

SENATE NO. 685

AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2008 TO PROVIDE FUNDING TO SUPPORT PANDEMIC 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. To provide for certain unanticipated obligations of the commonwealth, to provide for
2 an alteration of purpose for current appropriations, and to meet certain requirements of law, the
3 sums set forth in section 2A are hereby appropriated from the General Fund unless specifically
4 designated otherwise, for the several purposes and subject to the conditions specified in this act, and
5 subject to the laws regulating disbursement of public funds for the fiscal year ending June 30, 2008;
6 provided, that the sums in said section 2A shall be in addition to any amounts previously
7 appropriated and made available for the purposes of those items, provided further, that all funds
8 appropriated in this section shall not revert and shall be available for expenditure until June 30,
9 2009.

10 NO SECTION 2.

11 SECTION 2A

12 EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

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Department of Public Health

4516-2000 For the costs associated with pandemic preparedness and response, including but not limited to the cost of antiviral medication, ventilators, and beds to increase the hospital and community health center capacity across the commonwealth, to improve the state laboratory to comply with federal requirements for “green status” designation for Strategic National Stockpile Delivery, for the development of a disease tracking system to collect and monitor public health data electronically via the Internet, to develop plans, incentives and provision to ensure continuity of care in the event of a major infectious disease outbreak, to provide protective equipment and response materials for first responders, and for the support of the development of local and regional planning, preparedness and response capacity for public health emergencies in each public health region; provided further, that not less than \$750,000 shall be expended for the re-establishment of the Office of Local Health Services in the Department of Public Health; provided further that not less than \$150,000 shall be expended for New England INDEX for emergency preparedness for people with disabilities; provided further, not less than \$140,000 shall be expended by the department to study the public health emergency preparedness in the commonwealth for such pandemic; provided further, that not less than \$1,500,000 shall be expended to hire not more than one pandemic influenza planner for each of the state’s fifteen emergency preparedness regions, provided that said planners shall be hired, managed and under the authority of the local governance structure of each regional preparedness coalition and shall be responsible for the planning in any constituent sub region; provided further, the study will be performed

36 jointly by the Harvard School of Public Health Center for Emergency Preparedness
37 and the Cambridge Public Health Advanced Practice Center for Emergency
38 Preparedness; provided further, the study shall identify deficiencies between the
39 department's guidelines for emergency dispensing site management and operations
40 and the current capabilities of local health departments to implement those
41 guidelines; and provided further, that the study shall include a report with
42 recommendations to improve emergency dispensing site management and operations
43 preparedness in the commonwealth for such pandemic; and provided further, such
44 report shall identify any necessary unfilled public health resource needs for such
45 management and operations and an estimate of the projected costs for
46 implementation of those resource needs; provided further that not less than \$250,000
47 shall be expended by the department to support early warning Avian and Zoonotic
48 disease surveillance, preparedness, and response planning programs at Tufts
49 University School of Veterinary Medicine; provided further, that not less than
50 \$1,000,000 shall be made available to home health organizations for the purchase of
51 protective equipment for home health staff including, but not limited to masks,
52 gowns, gloves, supplies, emergency tool kits for home health agencies including
53 emergency manuals with protocols and procedures for dealing with a public health
54 emergency; and provided further, the department shall submit a copy of the report to
55 the house and senate chairmen of the joint committees on Public Health and Health
56 Care Financing by December 15, 2007\$36,500,000

57 SECTION 3. Notwithstanding the provisions of any general or special law to the contrary, the
58 secretary of administration and finance shall promulgate rules and regulations for the

59 indemnification for and immunity from civil liability of designated state or local employees and
60 public health emergency volunteers in order to indemnify, exonerate, defend and hold harmless any
61 and all employees of the commonwealth and its political subdivisions and such other designated
62 volunteers from all uninsured loss and reasonable expenses, including legal fees and costs, arising
63 out of or relating to actions taken by any employee or designated volunteer who, in good faith, as a
64 volunteer and without fee, renders emergency care, treatment or other assistance, other than in the
65 ordinary course of his work, shall be liable in a suit for damages as a result of his acts or omissions,
66 acting as a result of pandemic preparedness and response during a declared public health
67 emergency, provided however that such actions are not deemed grossly negligent or wanton
68 disregard for life and property.

