

4275,
House, No. 4274
Printed as amended
BILL RELATIVE TO PUBLIC

HEALTH EMERGENCY
 PREPARATION AND RESPONSE IN
 THE COMMONWEALTH.

H.R., Oct. 7, 2009,-- Recommended (H.W&M) as a new text for Senate bill No. 2028.

Oct. 8, 2009,-- Adopted as new text for Senate bill No. 2028.

Subsequent to adoption as new text, amended after 3rd. rdg of S.2028, as follows:

1. Amended (L'Italien, et al);
 2. ~~Amended~~ (L'Italien, et al);
 3. Amended (L'Italien, et al);
 4. Amended (L'Italien, et al);
 5. Amended (L'Italien, et al);
 6. Amended (L'Italien, et al);
 7. Amended (Sanchez);
 8. Amended (Bradley, et al);
 9. Amended (Sanchez);
 10. Amended (Sanchez);
 11. Amended (Vallee);
 12. Amended (Bradley, et al);
 13. Amended (Bradley);
 14. Amended (Rushing, et al);
 15. Amended (Dwyer);
 16. Amended (Bradley);
 17. Amended (Jones);
- See S.2028.

Text of an amendment (House, No. 4271), as recommended by the committee on Ways and Means, as changed by the committee on Bills in the Third Reading, and as amended by the House, to the Senate Bill relative to pandemic and disaster preparation and response (Senate, No. 2028, amended). October 8, 2009.

The Commonwealth of Massachusetts

House, No. 4275

In the Year Two Thousand and Nine

The Committee on Ways and Means recommends that the bill be amended by striking out all after the enacting clause and inserting in place thereof the following:

1 "SECTION 1. Chapter 17 of the General Laws, ~~as appearing in the 2008 Official Edition,~~ is

2 hereby amended by striking out section 2A and inserting in place thereof the following 2 sections:-

3 Section 2A. Upon declaration by the governor that a public health emergency exists, ~~the~~
4 *in this section and Section 2B, referred to as a declared emergency, the*
5 *the commissioner* ~~commissioner~~ *the declared* ~~may, during such period of emergency and with approval of the governor, take such action~~
6 and incur such liabilities as ~~he~~ *for* may consider necessary to assure the maintenance of public health and the
7 prevention of disease. The commissioner may establish procedures to be followed during such

8 emergency to ensure the continuation of essential public health services and the ~~implementation of such~~
9 *enforcement of the same* ~~services~~

10 If the governor ~~declares that a public health emergency is limited to~~ *limits a declared emergency* a specified local area, the
11 appropriate local public health authority, as defined in section 1 of chapter 111, may, ~~subject to the~~ *with*
12 approval of the commissioner, take such action during ~~said public health emergency as it may deem~~ *the declared* ~~necessary to assure~~ *consider* the maintenance of public health and the prevention of disease. A local public health
13 authority may, with the approval of the commissioner, establish procedures to be followed during such

14 public health emergency to ensure the continuation of essential public health services ~~and the~~ *... set*
15 *enforcement of the same* ~~implementation of such services~~ *supersede* Nothing in this section shall ~~supersede~~ the normal operating authority
16 of the local public health authorities, except that such authority shall not be exercised in a manner that

as appearing in the 2008 Official Edition,

(a) The following terms shall, unless the context clearly requires otherwise, have the following meanings:-

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

conflicts with any procedure or order issued by the commissioner to assure the maintenance of public health and the prevention of disease during such emergency.

During a declared
(b) ~~Upon declaration of a public health emergency~~, a person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of such real estate or premises, in whole or in part, for the purpose of assisting in response to such an emergency, shall not be civilly liable for causing the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission or for causing the loss of, or damage to, the property of such person, except in the event of willful, wanton or reckless misconduct. The immunities provided in this subsection shall not apply to any person whose act or omission caused such emergency, in whole or in part, or who would otherwise be liable therefor.

