

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Moore, Richard (SEN)

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:

Moore, Richard (SEN)

DISTRICT/ADDRESS:

Worcester and Norfolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S02775 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

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

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

1 SECTION 1. Chapter 17 of the General Laws is hereby amended by striking out section
2 2A, as appearing in the 2006 Official Edition, and inserting in place thereof the following
3 section:-
4 Section 2A. (a) Upon declaration by the governor that an emergency exists which is 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 or she may consider necessary to assure the maintenance of public
8 health 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 2. Said chapter 17 is hereby further amended by inserting after section 2A the
48 following section:-

49 Section 2B. (a) In this section, "Health care facility", means any non-federal institution, building,
50 or agency or portion thereof, whether public or private (for-profit or nonprofit) that is used,
51 operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or
52 preventive care to any person or persons. This includes, but is not limited to: ambulatory
53 surgical facilities, health maintenance organizations, home health agencies, hospices, hospitals,
54 infirmaries, intermediate care facilities, kidney treatment centers, long term care facilities,

55 medical assistance facilities, mental health centers, outpatient facilities, public health centers,
56 rehabilitation facilities, residential treatments facilities, skilled nursing facilities, and adult day-
57 care centers. The term also includes, but is not limited to, the following related property when
58 used for or in connection with the foregoing: alternate care sites, laboratories; research facilities;
59 pharmacies; laundry facilities; health personnel training and lodging facilities; patient, guest, and
60 health personnel food service facilities; and offices and office buildings for persons engaged in
61 health care professions or services. In this section, "Health care provider", means any person or
62 entity that provides health care services including, but not limited to, health plans, health
63 maintenance organizations, hospitals, medical clinics and offices, special care facilities, medical
64 laboratories, physicians, pharmacists, dentists, physician assistants, nurse practitioners, registered
65 and other nurses, paramedics, and emergency medical or laboratory technicians. In this section,
66 "Health care professional", includes, but is not limited to, a registered nurse, licensed practical
67 nurse, physician, physician assistant, dentist, pharmacist, pharmacy technician, psychologist and
68 social worker.

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

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

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

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

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

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

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

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

97 (7) to adopt and enforce measures to provide for the safe disposal of infectious waste and human
98 remains, provided that religious, cultural, family, and individual beliefs of the deceased person

99 shall be followed to the extent possible when disposing of human remains, whenever that may be
100 done without endangering the public health;

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

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

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

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

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

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

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

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

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

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

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

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

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

137 (2) Informing the people of the Commonwealth about how to protect themselves during the
138 emergency and its aftermath and what actions are being taken to control the emergency. For the
139 benefit of people of the Commonwealth who lack sufficient skills in English to understand the
140 information, reasonable efforts shall be made to provide the information in the primary

141 languages of those people as well as in English; and reasonable efforts shall be made to provide
142 the information in a manner accessible to individuals with disabilities.

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

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

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

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

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

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

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

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

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

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

182 (b) The department shall have the power to specify, and shall from time to time specify, the
183 responsibilities of health care providers, medical examiners, and others to report, to the

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

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

203 (d) This subsection governs the confidentiality of information in the possession of the
204 department, a local public health authority, or any other governmental agency pursuant to their
205 authority under this section, section 2B of chapter 17, and sections 7, 95 and 96 of chapter 111.
206 Information that relates to an individual’s past, present, or future physical or mental health,

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

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

230 of chapter 17 or a declared state of emergency as defined under chapter 639 of the acts of 1950,
231 it shall immediately notify the department and the police department in the city or town where
232 the event occurred, and may notify other appropriate public safety authorities, which may
233 include the Massachusetts emergency management agency the department of state police, and
234 the executive office of public safety and security. Sharing of such information shall be restricted
235 to that necessary for treatment and control of illness, investigation of the incident, and prevention
236 or control of the emergency.

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

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

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

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

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

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

254 Section 25L. (a) The department of public health shall establish a registry of volunteer personnel
255 who are available to provide services, including but not limited to health and medical services.

256 The registry shall be known as the Massachusetts system for advance registration. The
257 department may establish requirements for registration including but not limited to completion of
258 training.

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

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

263 (1) during an emergency detrimental to the public health declared by the governor under section
264 2A of chapter 17;

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

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

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

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

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

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

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

289 (f) Any Massachusetts medical reserve corps established pursuant to section 300hh-15 of chapter
290 42 of the United States code may be activated for duty under the circumstances stated in
291 subsection (c), subparagraphs (1) through (4), and when such activation is authorized by the
292 commissioner, members of such corps shall receive the protections provided in subsections (g)
293 and (h) to members of the Massachusetts system for advance registration.

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

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

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

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

314 (b) By a majority vote, the general court may terminate a declaration of a supply emergency
315 upon finding that the market disruption has ended, the product(s) or service(s) are no longer in

316 short supply, and/or that the product(s) or service(s) are not essential to the health, safety or
317 welfare of the people.

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

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

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

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

335 Board of Health authority to employ necessary officers, agents and assistants in order to execute
336 health laws and its regulations includes the exclusive authority to supervise and otherwise
337 oversee said officers, agents and assistants. Authority pursuant to this section preempts any

338 ordinance, bylaw, regulation or other state or local law that provides for the employment and
339 supervision of local board of health officers, agents and assistants.