69 SECTION 4. Section 2 of Chapter 111 of the General Laws, as most recently appearing in the 2004
70 Official Edition, is hereby amended by inserting at the end thereof, the following new paragraph:

71 The commissioner of public health shall establish an Office of Local Health Services to provide
72 coordination of state health policies with, and provide support for, local public health administration
73 in all cities, towns, and regions including, but not limited to providing: technical assistance for
74 strengthening public health administration, planning and preparedness grants for public health
75 emergencies, training of public health officers, health information infrastructure grants to develop
76 local health information capacities and consistency with the national health information
77 infrastructure, infectious disease prevention and control to respond effectively to epidemics and
78 disease outbreaks, and building a regional network with including public health agencies, health
79 care providers, and emergency management agencies.

80 SECTION 5. Definitions.

81 “Health care facility”, any non-federal institution, building, or agency or portion thereof, whether
82 public or private (for-profit or nonprofit) that is used, operated, or designed to provide health
83 services, medical treatment, or nursing, rehabilitative, or preventive care to any person or persons.
84 This includes, but is not limited to: ambulatory surgical facilities, health maintenance organizations,
85 home health agencies, hospices, hospitals, infirmaries, intermediate care facilities, kidney treatment
86 centers, long term care facilities, medical assistance facilities, mental health centers, outpatient
87 facilities, public health centers, rehabilitation facilities, residential treatments facilities, skilled
88 nursing facilities, and adult day-care centers. The term also includes, but is not limited to, the
89 following related property when used for or in connection with the foregoing: laboratories; research
90 facilities; pharmacies; laundry facilities; health personnel training and lodging facilities; patient,
91 guest, and health personnel food service facilities; and offices and office buildings for persons
92 engaged in health care professions or services.

93 “Health care provider”, any person or entity who provides health care services including, but not
94 limited to, health plans, health maintenance organizations, hospitals, medical clinics and offices,
95 special care facilities, medical laboratories, physicians, pharmacists, dentists, physician assistants,
96 nurse practitioners, registered and other nurses, paramedics, emergency medical or laboratory
97 technicians, and ambulance and emergency medical workers. For purposes of reporting, the
98 definition of “health care provider” shall also include out-of-state medical laboratories, provided
99 that such laboratories have agreed to the reporting requirements of this commonwealth.

100 “Public health authority”, means the department of public health, unless otherwise specifically
101 ordered in the declaration of the state of public health emergency.

102 “Public safety authority”, shall mean the executive office of public safety, unless otherwise
103 specifically ordered in the declaration of a state of public health emergency.

104 “Quarantine”, the physical separation and confinement of an individual or groups of individuals,
105 who are or may have been exposed to a contagious or possibly contagious disease and who do not
106 show signs or symptoms of a contagious disease, from non-quarantined individuals, to prevent or
107 limit the transmission of the disease to non-quarantined individuals.

108 SECTION 6. The Board of Registration in Pharmacy and a representative from the National
109 Association of Chain Drug Stores, in conjunction with the department of public health, shall study
110 the feasibility of a statewide pharmacy and drug store electronic communication network to comply
111 with the provisions of this section, and that may also be used to track epidemic or pandemic
112 disease.

113 SECTION 7. Chapter 17 of the General Laws is hereby amended by striking out section 2A, as
114 appearing in the 2000 Official Edition, and inserting in place thereof the following section:-

115 Section 2A. (a) Upon declaration by the governor that a public health emergency exists, the
116 commissioner may, during such period of emergency, take such action and incur such liabilities as
117 he or she may consider necessary to assure the maintenance of public health and the prevention of
118 disease. The commissioner may establish procedures to be followed during such emergency to
119 ensure the continuation of essential public health services and the enforcement of the same. The
120 commissioner may authorize expenditures that he or she considers necessary to respond to the
121 public health emergency, including but not limited to expenditures for mental health, crisis
122 counseling, and substance abuse services needed due to the public health emergency, and
123 expenditures to reimburse other state or local agencies that incur liabilities in responding to the
124 public health emergency. The aggregate amount of all expenses incurred pursuant to this section
125 shall not exceed \$25 million for any fiscal year without legislative appropriation.