(c) A declared ~~public health~~ emergency shall terminate when so declared by the governor or 90 days after its declaration, whichever occurs first. Upon termination of a ~~public health~~ *declared* emergency, all powers granted to and exercised by the commissioner and local public health authorities under this section and section 2B shall terminate.

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

'Health care facility', a non-federal institution, building, agency or portion thereof, whether public or private, for-profit or nonprofit, that is used, operated or designed to provide health services, medical treatment or nursing, rehabilitative or preventive care to any person, including, without limitation: adult day-care centers; ambulatory surgical facilities; community health centers; home health agencies; hospices; hospitals; infirmaries; intermediate care facilities; kidney treatment centers; long-term care facilities; medical assistance facilities; mental health centers; outpatient facilities; public health centers; rehabilitation facilities; residential treatment facilities; and skilled nursing facilities; and provided further, that the term 'health care facility' shall, without limitation, include, the following related properties when

committed under the circumstance of a public health emergency or gross negligence
negligence not

41 used for, or in connection with, the foregoing: alternate care sites; health personnel training and lodging
42 facilities; laboratories; laundry facilities; offices and office buildings for persons engaged in health care
43 professions or services; patient, guest and health personnel food service facilities; pharmacies; and
44 research facilities.

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

48 'Local public health authority', any body politic or political subdivision of the commonwealth that acts
49 as a board of health, public health commission or health department for a city or town and includes any
50 board of health and any regional board of health or regional health district as defined in section 27B of
51 chapter 111.

During a declared emergency
52 (b) Upon ~~declaration of a public health emergency pursuant to section 2A,~~ the commissioner or a
53 *as defined in section 1 of chapter 111,* local public health authority acting at the direction of the commissioner may: (1) close, direct and compel
54 the evacuation of, or decontaminate or cause to be decontaminated any public building or facility, and
55 allow the reopening of the public building or facility when the danger has ended; (2) require a health care
56 facility to provide services or the use of its facility, or to transfer the management and supervision of the
57 health care facility to the department; (3) control ingress to and egress from any stricken or threatened
58 public area, and the movement of persons and materials within that area; (4) adopt and enforce measures
59 to provide for the safe disposal of infectious waste; (5) procure, store or distribute any anti-toxins, serums,
60 vaccines, immunizing agents, antibiotics or other pharmaceutical agents or medical supplies as may be
61 necessary to respond to the *declared* emergency; (6) waive, for a period of 30 days or until the *declared* ~~declaration of a~~
62 ~~public health emergency pursuant to section 2A~~ has terminated, whichever occurs first, licensing
63 requirements for health care professionals with a valid license from another jurisdiction in the United
64 States or whose professional training would otherwise qualify them for an appropriate professional

Nothing in this section shall supersede the normal operating authority of the local public health authorities, except that such authority shall not be exercised in a manner that conflicts with any procedure or order issued by the commissioner to assure the maintenance of public health and the prevention of disease during such emergency.

65 license in the commonwealth; (7) allow for the dispensing of controlled substances by appropriate
66 personnel consistent with federal statutes as necessary for the prevention or treatment of illness; (8)
67 authorize the chief medical examiner to appoint and prescribe the duties of emergency assistant medical
68 examiners as may be required for the proper performance of the duties of the office; (9) ^{provide} care for any
69 emerging mental health or crisis counseling needs that individuals may exhibit, with the consent of the
70 individuals; and (10) request the assistance of the Massachusetts emergency management agency.

71 *the Boston public health commission, established in chapter 147 of the acts of 1995,*
If the commissioner determines, based on an annual review, that ~~within the city of Boston, the~~

72 ~~local public health authority~~ has adequate and appropriate resources to exercise authority relative to
73 *in the first paragraph, the Boston public health commission may*
~~clause (2), said local public health authority may exercise authority relative to said clause (2) during a~~
... stat

74 ~~public health emergency declared pursuant to section 2A~~ after notifying the commissioner, unless such
75 action is deemed by the commissioner, after consultation with the ~~local public health authority~~ ^{commission}, to be
76 contrary to the interests of the commonwealth.

