

SENATE No. 18

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
3 section:-

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 or she may consider necessary to assure the
8 maintenance of public health and the prevention of disease. The commissioner may establish
9 procedures to be followed during such emergency to ensure the continuation of essential public
10 health services 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 2. Said chapter 17 is hereby further amended by inserting after section 2A the
48 following section:-

49 Section 2B. (a) In this section, "Health care facility", means any non-federal institution,
50 building, or agency or portion thereof, whether public or private (for-profit or nonprofit) that is
51 used, operated, or designed to provide health services, medical treatment, or nursing,
52 rehabilitative, or preventive care to any person or persons. This includes, but is not limited to:
53 ambulatory surgical facilities, health maintenance organizations, home health agencies, hospices,
54 hospitals, infirmaries, intermediate care facilities, kidney treatment centers, long term care
55 facilities, medical assistance facilities, mental health centers, outpatient facilities, public health
56 centers, rehabilitation facilities, residential treatments facilities, skilled nursing facilities, and
57 adult day-care centers. The term also includes, but is not limited to, the following related
58 property when used for or in connection with the foregoing: alternate care sites, laboratories;

59 research facilities; pharmacies; laundry facilities; health personnel training and lodging facilities;
60 patient, guest, and health personnel food service facilities; and offices and office buildings for
61 persons engaged in health care professions or services. In this section, “Health care provider”,
62 means any person or entity that provides health care services including, but not limited to, health
63 plans, health maintenance organizations, hospitals, medical clinics and offices, special care
64 facilities, medical laboratories, physicians, pharmacists, dentists, physician assistants, nurse
65 practitioners, registered and other nurses, paramedics, and emergency medical or laboratory
66 technicians. In this section, “Health care professional”, includes, but is not limited to, a
67 registered nurse, licensed practical nurse, physician, physician assistant, dentist, pharmacist,
68 pharmacy technician, psychologist and social worker.

69 (b) Specifically, but without limiting the generality of section 2A and notwithstanding the
70 provisions of any other law, the commissioner shall have and may exercise, or may direct or
71 authorize other state or local government agencies to exercise, authority relative to any one or
72 more of the following if necessary to protect the public health during an emergency declared
73 pursuant to section 2A or a state of emergency declared under chapter 639 of the acts of 1950..
74 During either type of declared emergency, a local public health authority as defined in section 1
75 of chapter 111 may exercise authority relative to subparagraphs (1), (2), (3), (4), (6), (7), (13),
76 (14), and (15); and with the approval of the Commissioner may exercise authority relative to
77 subparagraphs (5), (8), (9), (10), and (11). Notwithstanding any provision of this section to the
78 contrary, provided that, based on a periodic review, the Commissioner has found that within the
79 City of Boston, the local public health authority has adequate and appropriate resources to
80 exercise authority relative to subparagraph (5), said local public health authority, after notifying
81 the Commissioner, may exercise authority relative to subparagraph (5) of this section during

82 either type of declared emergency unless such action is deemed by the Commissioner, after
83 consultation with the local public health authority, to be contrary to the interests of the
84 Commonwealth.

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

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

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

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

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

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

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

101 (8) to procure, take immediate possession from any source, store, or distribute any anti-
102 toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or

103 medical supplies located within the commonwealth as may be necessary to respond to the
104 emergency;

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

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

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

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

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

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

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

120 Upon request or issuance of an order by the commissioner or his or her designee, or by a
121 local public health authority or its designee, an officer authorized to serve criminal process may
122 arrest without a warrant any person whom the officer has probable cause to believe has violated

123 an order given to effectuate the purposes of this subsection and shall use reasonable diligence to
124 enforce such order.

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

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

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

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

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

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

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

155 SECTION 4. Section 1 of Chapter 111, as appearing in the 2006 Official Edition, is
156 hereby amended by inserting after the definition of “inland waters” the following definition:-

157 “Local public health authority”, any body politic or political subdivision of the
158 commonwealth that acts as a board of health, public health commission, or health department for
159 a city or town and includes any board of health as defined in this section and any regional board
160 of health or regional health district as defined in section 27B of chapter 111.