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

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

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

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

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

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

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

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

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

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

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

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

378 The law enforcement authorities of the city or town where the person is present shall enforce the
379 court order.

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

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

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

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

399 (1) to vaccinate or provide precautionary prophylaxis to individuals as protection against
400 communicable disease and to prevent the spread of communicable or possibly communicable

401 disease, provided that any vaccine to be administered must not be such as is reasonably likely to
402 lead to serious harm to the affected individual; and

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

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

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

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

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

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

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

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

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

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

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

454 (b) Whenever the commissioner, or a local public health authority within its jurisdiction,
455 determines that an individual or group of individuals has or may have a disease or condition
456 dangerous to the public health or is or may be infected with an agent of such a disease or
457 condition, which disease or condition is transmissible between people and poses a serious danger
458 to public health, the commissioner, or a local public health authority may order such individual
459 or group to be isolated or quarantined. An order for isolation or quarantine may include any
460 individual who is unwilling or unable to undergo vaccination, precautionary prophylaxis,
461 medical treatment, decontamination, medical examinations, tests, or specimen collection and
462 whose refusal of one or more of these measures poses a serious danger to public health or results
463 in uncertainty whether he or she has been exposed to or is infected with a disease or condition
464 that poses a serious danger to public health. The order may be a verbal order in exigent
465 circumstances, and in such case it shall be followed by a written order as soon as reasonably

466 possible. The written order shall be delivered personally, but if that is not possible, it shall be
467 delivered in a manner that is reasonably calculated to notify the individual or group of it. In the
468 case of a group, this may include delivery through the mass media and posting in a place where
469 group members are reasonably likely to see it.

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

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

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

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

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

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

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

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

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

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

502 Section 12B. No physician duly registered under the provisions of section two, two A, nine, nine
503 A or nine B, no physician assistant duly registered under the provisions of section nine I or his
504 employing or supervising physician, no nurse duly registered or licensed under the provisions of
505 section seventy-four, seventy-four A or seventy-six, no pharmacist duly registered under the
506 provisions of section twenty-four, no pharmacy technician duly registered under the provisions
507 of section twenty-four C, no dentist duly registered under the provisions of section forty-five, or

508 forty-five A, no psychologist duly licensed under the provisions of sections one hundred and
509 eighteen through one hundred and twenty-nine, no social worker duly licensed under the
510 provisions of sections one hundred and thirty through one hundred and thirty-seven, no marriage
511 and family therapist or mental health counselor duly licensed under the provisions of sections
512 165 through 171, and no radiologic technologist duly licensed under the provisions of section 5L
513 of chapter 111, or resident in another state, in the District of Columbia or in a province of
514 Canada, and duly registered or licensed therein, who, in good faith, as a volunteer and without
515 fee, renders emergency care or treatment, other than in the ordinary course of his practice, shall
516 be liable in a suit for damages as a result of his acts or omissions, nor shall he be liable to a
517 hospital for its expenses if, under such emergency conditions, he orders a person hospitalized or
518 causes his admission.

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

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

524 SECTION 20. Section 12V of chapter 112 is hereby amended by striking out, in line 1, the
525 words

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

527 SECTION 21. Section 13 of chapter 122, as appearing in the 2006 Official Edition, is hereby
528 amended by striking out, in line 6, the words “and it shall have the same authority to remove

529 such person thereto as is conferred upon boards of health by section ninety-five of chapter one
530 hundred and eleven,”

531 SECTION 22. Section 1 of chapter 258, as appearing in the 2006 Official Edition, is hereby
532 amended by inserting at the end of the definition of “public employee” after the words “division
533 of medical assistance.” the following two sentences:

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

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

544 Section 33B. Whoever falsely makes, forges, counterfeits, alters, or tampers with any
545 identification card or other insignia issued by or under the authority of the commonwealth, or by
546 or under the authority of a Massachusetts medical reserve corps or a Massachusetts disaster
547 medical assistance team established pursuant to federal law, or with intent to defraud uses or
548 possesses any such identification card or insignia, or impersonates or falsely represents himself
549 to be or not to be a person to whom such identification card or insignia has been duly issued, or
550 willfully allows any other person to have or use any such identification card or insignia, issued

551 for his use alone, shall be punished by a fine of not more than five thousand dollars or
552 imprisonment for not more than one year, or both.

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

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

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

568 Section 24G.

569 (a) Any policy, contract, agreement, plan, or certificate of insurance for coverage of health care
570 services, including any sickness, health, or welfare plan issued within or without the
571 commonwealth, including but not limited to those of a carrier as defined under section 1 of
572 chapter 176O, or other state approved health plans, shall provide that, in the event of a

573 declaration of a public health emergency or state of emergency by the governor of the
574 commonwealth which necessitates a suspension of all elective procedures, there will be a waiver
575 of administrative requirements within the zone of that suspension of elective procedures,
576 including but not limited to: utilization review, prior authorization, advance notification upon
577 admission or delivery of services, and limitation on provider networks for treating or transfer of
578 patients. During such declared public health emergency or such state of emergency, all prompt
579 claims payment requirements, including the payment of interest for late processing, are waived
580 for services rendered during such public health emergency or state of emergency.

581

582 (b) Upon the declared end of such public health emergency or such state of emergency, there
583 shall be within 180 days a reconciliation of charges and reimbursements, during which time
584 claims may be adjusted or re-adjudicated based on the provisions of any contract between the
585 provider and health carrier, except that such reimbursement shall not be conditioned on the
586 execution during the public health emergency or state of emergency of pre-notification or pre-
587 authorization requirements. In the event that there is no contract between the provider and health
588 carrier, reconciliation will be based on reimbursement amounts equal to the carrier's usual and
589 customary reimbursement rates in force at the date of service, except that for services provided to
590 MassHealth members, reconciliation will be based on reimbursement amounts equal to the
591 MassHealth reimbursement rates in force on the date of service. Upon completion of the
592 reconciliation, any carrier overpayments will be reimbursed by the provider to the carrier and
593 any underpayments will be paid by the carrier to the provider. Investigations of fraud and
594 resultant recovery actions are not subject to this reconciliation period, but must be initiated

595 within three years from the date of the declared end of the public health emergency or state of
596 emergency.

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

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

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