

HOUSE No. 1572

The Commonwealth of Massachusetts

PRESENTED BY:

Harriett L. Stanley

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the implementation of emergency preparation and response.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Harriett L. Stanley</i>	<i>2nd Essex</i>	<i>1/20/2011</i>

HOUSE No. 1572

By Ms. Stanley of West Newbury, a petition (accompanied by bill, House, No. 1572) of Harriett L. Stanley relative to the preparation for and response to certain public health emergencies. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to the implementation of emergency preparation and response.

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) The following terms shall, unless the context clearly requires otherwise,
5 have the following meanings:-

6 “public health emergency”, an occurrence or imminent threat of a disease or condition
7 dangerous to the public health whose scale, timing or unpredictability threatens to overwhelm
8 routine capabilities.

9 (b) Upon declaration by the governor that an emergency exists which is detrimental to the
10 public health or upon declaration of a state of emergency under chapter 639 of the acts of 1950,
11 as amended, the commissioner may, during such period of emergency, take such action and
12 incur such liabilities as he or she may consider necessary to assure the maintenance of public

13 health and the prevention of disease. The commissioner may establish procedures to be followed
14 during such emergency to ensure the continuation of essential public health services and the
15 enforcement of the same.

16 In circumstances where the governor declares that the emergency detrimental to public
17 health is limited to a specified local area, the appropriate local public health authority, as defined
18 in section 1 of chapter 111, may, with the approval of the commissioner, during such period of
19 emergency, take such action and incur such liabilities as it may deem necessary to assure the
20 maintenance of public health and the prevention of disease. Furthermore, in such circumstances,
21 such local public health authority may, with the approval of the commissioner, establish
22 procedures to be followed during such emergency to insure the continuation of essential public
23 health services and the enforcement of the same. Nothing in this section shall supersede the
24 normal operating authority of the local public health authorities, provided that such authority
25 shall not be exercised in a manner that conflicts with any procedure or order issued by the
26 Commissioner to assure the maintenance of public health and the prevention of disease during
27 such emergency.

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 2A 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

not be civilly liable for causing the death of, or injury to, any person on or about such real estate or premises under such license, privilege, or other permission, or for causing loss of, or damage to, the property of such person, except in the event of willful, wanton, or reckless misconduct.

The immunities provided in this subsection shall not apply to any person whose act or omission caused in whole or in part such emergency or who would otherwise be liable therefore.

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

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

SECTION 2. Said chapter 17 is hereby further amended by inserting after section 2A the following section:-

Section 2B. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

‘Health care facility’, a non-federal institution, building, agency or portion thereof, whether public or private, for-profit or nonprofit, that is used, operated or designed to provide health services, medical treatment or nursing, rehabilitative or preventive care to any person, including, without limitation: adult day-care centers; ambulatory surgical facilities; community health centers; home health agencies; hospices; hospitals; infirmaries; intermediate care facilities; kidney treatment centers; long-term care facilities; medical assistance facilities; mental

health centers; outpatient facilities; public health centers; rehabilitation facilities; residential treatment facilities; and skilled nursing facilities; and provided further, that the term ‘health care facility’ shall, without limitation, include, the following related properties when used for, or in connection with, the foregoing: alternate care sites; health personnel training and lodging facilities; laboratories; laundry facilities; offices and office buildings for persons engaged in health care professions or services; patient, guest and health personnel food service facilities; pharmacies; and research facilities.

‘Health care professional’, shall include, without limitation: a dentist; emergency medical technician; laboratory technician; licensed practical nurse; nurse practitioner; paramedic; pharmacist; pharmacy technician; physician; physician assistant; psychologist; registered nurse; or social worker.

