

# SENATE NO. 2259

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

10 NO SECTION 2.

11 SECTION 2A

12 EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

13 *Department of Public Health*

14 4516-2000 For the costs associated with pandemic preparedness and response, including but  
15 not limited to the cost of antiviral medication, ventilators, and beds and appropriate  
16 equipment and medications to supply the affiliated hospital Influenza Specialty  
17 Care Units (ISCUs) to increase the hospital, ISCU and community health center  
18 capacity across the commonwealth to be purchased upon the review and approval  
19 of the Statewide Surge Committee, to improve the state laboratory to comply with  
20 federal requirements for “green status” designation for Strategic National Stockpile  
21 Delivery, for the development of a disease tracking system to collect and monitor  
22 public health data electronically via the Internet, to develop plans, incentives and  
23 provision to ensure continuity of care in the event of a major infectious disease  
24 outbreak, to provide protective equipment and response materials for first  
25 responders, and for the support of the development of local and regional planning,  
26 preparedness and response capacity for public health emergencies, declared  
27 pursuant to Section 2A of Chapter 17 of the General Laws or in response to a  
28 declared state of emergency as defined under chapter 639 of the Acts of 1950, in  
29 each public health region; provided further, that not less than \$750,000 shall be  
30 expended for the re-establishment of the Office of Local Health Services in the  
31 Department of Public Health; provided further that not less than \$150,000 shall be  
32 expended for New England INDEX for emergency preparedness for people with  
33 disabilities; provided further, not less than \$140,000 shall be expended by the  
34 department to study the public health emergency preparedness in the  
35 commonwealth for such pandemic; provided further, that not less than \$1,500,000  
36 shall be expended to hire not more than one pandemic influenza planner for each of

37 the state's fifteen emergency preparedness regions, provided that said planners  
38 shall be hired, managed and under the authority of the local governance structure of  
39 each regional preparedness coalition and shall be responsible for the planning in  
40 any constituent sub region; provided further, the study will be performed jointly by  
41 the Harvard School of Public Health Center for Emergency Preparedness and the  
42 Cambridge Public Health Advanced Practice Center for Emergency Preparedness;  
43 provided further, the study shall identify deficiencies between the department's  
44 guidelines for emergency dispensing site management and operations and the  
45 current capabilities of local health departments to implement those guidelines; and  
46 provided further, that the study shall include a report with recommendations to  
47 improve emergency dispensing site management and operations preparedness in the  
48 commonwealth for such pandemic; and provided further, such report shall identify  
49 any necessary unfilled public health resource needs for such management and  
50 operations and an estimate of the projected costs for implementation of those  
51 resource needs; provided further that not less than \$250,000 shall be expended by  
52 the department to support early warning Avian and Zoonotic disease surveillance,  
53 preparedness, and response planning programs at Tufts University School of  
54 Veterinary Medicine; provided further, that not less than \$1,000,000 shall be made  
55 available to home health organizations for the purchase of protective equipment for  
56 home health staff including, but not limited to masks, gowns, gloves, supplies,  
57 emergency tool kits for home health agencies including emergency manuals with  
58 protocols and procedures for dealing with a public health emergency declared  
59 pursuant to Section 2A of Chapter 17 of the General Laws or in response to a

60 declared state of emergency as defined under chapter 639 of the Acts of 1950; and  
61 provided further, the department shall submit a copy of the report to the house and  
62 senate chairmen of the joint committees on Public Health and Health Care  
63 Financing by December 15, 2007 .....\$36,500,000

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

66 Section 2A. (a) Upon declaration by the governor that an emergency exists which is detrimental  
67 to the public health or declared state of emergency as defined under chapter 639 of the Acts of  
68 1950, the commissioner may, during such period of emergency, take such action and incur such  
69 liabilities as he or she may consider necessary to assure the maintenance of public health and  
70 the prevention of disease. The commissioner may establish procedures to be followed during  
71 such emergency to ensure the continuation of essential public health services and the  
72 enforcement of the same.

