

HOUSE No. 4271

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act RELATIVE TO PUBLIC HEALTH EMERGENCY 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 Said chapter 111 is hereby further amended by striking out section 95, as so appearing,
2 and inserting in place thereof the following section:-

3 Section 95. (a) As used in this section the following words shall, unless the context
4 clearly requires otherwise, have the following meanings:-

5 ‘Isolation’, separation for the period of communicability of infected individuals or
6 animals from other individuals or animals in such places and under such conditions as will
7 prevent the direct or indirect transmission of an infectious agent to susceptible people or to other
8 individuals or animals who may spread the agent to others.

9 ‘Quarantine’, restricting the freedom of movement of well individuals or domestic
10 animals that have been exposed to a communicable disease for a period of time relating to the
11 usual incubation period of the disease in order to prevent effective contact with those not so
12 exposed.

13 (b) Whenever the commissioner, or a local public health authority within its jurisdiction,
14 determines that there is reasonable cause to believe that a disease or condition dangerous to the
15 public health exists or may exist or that there is an immediate risk of an outbreak of such a
16 disease or condition and that certain measures are necessary to decrease or eliminate the risk to
17 public health, the commissioner or local public health authority may issue an order of isolation or
18 quarantine to an individual or a group of individuals; provided, however, that, as used in this
19 section, a disease or condition dangerous to the public health shall not include acquired immune
20 deficiency syndrome, AIDS, or the human immunodeficiency virus, HIV. The order may be an
21 oral order in exigent circumstances and, in such case, it shall be followed by a written order as
22 soon as reasonably possible. The written order shall be delivered personally to the individual
23 subject to the order, but if that is not possible, shall be delivered in a manner that is reasonably
24 calculated to notify the individual or group that the order has been issued. In the case of a group,
25 delivery may include delivery through the mass media and posting in a place where group
26 members are reasonably likely to see it. If the commissioner determines that non-compliance
27 would pose a serious danger to public health, the written order shall state that non-compliance
28 would pose such a danger.

29 (c) Isolation and quarantine orders shall utilize the least restrictive means necessary to
30 prevent a serious danger to public health and may include, but shall not be limited to, restricting
31 a person from being present in certain places including, but not limited to, school or work;
32 confinement to private homes; confinement to other private or public premises; or isolation or
33 quarantine of an area.

34 (d) It shall be a violation of section 4 of chapter 151B for an employer to discharge or
35 reduce any benefits of an employee because such employee is subject to an order of isolation or

36 quarantine or because a child under 15 years of age of whom the wage earner has custody and
37 responsibility is subject to an order of isolation or quarantine.

38 (e) The individual or group subject to an order of isolation or quarantine shall be
39 informed that the order may be appealed by filing a petition in superior court challenging the
40 order at any time. If an individual fails to comply with the order within the time specified in the
41 order, the commissioner or the local public health authority may apply to a judge of the superior
42 court for an order requiring the individual to comply with the order within the time specified in
43 the order of the court and to take whatever other action the court considers appropriate in the
44 circumstances to protect the public health. The law enforcement authorities of the city or town
45 where the individual is present shall enforce the court order.

46 (f) This section shall not affect the authority of the department to isolate or quarantine
47 individuals with active tuberculosis pursuant to the requirements and procedures specified in
48 sections 94A to 94H, inclusive, and regulations promulgated thereunder.

49 SECTION 12. Section 96A of said chapter 111, as so appearing, is hereby amended by
50 striking out, in lines 5 and 6, the words 'except under section ninety-six'.

51 SECTION 13. Section 12C of chapter 112 of the General Laws, as so appearing, is
52 hereby amended by inserting after the word 'programs', in line 2, the second time it appears, the
53 following words:- , and no other person assisting in the foregoing,.

54 SECTION 14. Said section 12C of said chapter 112, as so appearing, is hereby further
55 amended by adding the following sentence:- This section shall not apply in the case of willful,
56 wanton or reckless actions.

57 SECTION 15. Section 12V of said chapter 112, as so appearing, is hereby amended by
58 striking out, in line 1, the words ‘, whose usual and regular duties do not include the provision of
59 emergency medical care, and’.

60 SECTION 16. Section 13 of chapter 122 of the General Laws, as so appearing, is hereby
61 amended by striking out, in line 6, the words ‘, and it shall have the same authority to remove
62 such person thereto as is conferred upon boards of health by section ninety-five of chapter one
63 hundred and eleven’.