126 (b) Upon declaring a public health emergency, the governor may activate the state comprehensive
127 emergency management plan and its associated processes, including authority pursuant to St. 1950,
128 chapter 639, as amended. Such declaration may authorize the deployment and use of any forces to
129 which the plan applies and the use or distribution of any supplies, equipment, materials, and
130 facilities assembled, stockpiled, or available.

131 (c) During a declared public health emergency, any person who renders assistance or advice during
132 the emergency as provided in section 1 of chapter 258 shall be protected from liability to the extent
133 provided by chapter 258.

134 (d) During a declared public health emergency, any person owning or controlling real estate or
135 other premises who voluntarily and without compensation grants a license or privilege, or otherwise
136 permits the designation or use of the whole or any part or parts of such real estate or premises for
137 the purpose of assisting in responding to the emergency, shall not be civilly liable for causing the
138 death of, or injury to, any person on or about such real estate or premises under such license,
139 privilege, or other permission, or for causing loss of, or damage to, the property of such person,
140 except in the event of willful, wanton, or reckless misconduct.

141 (e) The immunities provided in subsection (d) shall not apply to any person whose act or omission
142 caused in whole or in part the public health emergency or who would otherwise be liable therefor.

143 (f) The declaration of public health emergency shall terminate when so declared by the governor, or
144 automatically after 90 days, unless renewed by the governor under the provisions of Section (4) of
145 this Act. Each renewal shall terminate after 90 days unless renewed for an additional 90 days, or
146 unless sooner terminated by order of the general court.

147 (g) Upon termination of the public health emergency, all powers granted to and exercised by the
148 commissioner under this section and section 2B shall terminate.

149 SECTION 8. Said chapter 17 is hereby further amended by inserting after section 2A the following
150 section:-

151 Section 2B. (a) Specifically, but without limiting the generality of section 2A and notwithstanding
152 the provisions of any other law, the commissioner shall have and may exercise, or may direct or
153 authorize other state or local government agencies to exercise, authority relative to any one or more
154 of the following if necessary to protect the public health during a declared public health emergency:

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

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

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

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

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

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

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

170 (8) to procure, store, or distribute any anti-toxins, serums, vaccines, immunizing agents, antibiotics,
171 and other pharmaceutical agents or medical supplies located within the commonwealth as may be

172 necessary to respond to the public health emergency, with the right to take immediate possession
173 thereof;

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

177 (10) to waive licensing requirements for health care professionals as necessary;

178 (11) to allow for the dispensing of controlled substances as necessary for the prevention or
179 treatment of illness;

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

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

184 (14) to isolate or quarantine individuals or groups pursuant to section 96 of chapter 111 when such
185 individuals or groups pose a serious danger of transmitting a dangerous disease or condition to
186 others, and

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

189 An order of the commissioner or his or her designee given to effectuate the purposes of this
190 subsection shall be immediately enforceable by any member of the state, city or town police having
191 the power to arrest and serve criminal process.

192 (b) Furthermore, the commissioner shall have and may exercise, or may direct or authorize other
193 state or local government agencies to exercise, the following authority:

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

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

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

204 (c) During a state of public health emergency, the commissioner of public health may request
205 assistance in enforcing orders pursuant to this Act from the public safety authority. The public
206 safety authority may request assistance from the National Guard, the army national guard, the air
207 national guard, or other military force organized under the laws of this commonwealth, in enforcing
208 the orders of the public health authority.

209 (d) All state and local agencies of the Commonwealth engaged in responding to the public health
210 emergency shall consult and cooperate in:

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

214 (2) informing the people of the Commonwealth about how to protect themselves during the
215 emergency and its aftermath and what actions are being taken to control the emergency. For the
216 benefit of people of the Commonwealth who lack sufficient skills in English to understand the

217 information, reasonable efforts shall be made to provide the information in the primary languages of
218 those people as well as in English; and reasonable efforts shall be made to provide the information
219 in a manner accessible to individuals with disabilities.

220 (e) All state and local agencies of the Commonwealth engaged in responding to the public health
221 emergency are authorized to share and disclose information to the extent necessary for the
222 treatment, control, and investigation of the emergency.