73 In circumstances where the governor declares that the emergency detrimental to public health is  
74 limited to a specified local area, the appropriate local public health authority, as defined in  
75 section 1 of chapter 111, may, with the approval of the commissioner, during such period of  
76 emergency, take such action and incur such liabilities as it may deem necessary to assure the  
77 maintenance of public health and the prevention of disease. Furthermore, in such  
78 circumstances, such local public health authority may, with the approval of the commissioner,  
79 establish procedures to be followed during such emergency to insure the continuation of  
80 essential public health services and the enforcement of the same.

81 The commissioner may authorize expenditures from the Public Health Emergency Fund,  
82 established in Section 2YYY of Chapter 29 of the general laws, that he or she considers  
83 necessary to respond to such emergency, including but not limited to expenditures for mental  
84 health, crisis counseling, substance abuse services, and expenditures to reimburse other state or  
85 local agencies that incur liabilities in responding to such emergency. The aggregate amount of  
86 all expenses incurred pursuant to this section shall not exceed \$25 million for any fiscal year  
87 without legislative appropriation.

88 (b) Upon declaring such emergency, the governor may activate the state comprehensive  
89 emergency management plan and its associated processes, including authority pursuant to St.  
90 1950, chapter 639, as amended. Such declaration may authorize the deployment and use of any  
91 forces to which the plan applies and the use or distribution of any supplies, equipment,  
92 materials, and facilities assembled, stockpiled, or available.

93 (c) During such emergency, any person who renders assistance or advice during the emergency  
94 as provided in section 1 of chapter 258 shall be protected from liability to the extent provided by  
95 chapter 258.

96 (d) During such emergency, any person owning or controlling real estate or other premises who  
97 voluntarily and without compensation grants a license or privilege, or otherwise permits the  
98 designation or use of the whole or any part or parts of such real estate or premises for the  
99 purpose of assisting in responding to the emergency, shall not be civilly liable for causing the  
100 death of, or injury to, any person on or about such real estate or premises under such license,  
101 privilege, or other permission, or for causing loss of, or damage to, the property of such person,  
102 except in the event of willful, wanton, or reckless misconduct. The immunities provided in this

103 subsection shall not apply to any person whose act or omission caused in whole or in part such  
104 emergency or who would otherwise be liable therefor.

105 (e) The declaration of such emergency shall terminate when so declared by the governor, or  
106 automatically after 90 days, unless renewed by the governor. Each renewal shall terminate after  
107 90 days unless renewed for an additional 90 days, or unless sooner terminated by order of the  
108 general court.

109 (f) Upon termination of such emergency, all powers granted to and exercised by the  
110 commissioner, local public health authorities under this section and section 2B shall terminate.

111 SECTION 4. Said chapter 17 is hereby further amended by inserting after section 2A the  
112 following section:-

113 Section 2B. (a) In this section, "Health care facility", means any non-federal institution,  
114 building, or agency or portion thereof, whether public or private (for-profit or nonprofit) that is  
115 used, operated, or designed to provide health services, medical treatment, or nursing,  
116 rehabilitative, or preventive care to any person or persons. This includes, but is not limited to:  
117 ambulatory surgical facilities, health maintenance organizations, home health agencies,  
118 hospices, hospitals, infirmaries, intermediate care facilities, kidney treatment centers, long term  
119 care facilities, medical assistance facilities, mental health centers, outpatient facilities, public  
120 health centers, rehabilitation facilities, residential treatments facilities, skilled nursing facilities,  
121 and adult day-care centers. The term also includes, but is not limited to, the following related  
122 property when used for or in connection with the foregoing: ISCU's, laboratories; research  
123 facilities; pharmacies; laundry facilities; health personnel training and lodging facilities; patient,

