

HOUSE No.

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

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

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

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

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

49 “Health care facility”, any nonfederal institution, building, or agency or portion thereof, whether
50 public, private, for-profit or nonprofit, that is used, operated, or designed to provide health
51 services, medical treatment, or nursing, rehabilitative, or preventive care; provided, however,
52 that “health care facility” shall include but not be limited to: ambulatory surgical facilities, health
53 maintenance organizations, home health agencies, hospices, hospitals, infirmaries, intermediate
54 care facilities, kidney treatment centers, long term care facilities, medical assistance facilities,
55 mental health centers, outpatient facilities, public health centers, rehabilitation facilities,

56 residential treatments facilities, skilled nursing facilities and adult day-care centers; and provided
57 further, that when used for or in connection with the foregoing, “health care facility” shall
58 include, but not limited to, the following related property: alternate care sites, laboratories;
59 research facilities; pharmacies; laundry facilities; health personnel training and lodging facilities;
60 patient, guest, and health personnel food service facilities; and offices and office buildings for
61 persons engaged in health care professions or services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

202 authority of a local public health authority to require direct reporting of diseases, injuries,
203 health conditions, and threats to health to the local public health authority.

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

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

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

244 to that necessary for treatment and control of illness, investigation of the incident, and prevention
245 or control of the emergency.

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

248 (g) Any person required to report who refuses to file a report required by this section shall be
249 subject to a fine of not more than \$1,000. An individual health care provider shall be subject to
250 suspension or revocation of his license or certification if the refusal to file a report is gross,
251 wanton, or willful misconduct and poses a serious risk to the public health.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

315 Section 25P. (a) The governor may declare that a supply emergency exists, after conferring with
316 the attorney general and the director of consumer affairs and business regulation, as a result of a
317 natural disaster, military act, civil disorder, terrorist act, bio-terrorist act or other extraordinary
318 circumstance. The governor shall support said declaration of a supply emergency by making
319 written findings regarding the market disruption, the products or services that are in short supply,
320 and the products or services that are essential to the health, safety or welfare of the people. This
321 written declaration shall be filed with the house and senate clerks, the attorney general and the
322 office of consumer affairs and business regulation. The supply emergency shall automatically
323 terminate 90 days after its declaration but may be renewed once more by the governor under the
324 same standards and procedures set forth in this paragraph.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

391 Any person who knowingly violates an order, as to which non-compliance poses a
392 serious danger to public health as determined by the commissioner or the local public health
393 authority, shall be punished by imprisonment for not more than 30 days or a fine of not more
394 than \$1,000 per day that the violation continues, or both. It shall not be a defense to a
395 prosecution for this offense that the commissioner or the local public health authority
396 erroneously determined that non-compliance would pose a serious danger to public health, if the
397 commissioner or local public health authority was acting in good faith under color of official
398 authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

465 (b) Whenever the commissioner, or a local public health authority within its jurisdiction,
466 determines that an individual or group of individuals has or may have a disease or condition
467 dangerous to the public health or is or may be infected with an agent of such a disease or
468 condition, which disease or condition is transmissible between people and poses a serious danger
469 to public health, the commissioner, or a local public health authority may order such individual
470 or group to be isolated or quarantined. An order for isolation or quarantine may include any
471 individual who is unwilling or unable to undergo vaccination, precautionary prophylaxis,
472 medical treatment, decontamination, medical examinations, tests, or specimen collection and
473 whose refusal of 1 or more of these measures poses a serious danger to public health or results in
474 uncertainty whether he or she has been exposed to or is infected with a disease or condition that
475 poses a serious danger to public health. The order may be a verbal order in exigent
476 circumstances, and in such case it shall be followed by a written order as soon as reasonably
477 possible. The written order shall be delivered personally, but if that is not possible, it shall be
478 delivered in a manner that is reasonably calculated to notify the individual or group. In the case
479 of a group, this may include delivery through the mass media and posting in a place where group
480 members are reasonably likely to see the order.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

578 Section 2A. For purposes of this chapter, in response to a declared state of emergency as defined
579 under chapter 639 of the acts of 1950, as amended, or in response to an emergency detrimental to
580 the public health declared under section 2A of chapter 17, all persons acting within the scope of

581 rendering assistance or advice during the emergency and at the request or order of an employee,
582 representative, or agent of a public employer shall be a public employee of the public employer
583 making such request or order. The immunities provided in this section shall not apply to any
584 person whose act or omission caused in whole or in part the emergency or who would otherwise
585 be liable therefor.

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

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

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

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

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