

HOUSE No. 01572

The Commonwealth of Massachusetts

PRESENTED BY:

Harriett L. Stanley

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

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

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

PETITION OF:

NAME:

Harriett L. Stanley

DISTRICT/ADDRESS:

2nd Essex

HOUSE No. 01572

By Ms. Harriett L. Stanley of West Newbury, petition (accompanied by bill, House, No. 01572) of Harriett L. Stanley relative to the preparation for and response to certain public health emergencies. Joint Committee on Public Safety and Homeland Security.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

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

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

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

3 Section 2A. (a) The following terms shall, unless the context clearly requires otherwise, have the
4 following meanings:-

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

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

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

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

27 (c) During such public health emergency or state of emergency, any person who renders
28 assistance or advice during the emergency as provided in section 2A of chapter 258 shall be
29 protected from liability to the extent provided by chapter 258.

30 (d) During such public health emergency or state of emergency, any person owning or
31 controlling real estate or other premises who voluntarily and without compensation grants a
32 license or privilege, or otherwise permits the designation or use of the whole or any part or parts
33 of such real estate or premises for the purpose of assisting in responding to the emergency, shall

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

131 (2) Informing the people of the Commonwealth about how to protect themselves during the
132 emergency and its aftermath and what actions are being taken to control the emergency.

133 Reasonable efforts shall be made to provide such information in both English and the primary
134 language of the recipients of the information, and in a manner accessible to individuals with
135 disabilities. (e) Notwithstanding any general or special law to the contrary, all political
136 subdivisions of the commonwealth responding to a declared emergency may share and disclose
137 information to the extent necessary for the treatment, control and investigation of the emergency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

237 ‘System’, the Massachusetts system for advance registration.

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

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

246 Prior to administering a vaccination or medication, a medical professional or volunteer shall
247 inform the consumer of any possible side effects. If no side effects are known at the time of the
248 administration of the vaccination or medication, the consumer shall be informed of that as well.

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

251 (d) The commissioner may activate the system:

252 (1) during a public health emergency declared by the governor pursuant to section 2A of chapter
253 17;

254 (2) during a state of emergency proclaimed by the governor pursuant to chapter 639 of the acts of
255 1950;

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

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

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

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

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

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

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

276 (g) Any Massachusetts medical reserve corps, established pursuant to 42 U.S.C. section 300hh-
277 15, may be activated for duty under the circumstances stated in clauses (1) to (4), inclusive, of
278 said subsection (d). When such activation is requested by the governor and authorized by the
279 medical reserve corps' authorization mechanisms, members of such corps shall receive the
280 protections provided under subsection (h) to members of the system.

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

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

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

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

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

309 rules and regulations regarding violations of this section. Nothing in this paragraph shall
310 preempt chapter 93A or any rules or regulations promulgated under such chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

371 A person who knowingly violates any other order issued under this subsection may be subject to
372 a civil fine of not more than one thousand dollars per day that the violation continues. Any fine

373 collected for any violation of this section shall be credited fifty percent to the courts and fifty
374 percent to the health care safety net trust fund.

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

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

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

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

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

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

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

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

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

411 (d) (1) When the commissioner or a local public health authority within its jurisdiction
412 reasonably believes that a person may have been exposed to a disease or condition that poses a
413 threat to the public health, in addition to their authority under section 96 of chapter 111, the
414 commissioner or the local public health authority may detain the person for as long as may be
415 reasonably necessary for the commissioner or the local public health authority, to convey

416 information to the person regarding the disease or condition and to obtain contact information,
417 including but not limited to the person's residence and employment addresses, date of birth, and
418 telephone numbers.

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

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

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

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

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

455 (c) Isolation and quarantine orders must utilize the least restrictive means necessary to prevent a
456 serious danger to public health, and may include, but shall not be limited to, restricting a person
457 from being present in certain places, including but not limited to, school or work; confinement to
458 private homes; or confinement to other private or public premises. (e) Any person who
459 knowingly violates an order for isolation or quarantine shall be punished by imprisonment for

460 not more than 30 days and may be subject to a civil fine of not more than one thousand dollars
461 per day that the violation continues.

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

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

472 (g) The individual or group subject to an order of isolation or quarantine shall be informed that
473 the order may be appealed by filing a petition in superior court challenging the order at any time.
474 The appeal shall be heard by the superior court no later than 15 days from the date of filing of
475 such appeal. Such court shall issue a final decision on the appeal no later than 10 days after the
476 initial hearing. If an individual fails to comply with the order within the time specified in the
477 order, the commissioner or the local public health authority may apply to a judge of the superior
478 court for an order requiring the individual to comply with the order within the time specified in
479 the order of the court and to take whatever other action the court considers appropriate in the
480 circumstances to protect the public health. The law enforcement authorities of the city or town
481 where the individual is present shall enforce the court order.