124 guest, and health personnel food service facilities; and offices and office buildings for persons  
125 engaged in health care professions or services. In this section, “Health care provider”, means  
126 any person or entity that provides health care services including, but not limited to, health plans,  
127 health maintenance organizations, hospitals, medical clinics and offices, special care facilities,  
128 medical laboratories, physicians, pharmacists, dentists, physician assistants, nurse practitioners,  
129 registered and other nurses, paramedics, and emergency medical or laboratory technicians. In  
130 this section, “Health care professional”, includes, but is not limited to, a registered nurse,  
131 licensed practical nurse, physician, physician assistant, dentist, pharmacist, pharmacy  
132 technician, psychologist and social worker.

133 (b) Specifically, but without limiting the generality of section 2A and notwithstanding the  
134 provisions of any other law, the commissioner shall have and may exercise, or may direct or  
135 authorize other state or local government agencies to exercise, authority relative to any one or  
136 more of the following if necessary to protect the public health during an emergency declared  
137 pursuant to section 2A or declared state of emergency as defined under chapter 639 of the Acts  
138 of 1950. If the declared emergency is limited to a specified local area, a local public health  
139 authority as defined in section 1 of chapter 111 may exercise authority relative to any one or  
140 more of the following, except that it shall not exercise authority under subparagraphs (5), (8),  
141 (9), (10), (11), or (12) without prior approval of the commissioner:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

176 An order of the commissioner or his or her designee, or of a local public health authority or its  
177 designee, given to effectuate the purposes of this subsection shall be immediately enforceable  
178 by any member of the state, city or town police having the power to arrest and serve criminal  
179 process.

180 (c) During an emergency declared pursuant to section 2A or declared state of emergency as  
181 defined under chapter 639 of the Acts of 1950, the commissioner may request assistance from  
182 the Massachusetts Emergency Management Agency. The Massachusetts Emergency  
183 Management Agency may request assistance from the National Guard, the army national guard,

184 the air national guard, or other military force organized under the laws of this commonwealth, in  
185 enforcing the orders of the commissioner or of other state agencies or local public health  
186 authorities.

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

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

192 (2) Informing the people of the Commonwealth about how to protect themselves during the  
193 emergency and its aftermath and what actions are being taken to control the emergency. For the  
194 benefit of people of the Commonwealth who lack sufficient skills in English to understand the  
195 information, reasonable efforts shall be made to provide the information in the primary  
196 languages of those people as well as in English; and reasonable efforts shall be made to provide  
197 the information in a manner accessible to individuals with disabilities.

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

201 (f) To the extent practicable consistent with the protection of public health, prior to the  
202 destruction of any property during the emergency, the department of public health or a local  
203 public health authority shall institute appropriate civil proceedings against the property to be  
204 destroyed in accordance with the existing laws and rules of the courts of this Commonwealth or

205 any such rules that may be developed by the courts for use during the emergency. Any property  
206 acquired by the department of public health or a local public health authority through such  
207 proceedings shall, after entry of the decree, be disposed of by destruction as the court may  
208 direct.

209 SECTION 5. Chapter 29 is hereby amended by inserting after section 2XXX the following  
210 section:-

211 Section 2YYY. (a) There shall be established and set up on the books of the Commonwealth a  
212 separate fund to be known as the Public Health Emergency Fund. There shall be credited to said  
213 fund all amounts that are, by law, transferred or authorized to be transferred thereto or directed  
214 to be deposited therein, and all amounts received as gifts, grants, or contributions for the  
215 purposes of the fund. The commissioner may authorize expenditures of monies in the fund,  
216 without further appropriation, to pay liabilities incurred as a result of an emergency declared by  
217 the governor pursuant to section 2A of chapter 17. Such expenditures may include but are not  
218 limited to expenditures for mental health, crisis counseling, and substance abuse services, and  
219 expenditures to reimburse other state or local agencies that incur liabilities in responding to such  
220 emergency.

