

HOUSE No. 108

The Commonwealth of Massachusetts

PRESENTED BY:

Peter J. Koutoujian

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 passage of the accompanying bill:

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Peter J. Koutoujian	10th Middlesex
Susan C. Fargo	Third Middlesex
Lori Ehrlich	8th Essex
James Arciero	2nd Middlesex
Elizabeth Poirier	14th Bristol

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO PANDEMIC AND DISASTER PREPARATION AND RESPONSE IN THE COMMONWEALTH

Whereas, The deferred operation for this act would tend to defeat its purpose, which is forthwith to make to preserve pandemic preparation, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety., therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 17 of the General Laws is hereby amended by striking out section
2 2A, as appearing in the 2006 Official Edition, and inserting in place thereof the following 2
3 sections:-

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

11 In circumstances where the governor declares that the emergency detrimental to public health is
12 limited to a specified local area, the appropriate local public health authority, as defined in
13 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 activate
24 the state comprehensive emergency management plan and its associated processes, including
25 authority pursuant to chapter 639 of the acts of 1950. Such declaration may authorize the
26 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
38 misconduct. The immunities provided in this subsection shall not apply to any person whose act
39 or omission caused in whole or in part such emergency or who would otherwise be liable
40 therefore.

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

45 (f) Upon termination of an emergency detrimental to the public health, all powers granted to and
46 exercised by the commissioner and local public health authorities under this section and section
47 2B shall terminate.

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

50 “Health care facility”, any nonfederal institution, building, or agency or portion thereof, whether
51 public, private, for-profit or nonprofit, that is used, operated, or designed to provide health
52 services, medical treatment, or nursing, rehabilitative, or preventive care; provided, however,
53 that “health care facility” shall include but not be limited to: ambulatory surgical facilities, health
54 maintenance organizations, home health agencies, hospices, hospitals, infirmaries, intermediate
55 care facilities, kidney treatment centers, long term care facilities, medical assistance facilities,
56 mental health centers, outpatient facilities, public health centers, rehabilitation facilities,
57 residential treatments facilities, skilled nursing facilities and adult day-care centers; and provided
58 further, that when used for or in connection with the foregoing, “health care facility” shall
59 include, but not limited to, the following related property: alternate care sites, laboratories;
60 research facilities; pharmacies; laundry facilities; health personnel training and lodging facilities;
61 patient, guest, and health personnel food service facilities; and offices and office buildings for
62 persons engaged in health care professions or services.

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

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

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

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

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

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

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

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

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

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

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

98 medical supplies located within the commonwealth as may be necessary to respond to the
99 emergency;

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

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

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

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

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

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

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

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

122 Upon request or issuance of an order by the commissioner or his designee, or by a local
123 public health authority or its designee, an officer authorized to serve criminal process may arrest
124 without a warrant any person whom the officer has probable cause to believe has violated an
125 order given to effectuate the purposes of this subsection and shall use reasonable diligence to
126 enforce such order.

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

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

134 (d) All state and local agencies of the commonwealth engaged in responding to a public
135 health emergency declared pursuant to section 2A or a state of emergency declared under chapter
136 639 of the acts of 1950 shall consult and cooperate in:

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

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

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

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

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

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

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

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

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

171 Whenever the commissioner determines that the inoculation of or administration to the
172 general public, or a subset of the general public, of any antitoxin, serum, vaccine or other
173 analogous product is essential in the interest of the public health and that an emergency exists by
174 reason of a shortage or threatened shortage of such product, the department may purchase,
175 produce, take immediate possession from any source, and distribute such product under such
176 conditions and restrictions as it may prescribe; and while such shortage exists, as determined by
177 the commissioner, the commissioner may establish by written order or orders, rules and priorities
178 for the distribution and use of any such product within the commonwealth. Whoever violates
179 any provision of any such order shall be punished by a fine of not less than \$50 nor more than
180 \$200 or by imprisonment for not more than 6 months, or both.