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

163 SECTION 6. Section 5A of chapter 111, as so appearing is hereby amended by striking
164 out the first paragraph thereof and inserting in place thereof the following two paragraphs:-

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

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

178 SECTION 7. Section 6 of said chapter 111, as so appearing, is hereby amended by
179 denoting the language thereof as subsection (a), and by inserting, after the word “diseases” in
180 lines 2 and 4 the following words:-, injuries, health conditions, and threats to health

181 SECTION 8. Section 6 of chapter 111 is hereby further amended by inserting after
182 subsection (a) the following six subsections:-

183 (b) The department shall have the power to specify, and shall from time to time specify,
184 the responsibilities of health care providers, medical examiners, and others to report, to the
185 department or to a local public health authority, diseases, injuries, health conditions, and threats
186 to health specified by the department. For purposes of this section, “health care provider” shall

187 include out-of-state medical laboratories, provided that such laboratories have agreed to the
188 reporting requirements of this commonwealth. The department shall have the power to specify,
189 and shall from time to time specify, the responsibilities of local public health authorities to report
190 diseases, injuries, health conditions, and threats to health to the department. The Department
191 may specify the responsibilities of pharmacists to report to the department unusual or increased
192 prescription rates, unusual types of prescriptions, or unusual trends in pharmacy visits that may
193 indicate a threat to public health. Nothing in this section shall preempt the authority of a local
194 public health authority to require direct reporting of diseases, injuries, health conditions, and
195 threats to health to the local public health authority.

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

204 (d) This subsection governs the confidentiality of information in the possession of the
205 department, a local public health authority, or any other governmental agency pursuant to their
206 authority under this section, section 2B of chapter 17, and sections 7, 95 and 96 of chapter 111.
207 Information that relates to an individual's past, present, or future physical or mental health,
208 condition, treatment, service, products purchased, or provisions of care, that reveals the identity
209 of the individual, or where there is a reasonable basis to believe that such information could be

210 utilized to reveal the identity of that individual, either alone or with other information that is, or
211 should reasonably be known to be, available to predictable recipients of such information, shall
212 not be considered a public record as defined in clause twenty-sixth of section 7 of chapter 4.
213 Such information shall be kept confidential except when necessary for disease investigation,
214 control, treatment, and prevention purposes. Only those individuals who have a specific need to
215 review such information to carry out the responsibilities of their employment shall be entitled to
216 access to such information.

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

233 the event occurred, and may notify other appropriate public safety authorities, which may
234 include the Massachusetts emergency management agency the department of state police, and
235 the executive office of public safety and security. Sharing of such information shall be restricted
236 to that necessary for treatment and control of illness, investigation of the incident, and prevention
237 or control of the emergency.

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

240 (g) Any person required to report who refuses to file a report required by this section
241 shall be subject to a fine of not more than one thousand dollars. An individual health care
242 provider shall be subject to suspension or revocation of his or her license or certification if the
243 refusal to file a report is gross, wanton, or willful misconduct and poses a serious risk to the
244 public health.

245 SECTION 9. Said chapter 111 is hereby further amended by striking out section 7, as so
246 appearing, and inserting in place thereof the following section:-

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

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

254 SECTION 10. Said chapter 111 is hereby further amended by inserting after section 25K
255 the following 2 sections:-

256 Section 25L. (a) The department of public health shall establish a registry of volunteer
257 personnel who are available to provide services, including but not limited to health and medical
258 services. The registry shall be known as the Massachusetts system for advance registration. The
259 department may establish requirements for registration including but not limited to completion of
260 training.

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

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

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

268 (2) during a state of emergency declared by the governor under chapter 639 of the acts of
269 1950, as amended;

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

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

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

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

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

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

293 (f) Any Massachusetts medical reserve corps established pursuant to section 300hh-15 of
294 chapter 42 of the United States code may be activated for duty under the circumstances stated in
295 subsection (c), subparagraphs (1) through (4), and when such activation is authorized by the

296 commissioner, members of such corps shall receive the protections provided in subsections (g)
297 and (h) to members of the Massachusetts system for advance registration.