221 (b) Whenever the governor has declared an emergency detrimental to the public health, the  
222 governor may direct the comptroller to transfer up to 25 million dollars from the General Fund  
223 to the Public Health Emergency Fund, provided that the governor first determines that no  
224 appropriation or other authorization for expenditure is available or sufficient to meet the  
225 emergency, and provided further that the governor immediately transmits his written  
226 determination to the chairs of the house and senate committees on ways and means and further

227 identifies the emergency, the need for and amount of the transfer, and the expected purposes of  
228 expenditures from the fund.

229 (c) Upon the termination of the emergency, and upon the comptroller's determination, in  
230 consultation with the secretary of health and human services and the commissioner of public  
231 health, that all liabilities incurred as described in subsection (a) have been satisfied, the  
232 comptroller shall re-transfer to the General Fund the full amount transferred therefrom under  
233 subsection (b), less the total of expenditures from the fund on account of the emergency,  
234 provided that no re-transfer hereunder shall reduce the balance in the fund to a sum less than  
235 when the emergency was declared. The comptroller shall immediately transmit to the chairs of  
236 the house and senate committees on ways and means a report listing the expenditures made  
237 from the fund during the emergency, specifying the amounts transferred from and being re-  
238 transferred to the General Fund, and explaining the calculation of the re-transfer amount.

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

244 SECTION 6. Section 1 of Chapter 111, as appearing in the 2006 Official Edition, is hereby  
245 amended by inserting after the definition of “inland waters” the following definition:-

246 “Local public health authority”, any body politic or political subdivision of the commonwealth  
247 that acts as a board of health, public health commission, or health department for a city or town

248 and includes any board of health as defined in this section and any regional board of health or  
249 regional health district as defined in section 27B of chapter 111.

250 SECTION 7. Section 2 of Chapter 111 of the General Laws, as most recently appearing in the  
251 2006 Official Edition, is hereby amended by inserting at the end thereof, the following new  
252 paragraph:-

253 The commissioner of public health shall establish an Office of Local Health Services to  
254 provide coordination of state health policies with, and provide support for, local public health  
255 administration in all cities, towns, and regions including, but not limited to providing: technical  
256 assistance for strengthening public health administration, planning and preparedness grants for  
257 public health emergencies declared pursuant to Section 2A of Chapter 17 of the General Laws  
258 or declared states of emergency as defined under chapter 639 of the Acts of 1950, training of  
259 public health officers, health information infrastructure grants to develop local health  
260 information capacities and consistency with the national health information infrastructure,  
261 infectious disease prevention and control to respond effectively to epidemics and disease  
262 outbreaks, and building a regional network with including public health agencies, health care  
263 providers, and emergency management agencies.

264 SECTION 8. Section 5 of chapter 111, as so appearing, is hereby amended by inserting after the  
265 word “disease” in line 4, the words:- and adverse health conditions

266 SECTION 9. Section 5A of chapter 111, as so appearing is hereby amended by striking out the  
267 first paragraph thereof and inserting in place thereof the following two paragraphs:-

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

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

281 SECTION 10. Section 6 of said chapter 111, as so appearing, is hereby amended by denoting  
282 the language thereof as subsection (a), and by inserting, after the word "diseases" in lines 2 and  
283 4 the following words:-, injuries, health conditions, and threats to health

284 SECTION 11. Section 6 of chapter 111 is hereby further amended by inserting after subsection  
285 (a) the following six subsections:-

286 (b) The department shall have the power to specify, and shall from time to time specify, the  
287 responsibilities of health care providers, medical examiners, and others to report, to the  
288 department or to a local public health authority, diseases, injuries, health conditions, and threats

289 to health specified by the department. For purposes of this section, “health care provider” shall  
290 include out-of-state medical laboratories, provided that such laboratories have agreed to the  
291 reporting requirements of this commonwealth. The department shall have the power to specify,  
292 and shall from time to time specify, the responsibilities of local public health authorities to  
293 report diseases, injuries, health conditions, and threats to health to the department. The  
294 Department may specify the responsibilities of pharmacists to report to the department unusual  
295 or increased prescription rates, unusual types of prescriptions, or unusual trends in pharmacy  
296 visits that may indicate a threat to public health.