77 Any person who knowingly violates an order ^{issued pursuant to this subsection by} of the commissioner or a local public health
78 authority acting at the direction of the commissioner, ~~issued pursuant to this subsection~~ shall be punished
79 by imprisonment in the house of corrections for not more than 6 months, or by a fine of not more than
80 \$1,000, or both.

81 (c) All political subdivisions of the commonwealth responding to a ^{declared} public health emergency
82 ~~declared pursuant to section 2A~~ shall consult with each other and shall cooperate with the commissioner
83 in: (1) the exercise of their powers over routes of transportation, materials and facilities including, but not
84 limited to, communication devices, carriers, public utilities, fuels, food, clothing and shelter; and (2)
85 informing the public relative to protecting themselves during the emergency and its aftermath and
86 informing them of actions being taken to control the emergency, ^{provided, however, that reasonable}
87 efforts shall be made to provide such information in ^{both English and} the primary language of the recipients of the

require a health care facility to provide services ^{or} the use of its facility, or to transfer the management and supervision of the health care facility to the commission, during the declared emergency,

SECTION 4A. Chapter 111 of the General Laws, is hereby amended by inserting after section 5A the following section:—

Section 5A½.

(a) The department and, any health care provider, as defined in section 1, may not administer, or allow to be administered, any vaccine, including the influenza vaccine, to any person who is knowingly pregnant or under the age of three that contains more than trace amounts of mercury. For the purpose of this act, a trace amount is that amount as determined by the United States Food and Drug Administration.

(b) The Commissioner may declare an exemption for the department and health care providers from this section if he or she determines that there is an epidemic, an emergency or that, after diligent efforts to obtain the mercury free vaccines, or vaccine containing no more than trace amounts of mercury, there is a shortage of the mercury-free vaccine or vaccine containing no more than trace amounts of mercury. In such a case, a 12 month exemption shall be sought. The Commissioner may seek a second 12 month exemption should he or she determine that said epidemic, emergency, or shortage persists. All health care providers who administer to any child or adult, vaccinations subject to federal oversight, must be in compliance with the National Childhood Vaccine Injury Act (42 U.S.C. §300aa-26).

(c) This law shall take effect on December 31, 2010.

(d) On or before October 1, 2010, the Commissioner, in consultation with representatives from the Massachusetts Medical Society and the Massachusetts Chapter of the American Academy of Pediatrics, shall send a report to the Governor, the Joint Committee on Public Health, the Speaker of the House, and the Senate President regarding any issues with the implementation of this law, including any changes, if any, needed to amend existing sections of the Massachusetts General Laws relating to the purchase, procurement, or administration of vaccines.

(e) The department shall promulgate regulations to carry out the provisions of this section.

88 ^{and} information ~~as well as in English; and provided further, that reasonable efforts shall be made to provide~~
89 ~~such information~~ in a manner accessible to individuals with disabilities.

90 ~~No ~~withstanding~~ any general or special law to the contrary,~~
91 ^{declared} (d) All political subdivisions of the commonwealth ~~engaged in~~ responding to a public health
92 emergency may share and disclose information to the extent necessary for the treatment, control and
93 investigation of ~~an~~ ^{the} emergency.

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

95 'Local public health authority', any body politic or political subdivision of the commonwealth that acts
96 as a ~~board of health, public health commission or health department for a city or town and includes any~~
97 ~~board of health and any regional board of health or regional health district as defined in section 27B.~~

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

100 SECTION 4. Section 5A of said chapter 111, as so appearing, is hereby amended by inserting after the
101 word 'vaccine', in line 3, the following words:- immunizing agent~~s~~, antibiotic~~s~~ and other pharmaceutical
102 or medical ^{supply} supplies.

103 SECTION 5. Section 6 of said chapter 111, as so appearing, is hereby amended by inserting ^{before} ~~after~~ the
104 word 'the', in line 1, ~~the first time it appears~~, the following:- (a).