223 SECTION 9. Chapter 29 is hereby amended by inserting after section 2NNN the following
224 section:-

225 Section 2000. (a) There shall be established and set up on the books of the Commonwealth a
226 separate fund to be known as the Public Health Emergency Fund. There shall be credited to said
227 fund all amounts that are, by law, transferred or authorized to be transferred thereto or directed to be
228 deposited therein, and all amounts received as gifts, grants, or contributions for the purposes of the
229 fund. The monies in the fund shall be expended without further appropriation to pay liabilities
230 incurred by the executive office of health and human services, acting through the commissioner of
231 public health under section 2A of chapter 17 in meeting a declared public health emergency and its
232 aftermath. In addition, the commissioner of public health may expend monies in the fund to
233 reimburse other state or local agencies that have incurred liabilities in responding to the declared
234 public health emergency.

235 (b) Whenever the governor has declared a public health emergency, the governor may direct the
236 comptroller to transfer up to 25 million dollars from the General Fund to the Public Health
237 Emergency Fund, provided that the governor first determines that no appropriation or other
238 authorization for expenditure is available or sufficient to meet the emergency, and provided further
239 that the governor immediately transmits his written determination to the chairs of the house and

240 senate committees on ways and means and further identifies the emergency, the need for and
241 amount of the transfer, and the expected purposes of expenditures from the fund.

242 (c) Upon the termination of the public health emergency, and upon the comptroller's determination
243 in consultation with the secretary of health and human services and the commissioner that all
244 liabilities incurred as described in paragraph (a) have been satisfied, the comptroller shall re-
245 transfer to the General Fund the full amount transferred therefrom under paragraph (b), less the total
246 of expenditures from the fund on account of the public health emergency, provided that no re-
247 transfer hereunder shall reduce the balance in the fund to a sum less than when the public health
248 emergency was declared. The comptroller shall immediately transmit to the chairs of the house and
249 senate committees on ways and means a report listing the expenditures made from the fund during
250 the emergency, specifying the amounts transferred from and being re-transferred to the General
251 Fund, and explaining the calculation of the re-transfer amount.

252 (d) Within 90 days of the termination of the public health emergency, the state auditor shall conduct
253 and complete a review of all expenditures made from the fund during the emergency, and all
254 remaining liabilities expected to be paid from the fund, and shall transmit his findings to the chairs
255 of the house and senate committees on ways and means, the commissioner, and the comptroller.

256 SECTION 10. Destruction of Property

257 (a) To the extent practicable consistent with the protection of public health, prior to the
258 destruction of any property under this Act, the public health authority shall institute appropriate
259 civil proceedings against the property to be destroyed in accordance with the existing laws and rules
260 of the courts of this Commonwealth or any such rules that may be developed by the courts for use
261 during a state of public health emergency. Any property acquired by the public health authority

262 through such proceedings shall, after entry of the decree, be disposed of by destruction as the court
263 may direct. Any person aggrieved shall receive compensation pursuant to Section 13 of this Act.

264 SECTION 11. Section 5 of chapter 111, as appearing in the 2000 Official Edition, is hereby
265 amended by inserting after the word “disease” in line 4, the words:- and adverse health conditions

266 SECTION 12. Section 5L of said chapter 111, as so appearing, is hereby amended by striking out,
267 in line 26, the word “department” and inserting in place thereof the following word:- commissioner

268 SECTION 13. Section 6 of said chapter 111, as so appearing, is hereby amended by denoting the
269 language thereof as subsection (a), and by inserting, after the word “diseases” in lines 2 and 4 the
270 following words:-, injuries, health conditions, and threats to health

271 SECTION 14. Section 6 of chapter 111 is hereby further amended by inserting after subsection (a)
272 the following six subsections:-

273 (b) The department shall have the power to specify, and shall from time to time specify, the
274 responsibilities of health care providers, medical examiners, and others to report, to the department
275 or to a local board of health, diseases, injuries, health conditions, and threats to health specified by
276 the department. The department shall have the power to specify, and shall from time to time
277 specify, the responsibilities of local boards of health to report diseases, injuries, health conditions,
278 and threats to health to the department. The Department may specify the responsibilities of
279 pharmacists to report to the department unusual or increased prescription rates, unusual types of
280 prescriptions, or unusual trends in pharmacy visits that may indicate a threat to public health.