297 (c) Every local public health authority shall keep a record of all reports received under this  
298 section, containing the name and location of all persons reported, their disease, injury, or health  
299 condition, the name of the person reporting the case, the date of such report, and other  
300 information required by the department. Such records shall be kept in the manner or upon forms  
301 prescribed by the department. If a report concerns a student in or an employee of a public  
302 school, the local public health authority shall notify the school health authorities. Every local  
303 public health authority shall appoint some person, who may or may not be a member of the  
304 board, who shall have the responsibility to make reports to the department as provided in  
305 subsection (b).

306 (d) This subsection governs the confidentiality of information in the possession of the  
307 department, a local public health authority, or any other governmental agency pursuant to their  
308 authority under this section, section 2B of chapter 17, sections 7, 95 and 96 of chapter 111, and  
309 section 6 of chapter 111D. Information that relates to an individual’s past, present, or future  
310 physical or mental health, condition, treatment, service, products purchased, or provisions of

311 care, that reveals the identity of the individual, or where there is a reasonable basis to believe  
312 that such information could be utilized to reveal the identity of that individual, either alone or  
313 with other information that is, or should reasonably be known to be, available to predictable  
314 recipients of such information, shall not be considered a public record as defined in clause  
315 twenty-sixth of section 7 of chapter 4. Such information shall be kept confidential except when  
316 necessary for disease investigation, control, treatment, and prevention purposes. Only those  
317 individuals who have a specific need to review such information to carry out the responsibilities  
318 of their employment shall be entitled to access to such information.

319 (e) Whenever a person required to report learns of a case of a reportable disease or health  
320 condition, an unusual cluster, or a suspicious event, that he or she reasonably believes may have  
321 been caused by a criminal act, in addition to his or her other reporting responsibilities, he or she  
322 shall immediately notify the state police. Whenever the department, a local public health  
323 authority learns of a case of a reportable disease or health condition, an unusual cluster, or a  
324 suspicious event, that it reasonably believes may have been caused by a criminal act or that may  
325 result in an emergency detrimental to the public health under section 2A of chapter 17 or  
326 declared states of emergency as defined under chapter 639 of the Acts of 1950, it shall  
327 immediately notify the appropriate public safety authorities, which may include the  
328 Massachusetts Emergency Management Agency, the colonel of the state police, and the chief of  
329 police in the city or town where the event occurred, and it shall notify the appropriate federal  
330 health and safety authorities. Sharing of such information shall be restricted to that necessary  
331 for treatment and control of illness, investigation of the incident, and prevention or control of  
332 the emergency.

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

335 (g) Any person required to report, including a local public health authority that refuses to file a  
336 report required by this section shall be subject to a fine of not more than one thousand dollars.  
337 An individual health care provider shall be subject to suspension or revocation of his or her  
338 license or certification if the refusal to file a report is gross, wanton, or willful misconduct and  
339 poses a serious risk to the public health.

340 SECTION 12. Said chapter 111 is hereby further amended by striking out section 7, as so  
341 appearing, and inserting in place thereof the following section:-

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

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

349 SECTION 13. Said chapter 111 is hereby further amended by inserting after section 25K the  
350 following 2 sections:-

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

353 services. The registry shall be known as the Massachusetts system for advance registration.

354 The department may establish requirements for registration including but not limited to

355 completion of training.

356 (b) The department shall establish a process to identify personnel in the Massachusetts system

357 for advance registration, which may include a requirement for photographic identification.

