

HOUSE No. 4275

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act House document numbered 4271, as reported from the committee on Ways and Means, as a recommended new text for the Senate Bill relative to pandemic and disaster preparation and response (Senate, No. 2028, amended), as changed by the committee on Bills in the Third Reading, and as amended by the House..

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. The Department of Public Health
9 will upon detection of a new occurrence of a disease, infection or viral strain notify local boards
10 of public health, will use reasonable means to notify local public health departments and the
11 public of isolation requirements upon immediate knowledge of incubation time.

12 ‘Quarantine’, restricting the freedom of movement of well individuals or domestic
13 animals that have been exposed to a communicable disease for a period of time relating to the
14 usual incubation period of the disease in order to prevent effective contact with those not so
15 exposed. The Department of Public Health will upon detection of a new occurrence of a disease,
16 infection or viral strain notify local boards of public health, will use reasonable means to notify
17 local public health departments and the public of quarantine requirements upon immediate
18 knowledge of incubation time.

19 (b) Whenever the commissioner, or a local public health authority within its jurisdiction,
20 determines that there is reasonable cause to believe that a disease or condition dangerous to the
21 public health exists or may exist or that there is an immediate risk of an outbreak of such a
22 disease or condition and that certain measures are necessary to decrease or eliminate the risk to
23 public health, the commissioner or local public health authority may issue an order of isolation or
24 quarantine to an individual or a group of individuals, or may issue an order requiring the owner
25 or occupier of publicly accessible premises to close the premises or a specific part of the
26 premises, and allowing reopening of the premises when the danger has ended; provided,
27 however, that, as used in this section, a disease or condition dangerous to the public health shall
28 not include acquired immune deficiency syndrome, AIDS, or the human immunodeficiency
29 virus, HIV. The order may be an oral order in exigent circumstances and, in such case, it shall
30 be followed by a written order as soon as reasonably possible. The written order shall be
31 delivered personally to the individual subject to the order, but if that is not possible, shall be
32 delivered in a manner that is reasonably calculated to notify the individual or group that the order
33 has been issued. In the case of a group, delivery may include delivery through the mass media
34 and posting in a place where group members are reasonably likely to see it. If the commissioner

35 determines that non-compliance would pose a serious danger to public health, the written order
36 shall state that non-compliance would pose such a danger.

37 (c) Isolation and quarantine orders shall utilize the least restrictive means necessary to
38 prevent a serious danger to public health and may include, but shall not be limited to, restricting
39 a person from being present in certain places including, but not limited to, school or work;
40 confinement to private homes; confinement to other private or public premises.

41 (d) It shall be a violation of section 4 of chapter 151B for an employee to discharge or
42 reduce any benefits of an employee because such employee is subject to an order of isolation or
43 quarantine or because the employee has a child under 21 years of age, disabled dependent,
44 elderly person or spouse of whom the wage earner has custody and responsibility is subject to an
45 order of isolation or quarantine.

46 (e) The individual or group subject to an order of isolation or quarantine shall be
47 informed that the order may be appealed by filing a petition in superior court challenging the
48 order at any time. The appeal shall be heard by the superior court no later than 15 days from the
49 date of filing of such appeal. Such court shall issue a final decision on the appeal no later than
50 10 days after the initial hearing. If an individual fails to comply with the order within the time
51 specified in the order, the commissioner or the local public health authority may apply to a judge
52 of the superior court for an order requiring the individual to comply with the order within the
53 time specified in the order of the court and to take whatever other action the court considers
54 appropriate in the circumstances to protect the public health. The law enforcement authorities of
55 the city or town where the individual is present shall enforce the court order.(f) This section shall
56 not affect the authority of the department to isolate or quarantine individuals with active

57 tuberculosis pursuant to the requirements and procedures specified in sections 94A to 94H,
58 inclusive, and regulations promulgated thereunder.

59 SECTION 13. Section 96 of said chapter 111 is hereby repealed.

60 SECTION 14. Section 96A of said chapter 111, as appearing in the 2008 Official
61 Edition, is hereby amended by striking out, in lines 5 and 6, the words ‘except under section
62 ninety-six’.

63 SECTION 14A. Chapter 111C of the General Laws, as so appearing, is hereby amended
64 by adding the following section:—

65 Section 25. When a Class I, II, or V ambulance transports a patient receiving care at the
66 Paramedic level of ALS, the ambulance must be staffed with a minimum of two EMTs, one of
67 whom is certified at the EMT-Paramedic level.

68 SECTION 15. Section 97 of said chapter 111 is hereby repealed.

69 SECTION 16. Section 105 of said chapter 111 is hereby repealed.

70 SECTION 17. Section 110 of said chapter 111 is hereby repealed.

71 SECTION 18. Section 110B of said chapter 111 is hereby repealed.

72 SECTION 19. Section 113 of said chapter 111 is hereby repealed.

73 SECTION 20. Section 12C of chapter 112 of the General Laws, as so appearing, is
74 hereby amended by inserting after the word “programs,” in line 2, the second time it appears, the
75 following words: “and no other person assisting in the foregoing” and by inserting after the word
76 “nurse,” the following word, “physician assistant”.SECTION 21. Said section 12C of said

77 chapter 112, as so appearing, is hereby further amended by adding the following sentence:- This
78 section shall not apply if the act or omission was willful, wanton or reckless.