105 SECTION 6. Section 6 of said chapter 111, as so appearing, is hereby amended by inserting after the
106 word 'diseases', in lines 2 and 4, each time it appears, the following words:- , injuries and threats to
107 health.

108 SECTION 7. Said section 6 of said chapter 111, as so appearing, is hereby further amended by ~~inserting~~ ^{adding}
109 ~~after subsection (a)~~ the following 4 subsections:-

municipal board of health, a health department established under section 27A, the Boston
public health commission established by chapter 147 of the acts of 1995, a regional board
of health established under section 27B, or a regional health district established under section 27A
or section 27B.

(b) The department shall specify the responsibilities of health care providers, medical examiners, and others to report, to the department or to a local public health authority, diseases, injuries and threats to health specified by the department. The department shall specify the responsibilities of local public health authorities to report diseases, injuries and threats to health to the department. The department may specify the responsibilities of pharmacists to report to the department unusual or increased prescription rates, unusual types of prescriptions or unusual trends in pharmacy visits that may indicate a threat to public health. Nothing in this section shall preempt the authority of a local public health authority to require direct reporting of diseases, injuries and threats to health to the local public health authority.

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

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

^{under this section} (e) Any person required to report ^{do so} who fails to ~~file a report required by this section~~ shall be subject to a fine of not more than \$1,000. An individual health care provider shall be subject to suspension or revocation of his license or certification if the failure to file a report is gross, wanton or willful misconduct and poses a serious risk to the public health.

SECTION 8. Section 7 of said chapter 111, as so appearing, is hereby amended by adding the following paragraph:-

133 The department may obtain, upon request, medical records and other information that the
134 department considers necessary to carry out its responsibilities to investigate, monitor, prevent and
135 control disease or conditions dangerous to the public health. All medical records shall be kept
136 confidential and only those individuals who have a specific need to review such information shall be
137 entitled to access ~~to~~ such information. Whoever violates this section shall be punished by a fine of not
138 more than \$1,000.

139 **SECTION 9.** Said chapter 111 is hereby further amended by inserting after section 25O the following
140 section:-

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

143 'System', the Massachusetts system for advance registration.

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

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

151 (d) The commissioner may activate the system:

152 (1) during a public health emergency declared by the governor pursuant to section 2A of chapter
153 17;

Insert 2 paragraphs from page 7A ✓

Insert on p. 7 after
line 148

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

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

154 (2) during a state of emergency ^{proclaimed} ~~declared~~ by the governor pursuant to chapter 639 of the acts of
155 1950;

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

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

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

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

162 (e) If the situation within the commonwealth for which the system is activated requires either
163 staffing levels or expertise of personnel that are beyond the capacity of the system to provide, the
164 commissioner may request personnel from other states having similar personnel registries. Under such
165 circumstances, when acting as authorized personnel in the commonwealth, out-of-state personnel shall
166 receive the protections provided under subsection (h) to members of the system. This subsection shall not
167 apply to, or affect a deployment under, chapter 339 of the acts of 2000 or under section 58 of chapter 300
168 of the acts of 2002.

169 (f) Any mobile assets and response resources of the national disaster medical system in the
170 commonwealth may be activated for duty when they are not formally activated in federal service, by the
171 commissioner under the circumstances provided under clauses (1) to (4), inclusive of subsection (d).

172 When so activated, individuals who are members of the national disaster medical system shall receive the
173 protections provided ^{under} ~~in~~ subsection (h) to members of the Massachusetts system for advance registration.

174 (g) Any Massachusetts medical reserve corps, established pursuant to ~~section 300hh-15 of chapter~~ 42 U.S.C.
175 ~~42 of the United States Code~~, may be activated for duty under the circumstances stated in clauses (1) to
176 (4), inclusive, of said subsection (d), ~~and~~ and when such activation is requested by the governor and authorized

177 by the medical reserve corps' authorization mechanisms, members of such corps shall receive the
178 protections provided ^{under} ~~in~~ subsection (h) to members of the system.