281 (c) Every board of health shall keep a record of all reports received under this section, containing
282 the name and location of all persons reported, their disease, injury, or health condition, the name of
283 the person reporting the case, the date of such report, and other information required by the
284 department. Such records shall be kept in the manner or upon forms prescribed by the department.

285 If a report concerns a student in or an employee of a public school, the board of health shall notify
286 the school health authorities. Every board of health shall appoint some person, who may or may not
287 be a member of the board, who shall have the responsibility to make reports to the department as
288 provided in subsection (b).

289 (d) This subsection governs the confidentiality of information in the possession of the department, a
290 local board of health, or any other governmental agency pursuant to their authority under this
291 section, section 2B of chapter 17, sections 7, 95 and 96 of chapter 111, and section 6 of chapter
292 111D. Information that relates to an individual's past, present, or future physical or mental health,
293 condition, treatment, service, products purchased, or provisions of care, that reveals the identity of
294 the individual, or where there is a reasonable basis to believe that such information could be utilized
295 to reveal the identity of that individual, either alone or with other information that is, or should
296 reasonably be known to be, available to predictable recipients of such information, shall not be
297 considered a public record as defined in clause twenty-sixth of section 7 of chapter 4. Such
298 information shall be kept confidential except when necessary for disease investigation, control,
299 treatment, and prevention purposes. Only those individuals who have a specific need to review
300 such information to carry out the responsibilities of their employment shall be entitled to access to
301 such information.

302 (e) Whenever the department or a board of health learns of a case of a reportable disease or health
303 condition, an unusual cluster, or a suspicious event, that it reasonably believes may have been
304 caused by a criminal act or that may result in a public health emergency under section 2A of chapter
305 17, it shall immediately notify the appropriate public safety authorities, which may include the
306 Massachusetts Emergency Management Agency, the colonel of the state police, and the chief of
307 police in the city or town where the event occurred, and it shall notify the appropriate federal health

308 and safety authorities. Sharing of such information shall be restricted to that necessary for
309 treatment and control of illness, investigation of the incident, and prevention or control of a public
310 health emergency.

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

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

318 SECTION 15. Said chapter 111 is hereby further amended by striking out section 7, as so
319 appearing, and inserting in place thereof the following section:-

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

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

327 SECTION 16. Said chapter 111 is further amended by striking out section 27, as so appearing, and
328 inserting in place thereof the following section:-

329 Board of Health authority to employ necessary officers, agents and assistants in order to execute
330 health laws and its regulations includes the exclusive authority to supervise and otherwise oversee

331 said officers, agents and assistants. Authority pursuant to this section preempts any ordinance, by-
332 law, regulation or other state or local law that provides for the employment and supervision of local
333 board of health officers, agents and assistants.

334 SECTION 17. Section 94A of said chapter 111, as so appearing, is hereby amended by striking out
335 subsection (d) and inserting in place thereof the following subsection:-

336 (d) Law enforcement authorities, at the request of the commissioner or his agent, shall assist
337 appropriate medical personnel in the transportation of such person to the tuberculosis treatment
338 center.

339 SECTION 18. Said chapter 111, as so appearing, is hereby further amended by striking out section
340 95 and inserting in place thereof the following section:-

341 Section 95. (a) Whenever the commissioner, or a local board of health within its jurisdiction,
342 determines that there is reasonable cause to believe that a disease or condition dangerous to the
343 public health exists or may exist or that there is an immediate risk of an outbreak of such a disease
344 or condition, that such disease or condition presents a serious danger to public health, and that
345 certain measures are necessary to decrease or eliminate the risk to public health, the commissioner
346 or board may issue an order. The order shall be in writing, shall specify the reasons for it, and may
347 include, but is not limited to:

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

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

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

354 (4) requiring the cleaning or disinfection, or both, of the premises or the thing specified in the order;
355 (5) requiring the destruction of the matter or thing specified in the order.

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

358 If a person does not comply with the order, and if the non-compliance poses a serious danger to
359 public health, the commissioner or local board of health may so notify the state police or the police
360 department of the city or town where the person is present, and the police shall enforce the order.

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

368 Any person who knowingly violates an order issued under this subsection may be subject to a civil
369 fine of not more than one thousand dollars per violation. Each day that the violation continues shall
370 be deemed a separate violation. Any fine collected for violation of this section shall be credited fifty
371 percent to the courts and fifty percent to the uncompensated care trust fund.