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

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

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

205 (c) Every local public health authority shall keep a record of all reports received under this
206 section, containing the name and location of all persons reported, their disease, injury, or health
207 condition, the name of the person reporting the case, the date of such report, and other
208 information required by the department. Such records shall be kept in the manner or upon forms

209 prescribed by the department. If a report concerns a student in or an employee of a public
210 school, the local public health authority shall notify the school health authorities. Every local
211 public health authority shall appoint some person who shall have the responsibility to make
212 reports to the department as provided in subsection (b).

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

226 (e) Whenever a person required to report learns of a case of a reportable disease or health
227 condition, an unusual cluster, or a suspicious event, that he or she reasonably believes may have
228 been caused by a criminal act, in addition to his or her other reporting responsibilities, he or she
229 shall immediately notify the state police. Whenever the department learns of a case of a
230 reportable disease or health condition, an unusual cluster, or a suspicious event, that it reasonably
231 believes may have been caused by a criminal act or that may result in an emergency detrimental
232 to the public health under section 2A of chapter 17 or a declared state of emergency as defined
233 under chapter 639 of the acts of 1950, as amended, it shall immediately notify the appropriate
234 public safety authorities, which may include the Massachusetts emergency management agency,
235 the department of the state police, and the police department in the city or town where the event
236 occurred, and it shall notify the appropriate federal health and safety authorities. Whenever a
237 local public health authority learns of a case of a reportable disease or health condition, an
238 unusual cluster, or a suspicious event, that it reasonably believes may have been caused by a
239 criminal act or that may result in an emergency detrimental to the public health under section 2A
240 of chapter 17 or a declared state of emergency as defined under chapter 639 of the acts of 1950,
241 it shall immediately notify the department and the police department in the city or town where
242 the event occurred, and may notify other appropriate public safety authorities, which may
243 include the Massachusetts emergency management agency the department of state police, and
244 the executive office of public safety and security. Sharing of such information shall be restricted
245 to that necessary for treatment and control of illness, investigation of the incident, and prevention
246 or control of the emergency.

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

249 (g) Any person required to report who refuses to file a report required by this section shall be
250 subject to a fine of not more than \$1,000. An individual health care provider shall be subject to

251 suspension or revocation of his license or certification if the refusal to file a report is gross,
252 wanton, or willful misconduct and poses a serious risk to the public health.

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

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

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

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

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

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

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

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

276 (2) during a state of emergency declared by the governor under chapter 639 of the acts of
277 1950, as amended;

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

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

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

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

286 (d) If the situation within Massachusetts for which the Massachusetts system for advance
287 registration is activated requires either numbers or expertise of personnel that are beyond the
288 capacity of said system to provide, the commissioner may request personnel from other states
289 having similar personnel registries. In such a case, out of state personnel when acting as
290 authorized personnel in Massachusetts shall receive the protections provided in subsections (g)
291 and (h) to members of the Massachusetts system for advance registration. This subsection shall
292 not apply to or affect a deployment under chapter 339 of the acts of 2000, known as the Interstate
293 Emergency Management Assistance Compact, or under section 58 of chapter 300 of the acts of
294 2002, known as the International Emergency Management Assistance Compact.

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

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

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

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

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

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

322 written declaration shall be filed with the house and senate clerks, the attorney general and the
323 office of consumer affairs and business regulation. The supply emergency shall automatically
324 terminate 90 days after its declaration but may be renewed once more by the governor under the
325 same standards and procedures set forth in this paragraph.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

392 Any person who knowingly violates an order, as to which non-compliance poses a
393 serious danger to public health as determined by the commissioner or the local public health
394 authority, shall be punished by imprisonment for not more than 30 days or a fine of not more
395 than \$1,000 per day that the violation continues, or both. It shall not be a defense to a

396 prosecution for this offense that the commissioner or the local public health authority
397 erroneously determined that non-compliance would pose a serious danger to public health, if the
398 commissioner or local public health authority was acting in good faith under color of official
399 authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

490 (e) Any person who knowingly violates an order for isolation or quarantine shall be punished by
491 imprisonment for not more than 30 days and may be subject to a civil fine of not more than
492 \$1,000 per day that the violation continues.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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