179 (h) In the absence of any other protections provided by law, whenever activated for duty pursuant
180 to this section, a member of the system shall not be liable in a suit for damages as a result of good-faith
181 acts or omissions while engaged in the performance of his duties as a volunteer pursuant to this section;
182 provided, however, that this subsection shall not apply in the case of willful, wanton or reckless actions
183 by a member of the system occurring during the performance of the member's duties.

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

SECTION 10. Sections 92, 93, and 94 of said chapter 111 are hereby repealed.

185 **SECTION 10.** Section 94A of said chapter 111 ~~of the General Laws~~, as appearing in the 2008 Official
186 Edition, is hereby amended by striking out subsection (d) and inserting in place thereof the following
187 subsection:-

188 (d) Upon order of the commissioner or his agent or at the request of a local public health authority
189 pursuant to such order, law enforcement authorities shall assist emergency medical technicians or other
190 appropriate medical personnel in the transportation of such person to the tuberculosis treatment center. No
191 law enforcement authority or medical personnel shall be held criminally or civilly liable as a result of an
192 act or omission carried out in good faith in reliance on such order.

193 ¹²
SECTION 11. Said chapter 111 is hereby further amended by striking out section 95, as so appearing,
194 and inserting in place thereof the following section:-

195 Section 95. (a) As used in this section the following words shall, unless the context clearly
196 requires otherwise, have the following meanings:-

197 'Isolation', separation for the period of communicability of infected individuals or animals from other
198 individuals or animals in such places and under such conditions as will prevent the direct or indirect

The Department of Public Health will upon detection of a new occurrence of a disease, infection or viral strain notify local boards of public health, will use reasonable means to notify local public health departments and the public of isolation requirements upon immediate knowledge of incubation time.

199 transmission of an infectious agent to susceptible people or to other individuals or animals who may
200 spread the agent to others.

201 'Quarantine', restricting the freedom of movement of well individuals or domestic animals that have been
202 exposed to a communicable disease for a period of time relating to the usual incubation period of the
203 disease in order to prevent effective contact with those not so exposed.

204 (b) Whenever the commissioner, or a local public health authority within its jurisdiction,
205 determines that there is reasonable cause to believe that a disease or condition dangerous to the public
206 health exists or may exist or that there is an immediate risk of an outbreak of such a disease or condition
207 and that certain measures are necessary to decrease or eliminate the risk to public health, the
208 commissioner or local public health authority may issue an order of isolation or quarantine to an
209 individual or a group of individuals; provided, however, that, as used in this section, a disease or
210 condition dangerous to the public health shall not include acquired immune deficiency syndrome, AIDS,
211 or the human immunodeficiency virus, HIV. The order may be an oral order in exigent circumstances
212 and, in such case, it shall be followed by a written order as soon as reasonably possible. The written order
213 shall be delivered personally to the individual subject to the order, but if that is not possible, shall be
214 delivered in a manner that is reasonably calculated to notify the individual or group that the order has
215 been issued. In the case of a group, delivery may include delivery through the mass media and posting in
216 a place where group members are reasonably likely to see it. If the commissioner determines that non-
217 compliance would pose a serious danger to public health, the written order shall state that non-compliance
218 would pose such a danger.

219 (c) Isolation and quarantine orders shall utilize the least restrictive means necessary to prevent a
220 serious danger to public health and may include, but shall not be limited to, restricting a person from
221 being present in certain places including, but not limited to, school or work; confinement to private
222 homes; confinement to other private or public premises; ~~or isolation or quarantine of an area.~~

,or may issue an order requiring the
owner or occupier of publicly accessible premises to close the premises or a specific part of the
premises, and allowing reopening of the premises when the danger has ended

The Department of Public Health will upon detection of a new occurrence of a disease, infection or viral strain notify local boards of public health will use reasonable means to notify local public health departments and the public of quarantine requirements upon immediate knowledge of incubation time.