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

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

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

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

(4) to restrict or prohibit assemblages of persons;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

127 (d) All state and local agencies of the Commonwealth engaged in responding to a public
128 health emergency declared pursuant to section 2A or a state of emergency declared under chapter
129 639 of the acts of 1950 shall consult and cooperate in:

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

133 (2) Informing the people of the Commonwealth about how to protect themselves during
134 the emergency and its aftermath and what actions are being taken to control the emergency.
135 Reasonable efforts shall be made to provide such information in both English and the primary
136 language of the recipients of the information, and in a manner accessible to individuals with
137 disabilities. (e) Notwithstanding any general or special law to the contrary, all political
138 subdivisions of the commonwealth responding to a declared emergency may share and disclose
139 information to the extent necessary for the treatment, control and investigation of the emergency.

140 (f) To the extent practicable consistent with the protection of public health, prior to the
141 destruction of any property during the emergency, the department of public health or a local

public health authority shall institute appropriate civil proceedings against the property to be destroyed in accordance with the existing laws and rules of the courts of this Commonwealth or any such rules that may be developed by the courts for use during the emergency. Any property acquired by the department of public health or a local public health authority through such proceedings shall, after entry of the decree, be disposed of by destruction as the court may direct.

SECTION 3. Section 1 of Chapter 111, as appearing in the 2006 Official Edition, is hereby amended by inserting after the definition of “inland waters” the following definition:-

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

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

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

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

Whenever the commissioner determines that the inoculation of or administration to the general public, or a subset of the general public, of any antitoxin, serum, vaccine or other analogous product is essential in the interest of the public health and that an emergency exists by

reason of a shortage or threatened shortage of such product, the department may purchase, produce, take immediate possession from any source, and distribute such product under such conditions and restrictions as it may prescribe; and while such shortage exists, as determined by the commissioner, the commissioner may establish by written order or orders, rules and priorities for the distribution and use of any such product within the commonwealth. Whoever violates any provision of any such order shall be punished by a fine of not less than fifty dollars nor more than two hundred dollars or by imprisonment for not more than six months, or both.

SECTION 6. Section 6 of said chapter 111, as so appearing, is hereby amended by inserting before the word ‘The’, in line 1, the following:- (a).

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

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

(b) The department shall have the power to specify, and shall from time to time specify, the responsibilities of health care providers, medical examiners, and others to report, to the department or to a local public health authority, diseases, injuries, health conditions, and threats to health specified by the department. For purposes of this section, “health care provider” shall include out-of-state medical laboratories, provided that such laboratories have agreed to the reporting requirements of this commonwealth. The department shall have the power to specify, and shall from time to time specify, the responsibilities of local public health authorities to report diseases, injuries, health conditions, and threats to health to the department. The Department

may specify the responsibilities of pharmacists to report to the department unusual or increased prescription rates, unusual types of prescriptions, or unusual trends in pharmacy visits that may indicate a threat to public health. Nothing in this section shall preempt the authority of a local public health authority to require direct reporting of diseases, injuries, health conditions, and threats to health to the local public health authority.

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

(d) This subsection governs the confidentiality of information in the possession of the department, a local public health authority, or any other governmental agency pursuant to their authority under this section, section 2B of chapter 17, and sections 7, 95 and 96 of chapter 111. Information that relates to an individual's past, present, or future physical or mental health, condition, treatment, service, products purchased, or provisions of care, that reveals the identity of the individual, or where there is a reasonable basis to believe that such information could be utilized to reveal the identity of that individual, either alone or with other information that is, or should reasonably be known to be, available to predictable recipients of such information, shall not be considered a public record as defined in clause twenty-sixth of section 7 of chapter 4. Such information shall be kept confidential except when necessary for disease investigation,

control, treatment, and prevention purposes. Only those individuals who have a specific need to review such information to carry out the responsibilities of their employment shall be entitled to access to such information.

(e) Whenever the department or a local public health authority learns of a case of a reportable disease, an unusual cluster or a suspicious event that it reasonably believes may have been caused by a criminal act or that may result in the declaration of a public health emergency under section 2A of chapter 17 or the proclamation of a state of emergency under chapter 639 of the acts of 1950, it shall immediately notify the appropriate federal, state and local public safety authorities. Sharing of such information pursuant to this section shall be restricted to that necessary for treatment and control of illness, investigation of the incident and prevention or control of the emergency.