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

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

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

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

383 An individual who is unable or unwilling to submit to vaccination or treatment shall not be required
384 to submit to such procedures but may be isolated or quarantined pursuant to section 96 of chapter
385 111 if his or her refusal poses a serious danger to public health or results in uncertainty whether he
386 or she has been exposed to or is infected with a disease or condition that poses a serious danger to
387 public health.

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

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

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

400 (b) (1) When the commissioner or a local board of health within its jurisdiction reasonably believes
401 that a person may have been exposed to a disease or condition that poses a threat to the public
402 health, the person may be detained for as long as may be reasonably necessary for the commissioner
403 or board to convey information to the person regarding the disease or condition and to obtain
404 contact information, including but not limited to the person's residence and employment addresses,
405 date of birth, and telephone numbers.

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

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

412 SECTION 19. (a) The department of public health is authorized to adopt and enforce measures to
413 provide for the safe disposal of human remains as may be reasonable and necessary to respond to
414 the public health emergency. Such measures may include, but are not limited to

- 415 1. the embalming, burial, cremation, interment, disinterment, transportation, and disposal of
416 human remains.
- 417 2. to take possession or control of any human remains.
- 418 3. to order the disposal of any human remains of a person who has died of an contagious
419 disease through burial or cremation within twenty-four hours after death. Religious,
420 cultural, family and individual beliefs of the deceased person or his or her family shall be
421 considered when disposing of any human remains.

422 4. to compel any business or facility authorized to embalm, bury, cremate, inter, disinter,
423 transport, and dispose of human remains under the laws of this commonwealth to accept any
424 human remains or provide the use of its business or facility if such actions are reasonable
425 and necessary to respond to the public health emergency as a condition of licensure,
426 authorization, or the ability to continue to doing business in the commonwealth as such a
427 business or facility. The use of the business or facility may include transferring the
428 management and supervision of such business or facility to the public health authority or
429 other authority as the public health authority determines, for a limited or unlimited period of
430 time, but shall not exceed the termination of the declaration of the state of public health
431 emergency.

432 5. to procure, by eminent domain or otherwise, any business or facility authorized to embalm,
433 bury, cremate, inter, disinter, transport, and dispose of human remains under the laws of this
434 Commonwealth as may be reasonable and necessary to respond to the public health
435 emergency, with the right to take immediate possession thereof.

436 i. Every human remain prior to disposal shall be clearly labeled with all available
437 information to identify the decedent and the circumstances of death. Any human remain of a
438 deceased person with a contagious disease shall have an external, clearly visible tag indicating that
439 the human remain is infected and, if known, the contagious disease.

440 ii. Every person in charge of disposing of any human remains shall maintain an electronic
441 or written record of each human remains and all available information to identify the decedent and
442 the circumstances of death and disposal. If human remains cannot be identified, prior to disposal a
443 qualified person shall, to the extent possible, take fingerprints and one or more photographs of the

444 corpse, and collect a DNA specimen. All information gathered under this paragraph shall be
445 promptly forwarded to the public health authority.

446 (b) Nothing in this section shall relieve third party payers from meeting their contractual or other
447 legal obligations, including but not limited to the coverage of medical expenses.

448 (c) Anyone aggrieved by this section may appeal to a single justice of the Massachusetts supreme
449 judicial court.

450 SECTION 20. Said chapter 111, as so appearing, is hereby further amended by striking out section
451 96 and inserting in place thereof the following section:-

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

461 (b) Whenever the commissioner, or a local board of health within its jurisdiction, determines that an
462 individual or group of individuals has or may have a disease or condition dangerous to the public
463 health or is or may be infected with an agent of such a disease or condition, which disease or
464 condition is transmissible between people and poses a serious danger to public health, the
465 commissioner or board may order such individual or group to be isolated or quarantined. An order
466 for isolation or quarantine may include any individual who is unwilling or unable to undergo

467 vaccination, precautionary prophylaxis, medical treatment, decontamination, medical examinations,
468 tests, or specimen collection and whose refusal of one or more of these measures poses a serious
469 danger to public health or results in uncertainty whether he or she has been exposed to or is infected
470 with a disease or condition that poses a serious danger to public health. An order shall be delivered
471 personally, but if that is not possible, it shall be delivered in a manner that is reasonably calculated
472 to notify the individual or group of it. In the case of a group, this may include delivery through the
473 mass media and posting in a place where group members are reasonably likely to see it.