64 SECTION 17. Chapter 175 of the General Laws is hereby amended by inserting after
65 section 24F the following section:-

66 Section 24G. (a) Any policy, contract, agreement, plan or certificate of insurance for
67 coverage of health care services, including any sickness, health or welfare plan issued within or
68 without the commonwealth, including, but not limited to, those of a carrier as defined in section
69 1 of chapter 176O, or other state approved health plans, shall provide that in the event of a
70 declaration of a public health emergency declared pursuant to section 2A of chapter 17 or state of
71 emergency declared pursuant to chapter 639 of the acts of 1950, which necessitates a suspension
72 of all elective procedures, there shall be a waiver of administrative requirements within the zone
73 of that suspension of elective procedures including, but not limited to, utilization review, prior
74 authorization, advance notification upon admission or delivery of services and limitation on
75 provider networks for treating or transferring patients. During such declared public health
76 emergency or state of emergency, all prompt claims payment requirements, including the
77 payment of interest for late processing, shall be waived for services rendered during any such

78 emergency. The division of insurance shall promulgate regulations regarding the waiver of
79 administrative requirements and claims payment requirements during a public health emergency.

80 (b) Upon the end of the public health emergency or state of emergency, there shall be
81 within 180 days a reconciliation of charges and reimbursements, during which time claims may
82 be adjusted or re-adjudicated based on the provisions of any contract between the provider and
83 health carrier, except that such reimbursement shall not be conditioned on the execution during
84 the public health emergency or state of emergency of utilization review, pre-notification or pre-
85 authorization requirements. In the event that there is no contract between the provider and health
86 carrier, reconciliation shall be based on reimbursement amounts equal to the carrier's usual and
87 customary reimbursement rates in force at the date of service, except that for services provided to
88 MassHealth members, reconciliation shall be based on reimbursement amounts equal to the
89 MassHealth reimbursement rates in force on the date of service. Upon completion of the
90 reconciliation, any carrier overpayments shall be reimbursed by the provider to the carrier and
91 any underpayments shall be paid by the carrier to the provider. Investigations of fraud and
92 resultant recovery actions shall not be subject to the reconciliation period, but shall be initiated
93 within 3 years after the date of the declared end of the public health emergency or state of
94 emergency.

95 (c) A health care insurer shall include the provisions of subsections (a) and (b) in all
96 contracts between the insurer and a health care provider.

97 SECTION 18. Chapter 268 of the General Laws is hereby amended by inserting after
98 section 33A the following section:-

99 Section 33B. Whoever falsely makes, forges, counterfeits, alters or tampers with an
100 identification card or other insignia issued by or under the authority of the commonwealth or by
101 or under the authority of a Massachusetts medical reserve corps or a Massachusetts disaster
102 medical assistance team established pursuant to federal law or whoever, with intent to defraud,
103 uses or possesses any such identification card or insignia or impersonates or falsely represents
104 himself to be or not to be a person to whom such identification card or insignia has been duly
105 issued or whoever willfully allows another person to have or use any such identification card or
106 insignia issued for his use alone shall be punished by a fine of not more than \$5,000 or by
107 imprisonment for not more than 1 year, or both such fine and imprisonment.

108 SECTION 19. Notwithstanding any general or special law to the contrary, a health care
109 provider, as defined in section 1 of chapter 111 of the General Laws, and a provider, as defined
110 in section 1 of chapter 118G of the General Laws, shall not be liable in a suit for damages or
111 subject to administrative or licensing sanctions as a result of good-faith acts or omissions while
112 engaged in the performance of duties as a volunteer participating in a preparedness program
113 sanctioned by a state agency, as defined in section 1 of chapter 6A of the General Laws, or by a
114 local public health authority, as defined in said section 1 of said chapter 111, or as an employee
115 in rendering emergency care, treatment, advice or assistance in direct response to a declared
116 public health emergency under section 2A of chapter 17 of the General Laws or a declared state
117 of emergency under chapter 639 of the acts of 1950. This section shall not apply in the case of
118 willful, wanton or reckless actions by a provider occurring in the performance of the provider's
119 duties during such emergency.

120 SECTION 20. Notwithstanding any general or special law to the contrary, the
121 department of public health shall convene a panel of public health preparedness experts to assess

122 current funding resources available for preparedness activities in the commonwealth and to
123 examine what funding will be needed to sustain state and local preparedness activities. The
124 panel, which shall include representatives from hospitals, local public health authorities and
125 other health and medical providers, shall convene within 30 days of the effective date of this act
126 and report to the joint committee on public health, the joint committee on health care financing
127 and the house and senate committees on ways and means within 9 months of the effective date of
128 this act.

129 SECTION 21. Sections 92, 93, 94, 96, 97, 105, 110, 110B and 113 of chapter 111 of the
130 General Laws are hereby repealed.

131 SECTION 22. Subsection (c) of section 24G of chapter 175 of the General Laws shall
132 apply to all contracts between the insurer and a health care provider entered into, renewed or
133 amended on or after the effective date of this act.”; and by striking out the title and inserting in
134 place thereof the following title: “An Act relative to public health emergency preparation and
135 response in the Commonwealth.”.