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

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

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

Section 7. (a) If a disease or condition dangerous to the public health exists or is likely to exist in any place within the Commonwealth, the department shall make an investigation of it

and of the means of preventing its spread, and shall consult with the local authorities. It shall have concurrent powers with the local public health authority in every city or town.

(b) The department is authorized to obtain, upon request, medical records and other information that the department considers necessary to carry out its responsibilities to investigate, monitor, prevent, and control diseases or conditions dangerous to the public health. Whoever violates this section shall be punished by a fine of not more than \$1,000.

SECTION 10. Said chapter 111 is hereby further amended by inserting after section 25O the following section:-

Section 25P. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

‘System’, the Massachusetts system for advance registration.

(b) The department shall establish a registry of volunteer personnel who are available to provide services including, but not limited to, health and medical services. The registry shall be known as the Massachusetts system for advance registration. The department may establish requirements for registration including, but not limited to, the successful completion of certain training as determined by the department.

Any volunteer, regardless of medical knowledge or education, shall receive adequate and sufficient training before administering a vaccine or medication, providing information to the consumer or otherwise performing duties similar to those in the medical profession.

Prior to administering a vaccination or medication, a medical professional or volunteer shall inform the consumer of any possible side effects. If no side effects are known at the time of

251 the administration of the vaccination or medication, the consumer shall be informed of that as
252 well.

253 (c) The department shall establish a process to identify personnel in the system, which
254 may include a requirement for photographic identification.

255 (d) The commissioner may activate the system:

256 (1) during a public health emergency declared by the governor pursuant to section 2A of
257 chapter 17;

258 (2) during a state of emergency proclaimed by the governor pursuant to chapter 639 of
259 the acts of 1950;

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

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

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

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

268 (e) If the situation within the commonwealth for which the system is activated requires
269 either staffing levels or expertise of personnel that are beyond the capacity of the system to
270 provide, the commissioner may request personnel from other states having similar personnel

registries. Under such circumstances, when acting as authorized personnel in the commonwealth, out-of-state personnel shall receive the protections provided under subsection (h) to members of the system. This subsection shall not apply to, or affect a deployment under, chapter 339 of the acts of 2000 or under section 58 of chapter 300 of the acts of 2002.

(f) Any mobile assets and response resources of the national disaster medical system in the commonwealth may be activated for duty when they are not formally activated in federal service, by the commissioner under the circumstances provided under clauses (1) to (4), inclusive, of subsection (d). When so activated, individuals who are members of the national disaster medical system shall receive the protections provided under subsection (h) to members of the Massachusetts system for advance registration.

(g) Any Massachusetts medical reserve corps, established pursuant to 42 U.S.C. section 300hh-15, may be activated for duty under the circumstances stated in clauses (1) to (4), inclusive, of said subsection (d). When such activation is requested by the governor and authorized by the medical reserve corps' authorization mechanisms, members of such corps shall receive the protections provided under subsection (h) to members of the system.

(h) In the absence of any other protections provided by law, whenever activated for duty pursuant to this section, a member of the system shall not be liable in a suit for damages as a result of good-faith acts or omissions while engaged in the performance of his duties as a volunteer pursuant to this section; provided, however, that this subsection shall not apply in the case of negligence not committed under the circumstance of a public health emergency or gross negligence willful, wanton or reckless actions by a member of the system occurring during the performance of the member's duties.

(i) The department of public health may adopt rules and regulations to implement this section.

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

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

(c) The attorney general, in consultation with the office of consumer affairs and business regulation, and upon the declaration by the governor that a supply emergency exists, shall take appropriate action to ensure that no person shall sell a product or service that is at a price that unreasonably exceeds the price charged before the emergency. The attorney general may make reasonable rules and regulations governing exceptions for the additional costs incurred in connection with the acquisition, production, distribution or sale of an energy

resource, as well as rules and regulations regarding violations of this section. Nothing in this paragraph shall preempt chapter 93A or any rules or regulations promulgated under such chapter.

