public health, the commissioner or the local
384 public health authority may apply to a judge of the superior court for an order requiring the

385 person to comply with the order within the time specified in the order of the court; and to take
386 whatever other action the court considers appropriate in the circumstances to protect the public
387 health. The law enforcement authorities of the city or town where the person is present shall
388 enforce the court order.

389 Any person who knowingly violates an order, as to which non-compliance poses a
390 serious danger to public health as determined by the commissioner or the local public health
391 authority, shall be punished by imprisonment for not more than 30 days or a fine of not more
392 than \$1,000 per day that the violation continues, or both. It shall not be a defense to a
393 prosecution for this offense that the commissioner or the local public health authority
394 erroneously determined that non-compliance would pose a serious danger to public health, if the
395 commissioner or local public health authority was acting in good faith under color of official
396 authority.

397 A person who knowingly violates any other order issued under this subsection may be
398 subject to a civil fine of not more than \$1,000 per day that the violation continues. Any fine
399 collected for any violation of this section shall be credited 50 per cent to the courts and 50 per
400 cent to the health safety net trust fund.

401 The commissioner or the local public health authority may recover expenses incurred in
402 enforcing the order from the person to whom the order was directed, by action in the superior
403 court.

404 (b) Furthermore, when the commissioner or a local public health authority within its
405 jurisdiction determines that either or both of the following measures are necessary to prevent a

406 serious danger to the public health the commissioner or local public health authority may
407 exercise the following authority:

408 (1) to vaccinate or provide precautionary prophylaxis to individuals as protection against
409 communicable disease and to prevent the spread of communicable or possibly communicable
410 disease, provided that any vaccine to be administered shall not be such as is reasonably likely to
411 lead to serious harm to the affected individual; and

412 (2) to treat individuals exposed to or infected with disease, provided that treatment shall
413 not be such as is reasonably likely to lead to serious harm to the affected individual.

414 An individual who is unable or unwilling to submit to vaccination or treatment shall not
415 be required to submit to such procedures but may be isolated or quarantined pursuant to section
416 96 of chapter 111 if his refusal poses a serious danger to public health or results in uncertainty
417 whether he has been exposed to or is infected with a disease or condition that poses a serious
418 danger to public health, as determined by the commissioner, or a local public health authority
419 operating within its jurisdiction.

420 (c) Furthermore, when the commissioner or a local public health authority within its
421 jurisdiction determines that either or both of the following measures are necessary to prevent a
422 serious danger to the public health, the commissioner or local public health authority may
423 exercise the following authority:

424 (1) to decontaminate or cause to be decontaminated any individual; provided that
425 decontamination measures must be by the least restrictive means necessary to protect the public
426 health and must be such as are not reasonably likely to lead to serious harm to the affected
427 individual; and

428 (2) to perform physical examinations, tests, and specimen collection necessary to
429 diagnose a disease or condition and ascertain whether an individual presents a risk to public
430 health.

431 If an individual is unable or unwilling to submit to decontamination or procedures
432 necessary for diagnosis, the decontamination or diagnosis procedures may proceed only pursuant
433 to an order of the superior court. During the time necessary to obtain such court order, such
434 individual may be isolated or quarantined pursuant to section 96 of chapter 111 if his refusal to
435 submit to decontamination or diagnosis procedures poses a serious danger to public health or
436 results in uncertainty whether he has been exposed to or is infected with a disease or condition
437 that poses a serious danger to public health.

438 (d) (1) When the commissioner or a local public health authority within its jurisdiction
439 reasonably believes that a person may have been exposed to a disease or condition that poses a
440 threat to the public health, in addition to their authority under section 96 of chapter 111, the
441 commissioner or the local public health authority may detain the person for as long as may be
442 reasonably necessary for the commissioner or the local public health authority, to convey
443 information to the person regarding the disease or condition and to obtain contact information,
444 including but not limited to, the person's residence and employment addresses, date of birth, and
445 telephone numbers.