358 (c) The commissioner of public health may activate the Massachusetts system for advance

359 registration during an emergency detrimental to the public health declared by the governor

360 under section 2A of chapter 17, or during a state of emergency declared by the governor under

361 chapter 639 of the Acts of 1950, or pursuant to a request to the commissioner from a local

362 government entity in the commonwealth when local resources have been exhausted, or pursuant

363 to an official request from another state or from a province in Canada. The location of duty may

364 be within the commonwealth, or may be in another state or a province of Canada of an official

365 request for assistance has been received from such state or province.

366 (d) If the situation within Massachusetts for which the Massachusetts system for advance

367 registration is activated requires either numbers or expertise or personnel that are beyond the

368 capacity of said system to provide, the commissioner may request personnel from other states

369 having similar personnel registries. In such a case, out of state personnel when acting as

370 authorized personnel in Massachusetts shall receive the protections provided in subsections (g)

371 and (h) to members of the Massachusetts system for advance registration. This subsection shall

372 not apply to or affect a deployment under chapter 339 of the Acts of 2000, known as the

373 Interstate Emergency Management Assistance Compact, or under section 58 of chapter 300 of

374 the Acts of 2002, known as the International Emergency Management Assistance Compact.

375 (e) Any Massachusetts disaster medical assistance team established pursuant to section 300hh-  
376 11 of chapter 42 of the United States code may be activated for duty, which it is not formally  
377 activated in federal service, by the commissioner under the circumstances stated in subsection  
378 (c), except that such team shall not be deployed to another state or province in Canada. When  
379 so activated, or when participating in authorized training or exercises, members of such team  
380 shall receive the protections provided in subsections (g) and (h) to members of the  
381 Massachusetts system for advance registration, until December 21, 2010, after which date such  
382 team members must be members of the Massachusetts system for advance registration in order  
383 to receive such protections.

384 (f) When any Massachusetts medical reserve corps established pursuant to section 300hh-15 of  
385 chapter 42 of the United States code is providing services pursuant to a request of the  
386 commissioner or of a local public health authority or is participating in authorized training or  
387 exercises, members of such corps shall receive the protections provided in subsections (g) and  
388 (h) to members of the Massachusetts system for advance registration, until December 31, 2010  
389 after which date such corps members must be members of the Massachusetts system for  
390 advance registration in order to receive such protections.

391 (g) In the absence of any other protections provided by law, whenever activated for duty or  
392 participating in authorized training or exercises, members of the Massachusetts system for  
393 advance registration shall be construed to be employees of the commonwealth for the purposes  
394 of chapter 258 of the general laws.

395 (h) In the absence of any other benefits provided by law, any member of the Massachusetts  
396 system for advance registration who dies or who sustains disability or injury while activated for

397 duty or while participating in authorized training or exercises shall be construed to be an  
398 employee of the commonwealth and shall be compensated in like manner as state employees are  
399 compensated under the provisions of sections 69 through 75 of chapter 152 of the general laws.

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

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

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

416 (c) The attorney general, in consultation with the office of consumer affairs and business  
417 regulation, and upon the declaration by the governor that a supply emergency exists, shall take

418 appropriate action to ensure that no person shall sell a product or service that is at a price that  
419 unreasonably exceeds the price charged before the emergency. The attorney general may make  
420 reasonable rules and regulations governing exceptions for the additional costs incurred in  
421 connection with the acquisition, production, distribution or sale of an energy resource, as well as  
422 rules and regulations regarding violations of this section. Nothing in this paragraph shall  
423 preempt chapter 93A or any rules or regulations promulgated under such chapter.

424 SECTION 14. Said chapter 111 is further amended by adding at the end of section 26E, the  
425 following paragraph:-

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

431 SECTION 15. Said chapter 111 is further amended by adding at the end of section 27, the  
432 following paragraph :-

433 Board of Health authority to employ necessary officers, agents and assistants in order to execute  
434 health laws and its regulations includes the exclusive authority to supervise and otherwise  
435 oversee said officers, agents and assistants. Authority pursuant to this section preempts any  
436 ordinance, by-law, regulation or other state or local law that provides for the employment and  
437 supervision of local board of health officers, agents and assistants.