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

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

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

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

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

(d) Law enforcement authorities, upon order of the commissioner or his agent or at the request of a local public health authority pursuant to such order, shall assist emergency medical technicians or other appropriate medical personnel in the transportation of such person to the

tuberculosis treatment center. No law enforcement authority or medical personnel shall be held criminally or civilly liable as a result of an act or omission carried out in good faith in reliance on said order.

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

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

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

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

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

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

357 (5) requiring the destruction of the matter or thing specified in the order; and

358 (6) stating that failure to comply with the order poses a serious danger to public health, if
359 the commissioner determines that non-compliance would pose such a danger.

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

363 If a person does not comply with the order within the time specified in the order, but the
364 non-compliance does not pose a serious danger to public health, the commissioner or the local
365 public health authority may apply to a judge of the superior court for an order requiring the
366 person to comply with the order within the time specified in the order of the court; and to take
367 whatever other action the court considers appropriate in the circumstances to protect the public
368 health. The law enforcement authorities of the city or town where the person is present shall
369 enforce the court order.

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

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

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

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

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

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

An individual who is unable or unwilling to submit to vaccination or treatment shall not be required to submit to such procedures but may be isolated or quarantined pursuant to section 96 of chapter 111 if his or her refusal poses a serious danger to public health or results in uncertainty whether he or she has been exposed to or is infected with a disease or condition that

poses a serious danger to public health, as determined by the commissioner, or a local public health authority operating within its jurisdiction.

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

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

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

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

(d) (1) When the commissioner or a local public health authority within its jurisdiction reasonably believes that a person may have been exposed to a disease or condition that poses a

threat to the public health, in addition to their authority under section 96 of chapter 111, the commissioner or the local public health authority may detain the person for as long as may be reasonably necessary for the commissioner or the local public health authority, to convey information to the person regarding the disease or condition and to obtain contact information, including but not limited to the person's residence and employment addresses, date of birth, and telephone numbers.

(2) If a person detained under subsection (1) refuses to provide the information requested, the person may be isolated or quarantined pursuant to section 96 of chapter 111 if his or her refusal poses a serious danger to public health or results in uncertainty whether he or she has been exposed to or is infected with a disease or condition that poses a serious danger to public health.

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

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

Section 96. (a) In this section, "isolation" means separation, for the period of communicability, of infected individuals or animals from other individuals or animals in such places and under such conditions as will prevent the direct or indirect transmission of an infectious agent to susceptible people or to other individuals or animals who may spread the agent to others. In this section, "quarantine" means restricting the freedom of movement of well individuals or domestic animals that have been exposed to a communicable disease for a period

443 of time relating to the usual incubation period of the disease, in order to prevent effective contact
444 with those not so exposed. In this section, “disease or condition dangerous to the public health”
445 does not include acquired immune deficiency syndrome (AIDS) or the human immunodeficiency
446 virus (HIV).

447 (b) Whenever the commissioner, or a local public health authority within its jurisdiction,
448 determines that an individual or group of individuals has or may have a disease or condition
449 dangerous to the public health or is or may be infected with an agent of such a disease or
450 condition, which disease or condition is transmissible between people and poses a serious danger
451 to public health, the commissioner, or a local public health authority may order such individual
452 or group to be isolated or quarantined. An order for isolation or quarantine may include any
453 individual who is unwilling or unable to undergo vaccination, precautionary prophylaxis,
454 medical treatment, decontamination, medical examinations, tests, or specimen collection and
455 whose refusal of one or more of these measures poses a serious danger to public health or results
456 in uncertainty whether he or she has been exposed to or is infected with a disease or condition
457 that poses a serious danger to public health. The order may be a verbal order in exigent
458 circumstances, and in such case it shall be followed by a written order as soon as reasonably
459 possible. The written order shall be delivered personally, but if that is not possible, it shall be
460 delivered in a manner that is reasonably calculated to notify the individual or group that an order
461 has been issued. In the case of a group, this may include delivery through the mass media and
462 posting in a place where group members are reasonably likely to see it. If the commissioner
463 determines that non-compliance would pose a serious danger to public health, the written order
464 shall state that non-compliance would pose such a danger.