446 (2) If a person detained under subsection (1) refuses to provide the information
447 requested, the person may be isolated or quarantined pursuant to section 96 of chapter 111 if his
448 or her refusal poses a serious danger to public health or results in uncertainty whether he has

449 been exposed to or is infected with a disease or condition that poses a serious danger to public
450 health.

451 (e) This section does not affect the authority of the commissioner or a local public health
452 authority to take action under any other provision of law or under any regulation promulgated
453 pursuant to law.

454 SECTION 12. Said chapter 111, as so appearing, is hereby further amended by striking
455 out section 96 and inserting in place thereof the following section:-

456 Section 96. (a) In this section, “isolation” means separation, for the period of
457 communicability, of infected individuals or animals from other individuals or animals in such
458 places and under such conditions as will prevent the direct or indirect transmission of an
459 infectious agent to susceptible people or to other individuals or animals who may spread the
460 agent to others. In this section, “quarantine” means restricting the freedom of movement of well
461 individuals or domestic animals that have been exposed to a communicable disease for a period
462 of time relating to the usual incubation period of the disease, in order to prevent effective contact
463 with those not so exposed. In this section, “disease or condition dangerous to the public health”
464 does not include acquired immune deficiency syndrome or the human immunodeficiency virus.

465 (b) Whenever the commissioner, or a local public health authority within its jurisdiction,
466 determines that an individual or group of individuals has or may have a disease or condition
467 dangerous to the public health or is or may be infected with an agent of such a disease or
468 condition, which disease or condition is transmissible between people and poses a serious danger
469 to public health, the commissioner, or a local public health authority may order such individual
470 or group to be isolated or quarantined. An order for isolation or quarantine may include any

471 individual who is unwilling or unable to undergo vaccination, precautionary prophylaxis,
472 medical treatment, decontamination, medical examinations, tests, or specimen collection and
473 whose refusal of 1 or more of these measures poses a serious danger to public health or results in
474 uncertainty whether he or she has been exposed to or is infected with a disease or condition that
475 poses a serious danger to public health. The order may be a verbal order in exigent
476 circumstances, and in such case it shall be followed by a written order as soon as reasonably
477 possible. The written order shall be delivered personally, but if that is not possible, it shall be
478 delivered in a manner that is reasonably calculated to notify the individual or group. In the case
479 of a group, this may include delivery through the mass media and posting in a place where group
480 members are reasonably likely to see the order.

481 (c) Isolation and quarantine orders must utilize the least restrictive means necessary to
482 prevent a serious danger to public health, and may include, but are not limited to, restricting a
483 person from being present in certain places including but not limited to school or work;
484 confinement to private homes; confinement to other private or public premises; or isolation or
485 quarantine of an area.

486 (d) An officer authorized to serve criminal process may arrest without a warrant any
487 person whom the officer has probable cause to believe has violated an order for isolation or
488 quarantine and shall use reasonable diligence to enforce such order.

489 (e) Any person who knowingly violates an order for isolation or quarantine shall be
490 punished by imprisonment for not more than 30 days and may be subject to a civil fine of not
491 more than \$1,000 per day that the violation continues.

492 (f)(1) When the commissioner or a local public health authority requires a resident wage
493 earner to be isolated or quarantined, or requires isolation or quarantine of a child under fifteen
494 years of age of whom the wage earner has custody and responsibility, or otherwise interferes
495 with following of his or her employment for the protection of public health, he or she shall be
496 deemed eligible to receive unemployment benefits pursuant to chapter 151A to the extent
497 permitted by federal law.

498 (2) It shall be a violation of section 4 of chapter 151B for an employer to discharge or
499 reduce any benefits of an employee because he is subject to an order of isolation or quarantine,
500 or because a child under 15 years of age of whom the wage earner has custody and responsibility
501 is subject to an order of isolation or quarantine.

502 (g) This section does not affect the authority of the department to isolate or quarantine
503 individuals with active tuberculosis pursuant to the requirements and procedures specified in
504 sections 94A through 94H of chapter 111, and regulations promulgated under those sections.