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

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

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

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

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

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

496 Section 12B. No physician duly registered under the provisions of section 2, 2A, 9, 9A or 9B, no
497 physician assistant duly registered under the provisions of section 9I or his employing or
498 supervising physician, no nurse duly registered or licensed under the provisions of section s74,
499 74A or 76, no pharmacist duly registered under the provisions of section 24, no pharmacy
500 technician duly registered under the provisions of section 24C, no dentist duly registered under
501 the provisions of section 45, or 45A, no psychologist duly licensed under the provisions of
502 sections 118 through 129, no social worker duly licensed under the provisions of sections 133

503 through 137, no marriage and family therapist or mental health counselor duly licensed under the
504 provisions of sections 165 through 171, and no radiologic technologist duly licensed under the
505 provisions of section 5L of chapter 111, or resident in another state, in the District of Columbia
506 or in a province of Canada, and duly registered or licensed therein, who, in good faith, as a
507 volunteer and without fee, renders emergency care or treatment, other than in the ordinary course
508 of his practice, shall be liable in a suit for damages as a result of his acts or omissions, nor shall
509 he be liable to a hospital for its expenses if, under such emergency conditions, he orders a person
510 hospitalized or causes his admission.

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

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

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

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

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

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

523 SECTION 22. Section 13 of chapter 122, as appearing in the 2006 Official Edition, is hereby
524 amended by striking out, in line 6, the words “and it shall have the same authority to remove
525 such person thereto as is conferred upon boards of health by section ninety-five of chapter one
526 hundred and eleven,”

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

529 Section 2A: For purposes of this chapter, in response to a declared state of emergency as defined
530 under chapter 639 of the acts of 1950, as amended, or in response to an emergency detrimental to
531 the public health declared under section 2A of chapter 17, all persons acting within the scope of
532 rendering assistance or advice during the emergency and at the request or order of an employee,
533 representative, or agent of a public employer shall be a public employee of the public employer
534 making such request or order. The immunities provided in this section shall not apply to any
535 person whose act or omission caused in whole or in part the emergency or who would otherwise
536 be liable therefore or in the case of malfeasance, willful, wanton, or reckless actions by a
537 provider occurring in the performance of duties during said emergency

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

540 Section 33B. Whoever falsely makes, forges, counterfeits, alters, or tampers with any
541 identification card or other insignia issued by or under the authority of the commonwealth, or by
542 or under the authority of a Massachusetts medical reserve corps or a Massachusetts disaster
543 medical assistance team established pursuant to federal law, or with intent to defraud uses or
544 possesses any such identification card or insignia, or impersonates or falsely represents himself

545 to be or not to be a person to whom such identification card or insignia has been duly issued, or
546 willfully allows any other person to have or use any such identification card or insignia, issued
547 for his use alone, shall be punished by a fine of not more than five thousand dollars or
548 imprisonment for not more than one year, or both.

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

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

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

564 Section 24G.

565 (a) Any policy, contract, agreement, plan, or certificate of insurance for coverage of health care
566 services, including any sickness, health, or welfare plan issued within or without the

567 commonwealth, including but not limited to those of a carrier as defined under section 1 of
568 chapter 176O, or other state approved health plans, shall provide that, in the event of a
569 declaration of a public health emergency or state of emergency by the governor of the
570 commonwealth which necessitates a suspension of all elective procedures, there will be a waiver
571 of administrative requirements within the zone of that suspension of elective procedures,
572 including but not limited to: utilization review, prior authorization, advance notification upon
573 admission or delivery of services, and limitation on provider networks for treating or transfer of
574 patients. During such declared public health emergency or such state of emergency, all prompt
575 claims payment requirements, including the payment of interest for late processing, are waived
576 for services rendered during such public health emergency or state of emergency. The
577 department of public health shall consult with the division of insurance in promulgating
578 regulations regarding the waiver of administrative requirements and claims payment
579 requirements during a public health emergency.

580 (b) Upon the declared end of such public health emergency or such state of emergency, there
581 shall be within 180 days a reconciliation of charges and reimbursements, during which time
582 claims may be adjusted or re-adjudicated based on the provisions of any contract between the
583 provider and health carrier, except that such reimbursement shall not be conditioned on the
584 execution during the public health emergency or state of emergency of utilization review, pre-
585 notification or pre-authorization requirements. In the event that there is no contract between the
586 provider and health carrier, reconciliation will be based on reimbursement amounts equal to the
587 carrier's usual and customary reimbursement rates in force at the date of service, except that for
588 services provided to MassHealth members, reconciliation will be based on reimbursement
589 amounts equal to the MassHealth reimbursement rates in force on the date of service. Upon

590 completion of the reconciliation, any carrier overpayments will be reimbursed by the provider to
591 the carrier and any underpayments will be paid by the carrier to the provider. Investigations of
592 fraud and resultant recovery actions are not subject to this reconciliation period, but must be
593 initiated within three years from the date of the declared end of the public health emergency or
594 state of emergency.

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

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

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

611 malfeasance, willful, wanton, or reckless actions by a provider occurring in the performance of
612 the provider's duties during said emergency.

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