(c) Isolation and quarantine orders must utilize the least restrictive means necessary to prevent a serious danger to public health, and may include, but shall not be limited to, restricting a person from being present in certain places, including but not limited to, school or work; confinement to private homes; or confinement to other private or public premises. (e) Any person who knowingly violates an order for isolation or quarantine shall be punished by imprisonment for not more than 30 days and may be subject to a civil fine of not more than one thousand dollars per day that the violation continues.

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

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

(g) The individual or group subject to an order of isolation or quarantine shall be informed that the order may be appealed by filing a petition in superior court challenging the order at any time. The appeal shall be heard by the superior court no later than 15 days from the date of filing of such appeal. Such court shall issue a final decision on the appeal no later than

10 days after the initial hearing. If an individual fails to comply with the order within the time specified in the order, the commissioner or the local public health authority may apply to a judge of the superior court for an order requiring the individual to comply with the order within the time specified in the order of the court and to take whatever other action the court considers appropriate in the circumstances to protect the public health. The law enforcement authorities of the city or town where the individual is present shall enforce the court order.

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

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

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

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

SECTION 17A. Section 96A of said chapter 111, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words “except under section ninety-six”.

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

Section 12B. No physician duly registered under the provisions of section 2, 2A, 9, 9A or 9B, no physician assistant duly registered under the provisions of section 9I or his employing or supervising physician, no nurse duly registered or licensed under the provisions of section 74, 74A or 76, no pharmacist duly registered under the provisions of section 24, no pharmacy technician duly registered under the provisions of section 24C, no dentist duly registered under the provisions of section 45, or 45A, no psychologist duly licensed under the provisions of sections 118 through 129, no social worker duly licensed under the provisions of sections 133 through 137, no marriage and family therapist or mental health counselor duly licensed under the provisions of sections 165 through 171, and no radiologic technologist duly licensed under the provisions of section 5L of chapter 111, or resident in another state, in the District of Columbia or in a province of Canada, and duly registered or licensed therein, who, in good faith, as a volunteer and without fee, renders emergency care or treatment, other than in the ordinary course of his practice, shall be liable in a suit for damages as a result of his acts or omissions, nor shall he be liable to a hospital for its expenses if, under such emergency conditions, he orders a person hospitalized or causes his admission.

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

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

528 SECTION 20. Said section 12C of said chapter 112, as so appearing, is hereby further
529 amended by adding the following sentence:-

530 This section shall not apply if the act or omission was willful, wanton or reckless.

531 SECTION 21. Section 12V of chapter 112 is hereby amended by striking out, in line 1,
532 the words

533 “, whose usual and regular duties do not include the provision of emergency medical
534 care, and”

535 SECTION 22. 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 23. Chapter 258 of the General Laws, as appearing in the 2006 Official
540 Edition, is hereby amended by inserting after section 2 the following section:

541 Section 2A: For purposes of this chapter, in response to a declared state of emergency as
542 defined under chapter 639 of the acts of 1950, as amended, or in response to an emergency
543 detrimental to the public health declared under section 2A of chapter 17, all persons acting
544 within the scope of rendering assistance or advice during the emergency and at the request or
545 order of an employee, representative, or agent of a public employer shall be a public employee of
546 the public employer making such request or order. The immunities provided in this section shall
547 not apply to any person whose act or omission caused in whole or in part the emergency or who

would otherwise be liable therefore or in the case of malfeasance, willful, wanton, or reckless actions by a provider occurring in the performance of duties during said emergency

SECTION 24. Chapter 268 of the General Laws, as appearing in the 2006 Official Edition is hereby amended by inserting after section 33A the following section:-