505 SECTION 13. Section 114 of said chapter 111, as so appearing, is hereby amended by
506 striking out, in lines 5 and 6, the words “under section one hundred and twelve”.

507 SECTION 14. Sections 92, 93 and 94 of chapter 111 are hereby repealed.

508 SECTION 15. Section 96A of said chapter 111, as so appearing, is hereby amended by
509 striking out, in lines 5 and 6, the words “except under section ninety-six”.

510 SECTION 16. Section 103 of chapter 111 is hereby repealed. 105, 110, 110B, and 113

511 SECTION 17. Section 105 of chapter 111 is hereby repealed.

512 SECTION 18. Section 110 of chapter 111 is hereby repealed.

513 SECTION 19. Section 110B of chapter 111 is hereby repealed.

514 SECTION 20. Section 113 of chapter 111 is hereby repealed.

515 SECTION 21. Chapter 112 of the General Laws, as so appearing, is hereby amended by
516 striking out section 12B and inserting in place thereof the following section:-

517 Section 12B. No physician duly registered under the provisions of section 2, 2A, 9, 9A or
518 9B, no physician assistant duly registered under the provisions of section 9I or his employing or
519 supervising physician, no nurse duly registered or licensed under the provisions of section 74,
520 74A or 76, no pharmacist duly registered under the provisions of section 24, no pharmacy
521 technician duly registered under the provisions of section 24C, no dentist duly registered under
522 the provisions of section 45, or 45A, no psychologist duly licensed under the provisions of
523 sections 118 to 129, inclusive, no social worker duly licensed under the provisions of sections
524 130 to 137, inclusive, no marriage and family therapist or mental health counselor duly licensed
525 under the provisions of sections 165 to 171, inclusive, and no radiologic technologist duly
526 licensed under the provisions of section 5L of chapter 111, or resident in another state, in the
527 District of Columbia or in a province of Canada, and duly registered or licensed therein, who, in
528 good faith, as a volunteer and without fee, renders emergency care or treatment, other than in the
529 ordinary course of his practice, shall be liable in a suit for damages as a result of his acts or
530 omissions, nor shall he be liable to a hospital for its expenses if, under such emergency
531 conditions, he orders a person hospitalized or causes his admission.

532 SECTION 22. Said chapter 112, as so appearing, is hereby amended by striking out
533 section 12C and inserting in place thereof the following section:-

534 Section 12C. No physician or nurse administering immunization or other protective
535 programs under public health programs, and no other person assisting in the foregoing, shall be
536 liable in a civil suit for damages as a result of any act or omission on his part in carrying out his
537 duties.

538 SECTION 23. Section 12V of said chapter 112, as so appearing, is hereby amended by
539 striking out, in line 1, the words “, whose usual and regular duties do not include the provision
540 of emergency medical care, and”.

541 SECTION 24. Section 13 of chapter 122 of the General Laws, as so appearing, is hereby
542 amended by striking out, in line 6, the words “and it shall have the same authority to remove
543 such person thereto as is conferred upon boards of health by section ninety-five of chapter one
544 hundred and eleven”.

545 SECTION 25. Chapter 175 of the General Laws, as appearing in the 2006 official
546 edition, is hereby amended by inserting after section 24F the following section:-

547 Section 24G. (a) Any policy, contract, agreement, plan, or certificate of insurance for
548 coverage of health care services, including any sickness, health, or welfare plan issued within or
549 without the commonwealth, including but not limited to those of a carrier as defined under
550 section 1 of chapter 176O, or other state approved health plans, shall provide that, in the event of
551 a declaration of a public health emergency or state of emergency by the governor of the
552 commonwealth which necessitates a suspension of all elective procedures, there will be a waiver
553 of administrative requirements within the zone of that suspension of elective procedures,
554 including but not limited to: utilization review, prior authorization, advance notification upon
555 admission or delivery of services, and limitation on provider networks for treating or transfer of

556 patients. During such declared public health emergency or such state of emergency, all prompt
557 claims payment requirements, including the payment of interest for late processing, are waived
558 for services rendered during such public health emergency or state of emergency.