438 SECTION 16. Section 94A of said chapter 111, as so appearing, is hereby amended by striking  
439 out subsection (d) and inserting in place thereof the following subsection:-

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

443 SECTION 17. Said chapter 111, as so appearing, is hereby further amended by striking out  
444 section 95 and inserting in place thereof the following section:-

445 Section 95. (a) Whenever the commissioner, or a local public health authority within its  
446 jurisdiction, determines that there is reasonable cause to believe that a disease or condition  
447 dangerous to the public health exists or may exist or that there is an immediate risk of an  
448 outbreak of such a disease or condition, and that certain measures are necessary to decrease or  
449 eliminate the risk to public health, the commissioner, local public health authority may issue an  
450 order. The order shall be in writing, shall specify the reasons for it, and may include, but is not  
451 limited to:

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

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

456 (3) requiring the placarding of premises to give notice of an order requiring the closing of the  
457 premises;

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

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

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

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

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

475 Any person who knowingly violates an order issued under this subsection may be subject to a  
476 civil fine of not more than one thousand dollars per violation. Each day that the violation  
477 continues shall be deemed a separate violation. Any fine collected for violation of this section

478 shall be credited fifty percent to the courts and fifty percent to the uncompensated care trust  
479 fund.

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

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

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

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

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

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

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

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

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

515 (d) (1) When the commissioner, or a local public health authority within its jurisdiction  
516 reasonably believes that a person may have been exposed to a disease or condition that poses a  
517 threat to the public health, the person may be detained for as long as may be reasonably  
518 necessary for the commissioner, or a local public health authority to convey information to the

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

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

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

529 SECTION 18. Said chapter 111, as so appearing, is hereby further amended by striking out  
530 section 96 and inserting in place thereof the following section:-

531 Section 96. (a) In this section, "isolation" means separation, for the period of communicability,  
532 of infected individuals or animals from other individuals or animals in such places and under  
533 such conditions as will prevent the direct or indirect transmission of an infectious agent to  
534 susceptible people or to other individuals or animals who may spread the agent to others. In this  
535 section, "quarantine" means restricting the freedom of movement of well individuals or  
536 domestic animals that have been exposed to a communicable disease for a period of time  
537 relating to the usual incubation period of the disease, in order to prevent effective contact with  
538 those not so exposed. In this section, "disease or condition dangerous to the public health" does

539 not include acquired immune deficiency syndrome (AIDS) or the human immunodeficiency  
540 virus (HIV).

541 (b) Whenever the commissioner, or a local public health authority within its jurisdiction,  
542 determines that an individual or group of individuals has or may have a disease or condition  
543 dangerous to the public health or is or may be infected with an agent of such a disease or  
544 condition, which disease or condition is transmissible between people and poses a serious  
545 danger to public health, the commissioner, or a local public health authority may order such  
546 individual or group to be isolated or quarantined. An order for isolation or quarantine may  
547 include any individual who is unwilling or unable to undergo vaccination, precautionary  
548 prophylaxis, medical treatment, decontamination, medical examinations, tests, or specimen  
549 collection and whose refusal of one or more of these measures poses a serious danger to public  
550 health or results in uncertainty whether he or she has been exposed to or is infected with a  
551 disease or condition that poses a serious danger to public health. An order shall be delivered  
552 personally, but if that is not possible, it shall be delivered in a manner that is reasonably  
553 calculated to notify the individual or group of it. In the case of a group, this may include  
554 delivery through the mass media and posting in a place where group members are reasonably  
555 likely to see it.