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

301 (h) In the absence of any other benefits provided by law, any member of the
302 Massachusetts system for advance registration who dies or who sustains disability or injury
303 while activated for duty shall be construed to be an employee of the commonwealth and shall be
304 compensated in like manner as state employees are compensated under the provisions of sections
305 69 through 75 of chapter 152 of the general laws.

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

308 Section 25M. (a) The governor may declare that a supply emergency exists, after
309 conferring with the attorney general and the director of consumer affairs and business regulation,
310 as a result of a natural disaster, military act, civil disorder, terrorist act, bio-terrorist act or other
311 extraordinary circumstance. The governor shall support said declaration of a supply emergency
312 by making written findings regarding the market disruption, the product(s) or services(s) that are
313 in short supply, and that the product(s) or service(s) are essential to the health, safety or welfare
314 of the people. This written declaration shall be filed with the house and senate clerks, the
315 attorney general and the office of consumer affairs and business regulation. The supply
316 emergency shall automatically terminate ninety days after its declaration but may be renewed
317 once more by the governor under the same standards and procedures set forth in this paragraph.

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

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

330 SECTION 11. Said chapter 111 is further amended by adding at the end of section 26E,
331 the following paragraph:-

332 Commissioner of health authority to employ necessary officers, agents and assistants in
333 order to execute health laws and its regulations includes the exclusive authority to supervise and
334 otherwise oversee said officers, agents and assistants. Authority pursuant to this section
335 preempts any ordinance, by-law, regulation or other state or local law that provides for the
336 employment and supervision of department of health officers, agents and assistants.

337 SECTION 12. Said chapter 111 is further amended by adding at the end of section 27, the
338 following paragraph:

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

344 SECTION 13. Section 94A of said chapter 111, as so appearing, is hereby amended by
345 striking out subsection (d) and inserting in place thereof the following subsection:-

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

349 SECTION 14. Said chapter 111, as so appearing, is hereby further amended by striking
350 out section 95 and inserting in place thereof the following section:-

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

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

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

363 (3) requiring the placarding of premises to give notice of an order requiring the closing of
364 the premises;

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

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

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

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

377 If a person does not comply with the order within the time specified in the order, but the
378 non-compliance does not pose a serious danger to public health, the commissioner or the local
379 public health authority may apply to a judge of the superior court for an order requiring the
380 person to comply with the order within the time specified in the order of the court; and to take
381 whatever other action the court considers appropriate in the circumstances to protect the public

382 health. The law enforcement authorities of the city or town where the person is present shall
383 enforce the court order.

384 Any person who knowingly violates an order, as to which non-compliance poses a
385 serious danger to public health as determined by the commissioner or the local public health
386 authority, shall be punished by imprisonment for not more than 30 days or a fine of not more
387 than one thousand dollars per day that the violation continues, or both. It shall not be a defense
388 to a prosecution for this offense that the commissioner or the local public health authority
389 erroneously determined that non-compliance would pose a serious danger to public health, if the
390 commissioner or local public health authority was acting in good faith under color of official
391 authority.

392 A person who knowingly violates any other order issued under this subsection may be
393 subject to a civil fine of not more than one thousand dollars per day that the violation continues.
394 Any fine collected for any violation of this section shall be credited fifty percent to the courts
395 and fifty percent to the health care safety net trust fund.

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

399 (b) Furthermore, when the commissioner or a local public health authority within its
400 jurisdiction determines that either or both of the following measures are necessary to prevent a
401 serious danger to the public health the commissioner or local public health authority may
402 exercise the following authority:

403 (1) to vaccinate or provide precautionary prophylaxis to individuals as protection against
404 communicable disease and to prevent the spread of communicable or possibly communicable
405 disease, provided that any vaccine to be administered must not be such as is reasonably likely to
406 lead to serious harm to the affected individual; and

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

409 An individual who is unable or unwilling to submit to vaccination or treatment shall not
410 be required to submit to such procedures but may be isolated or quarantined pursuant to section
411 96 of chapter 111 if his or her refusal poses a serious danger to public health or results in
412 uncertainty whether he or she has been exposed to or is infected with a disease or condition that
413 poses a serious danger to public health, as determined by the commissioner, or a local public
414 health authority operating within its jurisdiction.