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

478 (d) An order for isolation or quarantine shall be immediately enforceable by any member of the
479 state, city or town police having the power to arrest and serve criminal process.

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

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

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

492 SECTION 21. Said chapter 111, as so appearing, is hereby further amended by striking out section
493 97 and inserting in place thereof the following section:-

494 Section 97. If necessary, the commissioner or a local board of health may take control of houses or
495 buildings for the purpose of isolation or quarantine or for the safe keeping of articles dangerous to
496 the public health, and may make orders to effectuate this subsection. The commissioner or board
497 may secure any infected clothing, furnishings, or other articles dangerous to the public health and
498 may disinfect or dispose of them in a manner that will protect the public health. Compensation for
499 the taking of property may be recovered under chapter 79.

500 SECTION 22. Section 114 of said chapter 111, as so appearing, is hereby amended by striking out,
501 in line 5, the words “under section one hundred and twelve”.

502 SECTION 22. Sections 92, 93, 94, 96A, 99, 100, 101, 103, 105, 108, 110, 110B, 111, 112, and 113
503 of chapter 111 are hereby repealed.

504 SECTION 24. Section 6 of chapter 111D, as appearing in the 2000 Official Edition, is hereby
505 amended by striking out the last sentence.

506 SECTION 25. Section 50 of chapter 112, is hereby amended by adding after the last sentence:
507 No dentist duly registered under the provisions of section 45 or 45A, or resident in another state, in
508 the District of Columbia or in a province of Canada, and duly registered therein, who, in good faith,
509 as a volunteer and without fee, renders emergency care or treatment, other than in the ordinary
510 course of his practice, shall be liable in a suit for damages as a result of his acts or omissions, nor

511 shall he be liable to a hospital for its expenses if, under such emergency conditions, he orders a
512 person hospitalized or causes his admission.

513 SECTION 26. Section 136 of chapter 112, is hereby amended by adding after the last sentence:

514 No psychologist duly licensed under the provisions of sections 118 through 129, or resident in
515 another state, in the District of Columbia or in a province of Canada, and duly licensed therein,
516 who, in good faith, as a volunteer and without fee, renders emergency care or treatment, other than
517 in the ordinary course of his practice, shall be liable in a suit for damages as a result of his acts or
518 omissions, nor shall he be liable to a hospital for its expenses if, under such emergency conditions,
519 he orders a person hospitalized or causes his admission.

520 SECTION 27. Section 134 of chapter 112, is hereby amended by adding after the last sentence:

521 No social worker duly licensed under the provisions of sections 130 through 137, or resident in
522 another state, in the District of Columbia or in a province of Canada, and duly licensed therein,
523 who, in good faith, as a volunteer and without fee, renders emergency care or treatment, other than
524 in the ordinary course of his practice, shall be liable in a suit for damages as a result of his acts or
525 omissions, nor shall he be liable to a hospital for its expenses if, under such emergency conditions,
526 he orders a person hospitalized or causes his admission.

527 SECTION 28. Section 13 of chapter 122, as appearing in the 2000 Official Edition, is hereby
528 amended by striking out, in lines 6, the words “and it shall have the same authority to remove such
529 person thereto as is conferred upon boards of health by section ninety-five of chapter one hundred
530 and eleven,”

531 SECTION 29. Section 1 of chapter 258, as appearing in the 2000 Official Edition, is hereby
532 amended by inserting at the end of the definition of “public employee” after the words “division of
533 medical assistance.” the following two sentences:- For purposes of this chapter, in response to a

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

542 SECTION 30. Section 13-12 of the Appendix to chapter 33, as appearing in the 2000 Official
543 Edition, is hereby amended by striking out, in line __, the words “except that the individual shall be
544 liable for his negligence”

545 SECTION 31.

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

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

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

568 SECTION 32. If any provision of this Act is ruled to be unconstitutional, the remaining portions
569 shall remain in full force and effect.

570 SECTION 33 The department of public health is authorized to promulgate and implement rules and
571 regulations that are reasonable and necessary to implement this Act.

572 SECTION 34. This Act shall take effect upon its passage.