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

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

563 (e) Any person who knowingly violates an order for isolation or quarantine may be subject to a  
564 civil fine of not more than one thousand dollars per violation. Each day that the violation  
565 continues shall be deemed a separate violation.

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

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

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

579 SECTION 19. Section 114 of said chapter 111, as so appearing, is hereby amended by striking  
580 out, in line 5, the words “under section one hundred and twelve”.

581 SECTION 20. Sections 92, 93, 94, 96A, 103, 105, 110, 110B, and 113 of chapter 111 are  
582 hereby repealed.

583 SECTION 21. Section 6 of chapter 111D, as appearing in the 2006 Official Edition, is hereby  
584 amended by striking out the last sentence.

585 SECTION 22. Section 12B of chapter 112, is hereby amended by striking the section in its  
586 entirety and replacing it with the following:

587 Section 12B. No physician duly registered under the provisions of section two, two A, nine,  
588 nine A or nine B, no physician assistant duly registered under the provisions of section nine I or  
589 his employing or supervising physician, no nurse duly registered or licensed under the  
590 provisions of section seventy-four, seventy-four A or seventy-six, no pharmacist duly  
591 registered under the provisions of section twenty-four, no pharmacy technician registered under  
592 the provisions of section twenty-four C, no dentist duly registered under the provisions of  
593 section forty-five, or forty-five A, no psychologist duly licensed under the provisions of sections  
594 one hundred and eighteen through one hundred and twenty-nine, no social worker duly licensed  
595 under the provisions of sections one hundred and thirty through one hundred and thirty-seven,  
596 or resident in another state, in the District of Columbia or in a province of Canada, and duly  
597 registered therein, who, in good faith, as a volunteer and without fee, renders emergency care or  
598 treatment, other than in the ordinary course of his practice, shall be liable in a suit for damages  
599 as a result of his acts or omissions, nor shall he be liable to a hospital for its expenses if, under  
600 such emergency conditions, he orders a person hospitalized or causes his admission.

601 SECTION 23. Section 13 of chapter 122, as appearing in the 2006 Official Edition, is hereby  
602 amended by striking out, in line 6, the words “and it shall have the same authority to remove  
603 such person thereto as is conferred upon boards of health by section ninety-five of chapter one  
604 hundred and eleven,”

605 SECTION 24. Section 1 of chapter 258, as appearing in the 2006 Official Edition, is hereby  
606 amended by inserting at the end of the definition of “public employee” after the words “division  
607 of medical assistance.” the following two sentences:-

608 For purposes of this chapter, in response to a declared state of emergency as defined under  
609 chapter 639 of the Acts of 1950 and any applicable amendments, or in response to an  
610 emergency detrimental to the public health declared under section 2A of chapter 17, all persons  
611 acting within the scope of rendering assistance or advice during the emergency and at the  
612 request or order of an employee, representative, or agent of a public employer, or while  
613 participating in training for such an emergency at such request or order shall be a public  
614 employee of the public employer making such request or order. The immunities provided in  
615 this section shall not apply to any person whose act or omission caused in whole or in part the  
616 emergency or who would otherwise be liable therefor.

617 SECTION 25. Chapter 268 of the General Laws, as appearing in the 2006 Official Edition is  
618 hereby amended by inserting after section 33A the following section:-

619 Section 33B. Whoever falsely makes, forges, counterfeits, alters, or tampers with any  
620 identification card or other insignia issued by or under the authority of the commonwealth, or by  
621 or under the authority of a Massachusetts medical reserve corps or a Massachusetts disaster

622 medical assistance team established pursuant to federal law, or with intent to defraud uses or  
623 possesses any such identification card or insignia, or impersonates or falsely represents himself  
624 to be or not to be a person to whom such identification card of insignia has been duly issued, or  
625 willfully allows any other person to have or use any such identification card or insignia, issued  
626 for his use alone, shall be punished by a fine of not more than five thousand dollars or  
627 imprisonment for not more than one year, or both.

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

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

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