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

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

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

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

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

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

444 has been exposed to or is infected with a disease or condition that poses a serious danger to
445 public health.

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

449 SECTION 15. Said chapter 111, as so appearing, is hereby further amended by striking
450 out section 96 and inserting in place thereof the following section:-

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

461 (b) Whenever the commissioner, or a local public health authority within its jurisdiction,
462 determines that an individual or group of individuals has or may have a disease or condition
463 dangerous to the public health or is or may be infected with an agent of such a disease or
464 condition, which disease or condition is transmissible between people and poses a serious danger
465 to public health, the commissioner, or a local public health authority may order such individual

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

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

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

485 (e) Any person who knowingly violates an order for isolation or quarantine shall be
486 punished by imprisonment for not more than 30 days and may be subject to a civil fine of not
487 more than one thousand dollars per day that the violation continues.

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

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

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

501 SECTION 16. Section 114 of said chapter 111, as so appearing, is hereby amended by
502 striking out, in line 5, the words “under section one hundred and twelve”.

503 SECTION 17. Sections 92, 93, 94, 103, 105, 110, 110B, and 113 of chapter 111 are
504 hereby repealed.

505 SECTION 17A. Section 96A of said chapter 111, as so appearing, is hereby amended by
506 striking out, in line , the words “except under section ninety-six”.

507 SECTION 18. Section 12B of chapter 112, is hereby amended by striking the section in
508 its entirety and replacing it with the following:

509 Section 12B. No physician duly registered under the provisions of section two, two A,
510 nine, nine A or nine B, no physician assistant duly registered under the provisions of section nine
511 I or his employing or supervising physician, no nurse duly registered or licensed under the
512 provisions of section seventy-four, seventy-four A or seventy-six, no pharmacist duly registered
513 under the provisions of section twenty-four, no pharmacy technician duly registered under the
514 provisions of section twenty-four C, no dentist duly registered under the provisions of section
515 forty-five, or forty-five A, no psychologist duly licensed under the provisions of sections one
516 hundred and eighteen through one hundred and twenty-nine, no social worker duly licensed
517 under the provisions of sections one hundred and thirty through one hundred and thirty-seven, no
518 marriage and family therapist or mental health counselor duly licensed under the provisions of
519 sections 165 through 171, and no radiologic technologist duly licensed under the provisions of
520 section 5L of chapter 111, or resident in another state, in the District of Columbia or in a
521 province of Canada, and duly registered or licensed therein, who, in good faith, as a volunteer
522 and without fee, renders emergency care or treatment, other than in the ordinary course of his
523 practice, shall be liable in a suit for damages as a result of his acts or omissions, nor shall he be
524 liable to a hospital for its expenses if, under such emergency conditions, he orders a person
525 hospitalized or causes his admission.

526 SECTION 19. Section 12C of chapter 112 is hereby amended by striking the section in
527 its entirety and replacing it with the following:

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

532 SECTION 20. Section 12V of chapter 112 is hereby amended by striking out, in line 1,
533 the words “, whose usual and regular duties do not include the provision of emergency medical
534 care, and”

535 SECTION 21. Section 13 of chapter 122, as appearing in the 2006 Official Edition, is
536 hereby amended by striking out, in line 6, the words “and it shall have the same authority to
537 remove such person thereto as is conferred upon boards of health by section ninety-five of
538 chapter one hundred and eleven,”

539 SECTION 22. Section 1 of chapter 258, as appearing in the 2006 Official Edition, is
540 hereby amended by inserting at the end of the definition of “public employee” after the words
541 “division of medical assistance.” the following two sentences: For purposes of this chapter, in
542 response to a declared state of emergency as defined under chapter 639 of the acts of 1950, as
543 amended, or in response to an emergency detrimental to the public health declared under section
544 2A of chapter 17, all persons acting within the scope of rendering assistance or advice during the
545 emergency and at the request or order of an employee, representative, or agent of a public
546 employer shall be a public employee of the public employer making such request or order. The
547 immunities provided in this section shall not apply to any person whose act or omission caused
548 in whole or in part the emergency or who would otherwise be liable therefor.