559 (b) Upon the declared end of such public health emergency or such state of emergency,
560 there shall be within 180 days a reconciliation of charges and reimbursements, during which time
561 claims may be adjusted or re-adjudicated based on the provisions of any contract between the
562 provider and health carrier, except that such reimbursement shall not be conditioned on the
563 execution during the public health emergency or state of emergency of pre-notification or pre-
564 authorization requirements. In the event that there is no contract between the provider and health
565 carrier, reconciliation will be based on reimbursement amounts equal to the carrier's usual and
566 customary reimbursement rates in force at the date of service, except that for services provided to
567 MassHealth members, reconciliation will be based on reimbursement amounts equal to the
568 MassHealth reimbursement rates in force on the date of service. Upon completion of the
569 reconciliation, any carrier overpayments will be reimbursed by the provider to the carrier and
570 any underpayments will be paid by the carrier to the provider. Investigations of fraud and
571 resultant recovery actions are not subject to this reconciliation period, but must be initiated
572 within 3 years from the date of the declared end of the public health emergency or state of
573 emergency.

574 (c) A health care insurer shall include the provisions of subsections (a) and (b) in all
575 contracts between the insurer and a health care provider entered into, renewed, or amended on or
576 after the effective date of these subsections.

577 SECTION 26. Chapter 258 of the General Laws, as appearing in the 2006 Official
578 Edition, is hereby amended by inserting after section 2 the following section:-

579 Section 2A. For purposes of this chapter, in response to a declared state of emergency as
580 defined under chapter 639 of the acts of 1950, as amended, or in response to an emergency
581 detrimental to the public health declared under section 2A of chapter 17, all persons acting
582 within the scope of rendering assistance or advice during the emergency and at the request or
583 order of an employee, representative, or agent of a public employer shall be a public employee of
584 the public employer making such request or order. The immunities provided in this section shall
585 not apply to any person whose act or omission caused in whole or in part the emergency or who
586 would otherwise be liable therefor.

587 SECTION 27. Chapter 268 of the General Laws is hereby amended by inserting after
588 section 33A the following section:-

589 Section 33B. Whoever falsely makes, forges, counterfeits, alters, or tampers with any
590 identification card or other insignia issued by or under the authority of the commonwealth, or by
591 or under the authority of a Massachusetts medical reserve corps or a Massachusetts disaster
592 medical assistance team established pursuant to federal law, or with intent to defraud uses or
593 possesses any such identification card or insignia, or impersonates or falsely represents himself
594 to be or not to be a person to whom such identification card or insignia has been duly issued, or
595 willfully allows any other person to have or use any such identification card or insignia, issued
596 for his use alone, shall be punished by a fine of not more than \$5,000 or imprisonment for not
597 more than 1 year, or both.

598 SECTION 28. The department of public health shall convene a panel of public health
599 preparedness experts to assess current funding resources available for preparedness activities in
600 the commonwealth and to examine what funding will be needed to sustain state and local
601 preparedness activities. The panel, which shall include representatives from hospitals, local
602 public health authorities, and other health and medical providers, shall convene within 30 days of
603 the effective date of this act and report to the joint committee on public health, the joint
604 committee for health care financing, the house committee on ways and means, and the senate
605 committee on ways and means within 9 months of the effective date of this act.

606 SECTION 29. The Board of Registration in Pharmacy and a representative from the
607 National Association of Chain Drug Stores, in conjunction with the department of public health,
608 shall study the feasibility of a statewide pharmacy and drug store electronic communication
609 network, that may be used to track trends in pharmacy purchases for the purpose of identifying a
610 possible or emerging threat to public health and evaluating trends in epidemic or pandemic
611 disease.

612 SECTION 30. The department of public health is authorized to promulgate and
613 implement rules and regulations that are reasonable and necessary to implement this Act.