Section 33B. Whoever falsely makes, forges, counterfeits, alters, or tampers with any identification card or other insignia issued by or under the authority of the commonwealth, or by or under the authority of a Massachusetts medical reserve corps or a Massachusetts disaster medical assistance team established pursuant to federal law, or with intent to defraud uses or possesses any such identification card or insignia, or impersonates or falsely represents himself to be or not to be a person to whom such identification card or insignia has been duly issued, or willfully allows any other person to have or use any such identification card or insignia, issued for his use alone, shall be punished by a fine of not more than five thousand dollars or imprisonment for not more than one year, or both.

SECTION 25. The department of public health shall convene a panel of public health preparedness experts to assess current funding resources available for preparedness activities in the Commonwealth and to examine what funding will be needed to sustain state and local preparedness activities. The panel, which shall include representatives from hospitals, local public health authorities, and other health and medical providers, shall convene within 30 days of the effective date of this act and report to the joint committee on public health, the joint committee for health care financing, the house committee on ways and means, and the senate committee on ways and means within 9 months of the effective date of this act.

SECTION 26. The Board of Registration in Pharmacy and a representative from the National Association of Chain Drug Stores, in conjunction with the department of public health, shall study the feasibility of a statewide pharmacy and drug store electronic communication network, that may be used to track trends in pharmacy purchases for the purpose of identifying a possible or emerging threat to public health and evaluating trends in epidemic or pandemic disease.

SECTION 27. Chapter 175 of the General Laws, as appearing in the 2004 official edition, is hereby amended by inserting after section 24F the following section:

Section 24G.

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

591 regulations regarding the waiver of administrative requirements and claims payment
592 requirements during a public health emergency.

593 (b) Upon the declared end of such public health emergency or such state of emergency,
594 there shall be within 180 days a reconciliation of charges and reimbursements, during which time
595 claims may be adjusted or re-adjudicated based on the provisions of any contract between the
596 provider and health carrier, except that such reimbursement shall not be conditioned on the
597 execution during the public health emergency or state of emergency of utilization review, pre-
598 notification or pre-authorization requirements. In the event that there is no contract between the
599 provider and health carrier, reconciliation will be based on reimbursement amounts equal to the
600 carrier's usual and customary reimbursement rates in force at the date of service, except that for
601 services provided to MassHealth members, reconciliation will be based on reimbursement
602 amounts equal to the MassHealth reimbursement rates in force on the date of service. Upon
603 completion of the reconciliation, any carrier overpayments will be reimbursed by the provider to
604 the carrier and any underpayments will be paid by the carrier to the provider. Investigations of
605 fraud and resultant recovery actions are not subject to this reconciliation period, but must be
606 initiated within three years from the date of the declared end of the public health emergency or
607 state of emergency.

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

610 SECTION 28. Subsection (c) of section 24G of chapter 175 of the General Laws shall
611 apply to all contracts between the insurer and a health care provider entered into, renewed or
612 amended on or after the effective date of this act.

SECTION 29. Notwithstanding the provision of any general or special law to the contrary, no health care provider, as defined in section 1 of chapter 111 of the General Laws, and no provider, as defined in section 1 of chapter 118G of the General Laws, shall be liable in a suit for damages or subject to administrative or licensing sanctions as a result of good-faith acts or omissions while engaged in the performance of duties as a volunteer participating in a preparedness program sanctioned by any state agency as defined in section 1 of chapter 6A of the General Laws or a public health authority as defined in section 1 of said chapter 111, or as an employee in rendering emergency care, treatment, advice, or assistance in response to a public health emergency declared by the Governor under section 2A of chapter 17 of the General Laws, or in response to a state of emergency declared under chapter 639 of the Acts of 1950, as most recently amended by chapter 491 of the Acts of 1953. This section does not apply in the case of malfeasance, willful, wanton, or reckless actions by a provider occurring in the performance of the provider's duties during said emergency.

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