549 SECTION 23. Chapter 268 of the General Laws, as appearing in the 2006 Official
550 Edition is hereby amended by inserting after section 33A the following section:-

551 Section 33B. Whoever falsely makes, forges, counterfeits, alters, or tampers with any
552 identification card or other insignia issued by or under the authority of the commonwealth, or by
553 or under the authority of a Massachusetts medical reserve corps or a Massachusetts disaster

554 medical assistance team established pursuant to federal law, or with intent to defraud uses or
555 possesses any such identification card or insignia, or impersonates or falsely represents himself
556 to be or not to be a person to whom such identification card or insignia has been duly issued, or
557 willfully allows any other person to have or use any such identification card or insignia, issued
558 for his use alone, shall be punished by a fine of not more than five thousand dollars or
559 imprisonment for not more than one year, or both.

560 SECTION 24. The department of public health shall convene a panel of public health
561 preparedness experts to assess current funding resources available for preparedness activities in
562 the Commonwealth and to examine what funding will be needed to sustain state and local
563 preparedness activities. The panel, which shall include representatives from hospitals, local
564 public health authorities, and other health and medical providers, shall convene within 30 days of
565 the effective date of this act and report to the joint committee on public health, the joint
566 committee for health care financing, the house committee on ways and means, and the senate
567 committee on ways and means within 9 months of the effective date of this act.

568 SECTION 25. The Board of Registration in Pharmacy and a representative from the
569 National Association of Chain Drug Stores, in conjunction with the department of public health,
570 shall study the feasibility of a statewide pharmacy and drug store electronic communication
571 network, that may be used to track trends in pharmacy purchases for the purpose of identifying a
572 possible or emerging threat to public health and evaluating trends in epidemic or pandemic
573 disease.

574 SECTION 26. Chapter 175 of the General Laws, as appearing in the 2004 official
575 edition, is hereby amended by inserting after section 24F the following section:

576 Section 24G.

577 (a) Any policy, contract, agreement, plan, or certificate of insurance for coverage of
578 health care services, including any sickness, health, or welfare plan issued within or without the
579 commonwealth, including but not limited to those of a carrier as defined under section 1 of
580 chapter 176O, or other state approved health plans, shall provide that, in the event of a
581 declaration of a public health emergency or state of emergency by the governor of the
582 commonwealth which necessitates a suspension of all elective procedures, there will be a waiver
583 of administrative requirements within the zone of that suspension of elective procedures,
584 including but not limited to: utilization review, prior authorization, advance notification upon
585 admission or delivery of services, and limitation on provider networks for treating or transfer of
586 patients. During such declared public health emergency or such state of emergency, all prompt
587 claims payment requirements, including the payment of interest for late processing, are waived
588 for services rendered during such public health emergency or state of emergency.

589 (b) Upon the declared end of such public health emergency or such state of emergency,
590 there shall be within 180 days a reconciliation of charges and reimbursements, during which time
591 claims may be adjusted or re-adjudicated based on the provisions of any contract between the
592 provider and health carrier, except that such reimbursement shall not be conditioned on the
593 execution during the public health emergency or state of emergency of pre-notification or pre-
594 authorization requirements. In the event that there is no contract between the provider and health
595 carrier, reconciliation will be based on reimbursement amounts equal to the carrier's usual and
596 customary reimbursement rates in force at the date of service, except that for services provided to
597 MassHealth members, reconciliation will be based on reimbursement amounts equal to the
598 MassHealth reimbursement rates in force on the date of service. Upon completion of the

599 reconciliation, any carrier overpayments will be reimbursed by the provider to the carrier and
600 any underpayments will be paid by the carrier to the provider. Investigations of fraud and
601 resultant recovery actions are not subject to this reconciliation period, but must be initiated
602 within three years from the date of the declared end of the public health emergency or state of
603 emergency.

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

607 SECTION 27. The department of public health is authorized to promulgate and
608 implement rules and regulations that are reasonable and necessary to implement this Act.

609 SECTION 28. This Act shall take effect upon its passage.