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

223 (d) ~~It shall be a violation of section 4 of chapter 151B for an employer to discharge or reduce~~
224 ~~any benefits of an employee because such employee is subject to an order of isolation or quarantine or~~
225 ~~because a child under 15 years of age of whom the wage earner has custody and responsibility is subject~~
226 ~~to an order of isolation or quarantine.~~

227 (e) The individual or group subject to an order of isolation or quarantine shall be informed that
228 ~~the order may be appealed by filing a petition in superior court challenging the order at any time. If an~~
229 ~~individual fails to comply with the order within the time specified in the order, the commissioner or the~~
230 ~~local public health authority may apply to a judge of the superior court for an order requiring the~~
231 ~~individual to comply with the order within the time specified in the order of the court and to take~~
232 ~~whatever other action the court considers appropriate in the circumstances to protect the public health.~~
233 ~~The law enforcement authorities of the city or town where the individual is present shall enforce the court~~
234 ~~order.~~

Insert
new
41e
from
page 11A
✓

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

SECTION 13. ~~Section 96 of said chapter 111 is hereby repealed.~~

238 SECTION ~~12~~¹⁴ Section 96A of said chapter 111, as so appearing, is hereby amended by striking out, in
239 lines 5 and 6, the words 'except under section ninety-six'.

240 SECTION ~~13~~²⁰ Section 12C of chapter 112 of the General Laws, as so appearing, is hereby amended by
241 ~~inserting after the word 'programs' in line 2, the second time it appears, the following words: ', and no~~
242 ~~other person assisting in the foregoing.~~

243 SECTION ~~14~~²¹ Said section 12C of said chapter 112, as so appearing, is hereby further amended by
244 adding the following sentence: - This section shall not apply ~~in the case of~~ ^{if the act an omission was} willful, wanton or reckless
245 actions.

in the 2008 official edition

SECTION 15. Section 97

SECTION 16. Section 105

SECTION 17. Section 110

SECTION 18. Section 110B

SECTION 19. Section 113

of said chapter 111 is hereby repealed.

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

Insert
on p. 11
as
indicated

SECTION 20. Section 12C of chapter 112 of the General Laws, as so appearing, is hereby amended by inserting after the word "programs," in line 2, the second time it appears, the following words: "and no other person assisting in the foregoing" and by inserting after the word "nurse," the following word, "physician assistant."

Insert ~~after line 2~~
on p. 11.

SECTION 14A. Chapter 111C of the General Laws, as so appearing, is hereby amended by adding the following section:—

Section 25. When a Class I, II, or V ambulance transports a patient receiving care at the Paramedic level of ALS, the ambulance must be staffed with a minimum of two EMTs, one of whom is certified at the EMT-Paramedic level.

Insert on
p. 11 after
line 239

22

246 **SECTION 15.** Section 12V of said chapter 112, as so appearing, is hereby amended by striking out, in
247 line ^{s and 2} 1, the words ' , whose usual and regular duties do not include the provision of emergency medical
248 care, and'.

23

249 **SECTION 16.** Section 13 of chapter 122 of the General Laws, as so appearing, is hereby amended by
250 striking out, in line ^{s to 9, inclusive} 6, the words ' , and it shall have the same authority to remove such person thereto as is
251 conferred upon boards of health by section ninety-five of chapter one hundred and eleven'.

24

252 **SECTION 17.** Chapter 175 of the General Laws is hereby amended by inserting after section 24F the
253 following section:-