79 SECTION 22. Section 12V of said chapter 112, as so appearing, is hereby amended by
80 striking out, in lines 1 and 2, the words ‘, whose usual and regular duties do not include the
81 provision of emergency medical care, and’.

82 SECTION 23. Section 13 of chapter 122 of the General Laws, as so appearing, is hereby
83 amended by striking out, in lines 6 to 9, inclusive, the words ‘, and it shall have the same
84 authority to remove such person thereto as is conferred upon boards of health by section ninety-
85 five of chapter one hundred and eleven’.

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

88 Section 24G. (a) Any policy, contract, agreement, plan or certificate of insurance for
89 coverage of health care services, including any sickness, health or welfare plan issued within or
90 without the commonwealth, including, but not limited to, those of a carrier as defined in section
91 1 of chapter 176O, or other state-approved health plans, shall provide that, if a public health
92 emergency declared pursuant to section 2A of chapter 17 or state of emergency proclaimed
93 pursuant to chapter 639 of the acts of 1950 necessitates a suspension of all elective procedures,
94 there shall be a waiver of administrative requirements within the zone of that suspension of
95 elective procedures including, but not limited to, utilization review, prior authorization, advance
96 notification upon admission or delivery of services and limitation on provider networks for
97 treating or transferring patients. During such declared public health emergency or state of
98 emergency, all prompt claims payment requirements, including the payment of interest for late

99 processing, shall be waived for services rendered during any such emergency. The division of
100 insurance shall promulgate regulations regarding the waiver of administrative requirements and
101 claims payment requirements during a public health emergency or state of emergency.

102 (b) Upon the termination of the public health emergency or state of emergency, there
103 shall be within 180 days a reconciliation of charges and reimbursements, during which time
104 claims may be adjusted or re-adjudicated based on the provisions of any contract between the
105 provider and health carrier, except that such reimbursement shall not be conditioned on the
106 execution during the public health emergency or state of emergency of utilization review, pre-
107 notification or pre-authorization requirements. In the event that there is no contract between the
108 provider and health carrier, reconciliation shall be based on reimbursement amounts equal to the
109 carrier's usual and customary reimbursement rates in force at the date of service, except that for
110 services provided to MassHealth members, reconciliation shall be based on reimbursement
111 amounts equal to the MassHealth reimbursement rates in force on the date of service. Upon
112 completion of the reconciliation, any carrier overpayments shall be reimbursed by the provider to
113 the carrier and any underpayments shall be paid by the carrier to the provider. Investigations of
114 fraud and resultant recovery actions shall not be subject to the reconciliation period, but shall be
115 initiated within 3 years after the termination date of the public health emergency or state of
116 emergency.

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

119 SECTION 25. Chapter 268 of the General Laws is hereby amended by inserting after
120 section 33A the following section:-

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

130 SECTION 26. Notwithstanding any general or special law to the contrary, a health care
131 provider, as defined in section 1 of chapter 111 of the General Laws, and a provider, as defined
132 in section 1 of chapter 118G of the General Laws, shall not be liable in a suit for damages or
133 subject to administrative or licensing sanctions as a result of good-faith acts or omissions while
134 engaged in the performance of duties as a volunteer participating in a preparedness program
135 sanctioned by a state agency, as defined in section 1 of chapter 6A of the General Laws, or by a
136 local public health authority, as defined in said section 1 of said chapter 111, or as an employee
137 in rendering emergency care, treatment, advice or assistance in direct response to a declared
138 public health emergency under section 2A of chapter 17 of the General Laws or a declared state
139 of emergency under chapter 639 of the acts of 1950. This section shall not apply in the case of
140 negligence not committed under the circumstance of a public health emergency or gross
141 negligence willful, wanton or reckless actions by a provider occurring in the performance of the
142 provider's duties during such emergency.

143 SECTION 27. The department of public health shall convene a panel of public health
144 preparedness experts to assess current funding resources available for preparedness activities in
145 the commonwealth and to examine what funding will be needed to sustain state and local
146 preparedness activities. The panel, which shall include representatives from hospitals, local
147 public health authorities and other health and medical providers, shall convene within 30 days of
148 the effective date of this act and report to the joint committee on public health, the joint
149 committee on health care financing and the house and senate committees on ways and means
150 within 9 months of the effective date of this act.

151 SECTION 28. Subsection (c) of section 24G of chapter 175 of the General Laws shall
152 apply to all contracts between the insurer and a health care provider entered into, renewed or
153 amended on or after the effective date of this act.”; and by striking out the title and inserting in
154 place thereof the following title: “An Act relative to public health emergency preparation and
155 response.”.