254 Section 24G. (a) Any policy, contract, agreement, plan or certificate of insurance for coverage of
255 health care services, including any sickness, health or welfare plan issued within or without the
256 commonwealth, including, but not limited to, those of a carrier as defined in section 1 of chapter 176O, or
257 other state ^{or} approved health plans, shall provide that ^{if} ~~in the event of a declaration of a public health~~
258 emergency declared pursuant to section 2A of chapter 17 or state of emergency ^{proclaimed} ~~declared~~ pursuant to
259 chapter 639 of the acts of 1950 ~~which~~ necessitates a suspension of all elective procedures, there shall be a
260 waiver of administrative requirements within the zone of that suspension of elective procedures including,
261 but not limited to, utilization review, prior authorization, advance notification upon admission or delivery
262 of services and limitation on provider networks for treating or transferring patients. During such declared
263 public health emergency or state of emergency, all prompt claims payment requirements, including the
264 payment of interest for late processing, shall be waived for services rendered during any such emergency.
265 The division of insurance shall promulgate regulations regarding the waiver of administrative
266 requirements and claims payment requirements during a public health emergency. ^{or state of emergency}

~~termination~~

267 (b) Upon the ~~end~~ ^{termination} of the public health emergency or state of emergency, there shall be within 180
268 days a reconciliation of charges and reimbursements, during which time claims may be adjusted or re-
269 adjudicated based on the provisions of any contract between the provider and health carrier, except that

270 such reimbursement shall not be conditioned on the execution during the public health emergency or state
271 of emergency of utilization review, pre-notification or pre-authorization requirements. In the event that
272 there is no contract between the provider and health carrier, reconciliation shall be based on
273 reimbursement amounts equal to the carrier's usual and customary reimbursement rates in force at the
274 date of service, except that for services provided to MassHealth members, reconciliation shall be based on
275 reimbursement amounts equal to the MassHealth reimbursement rates in force on the date of service.
276 Upon completion of the reconciliation, any carrier overpayments shall be reimbursed by the provider to
277 the carrier and any underpayments shall be paid by the carrier to the provider. Investigations of fraud and
278 resultant recovery actions shall not be subject to the reconciliation period, but shall be initiated within 3
279 years after the date of the ^{termination} ~~declared end of the~~ public health emergency or state of emergency.

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

282 ²⁵ **SECTION 18.** Chapter 268 of the General Laws is hereby amended by inserting after section 33A the
283 following section:-

284 Section 33B. Whoever falsely makes, forges, counterfeits, alters or tampers with an identification
285 card or other insignia issued by or under the authority of the commonwealth or by or under the authority
286 of a Massachusetts medical reserve corps or a Massachusetts disaster medical assistance team established
287 pursuant to federal law or whoever, with intent to defraud, uses or possesses any such identification card
288 or insignia or impersonates or falsely represents himself to be or not to be a person to whom such
289 identification card or insignia has been duly issued or whoever willfully allows another person to have or
290 use any such identification card or insignia issued for his use alone shall be punished by a fine of not
291 more than \$5,000 or by imprisonment for not more than 1 year, or both such fine and imprisonment.

292 ²⁶ **SECTION 19.** Notwithstanding any general or special law to the contrary, a health care provider, as
293 defined in section 1 of chapter 111 of the General Laws, and a provider, as defined in section 1 of chapter

118G of the General Laws, shall not be liable in a suit for damages or subject to administrative or licensing sanctions as a result of good-faith acts or omissions while engaged in the performance of duties as a volunteer participating in a preparedness program sanctioned by a state agency, as defined in section 1 of chapter 6A of the General Laws, or by a local public health authority, as defined in said section 1 of said chapter 111, or as an employee in rendering emergency care, treatment, advice or assistance in direct response to a declared public health emergency under section 2A of chapter 17 of the General Laws or a declared state of emergency under chapter 639 of the acts of 1950. This section shall not apply in the case of willful, wanton or reckless actions by a provider occurring in the performance of the provider's duties during such emergency.

²⁷
SECTION 20. ~~Notwithstanding any general or special law to the contrary,~~ the department of public health shall convene a panel of public health preparedness experts to assess current funding resources available for preparedness activities in the commonwealth and to examine what funding will be needed to sustain state and local preparedness activities. The panel, which shall include representatives from hospitals, local public health authorities and other health and medical providers, shall convene within 30 days of the effective date of this act and report to the joint committee on public health, the joint committee on health care financing and the house and senate committees on ways and means within 9 months of the effective date of this act.

~~**SECTION 21.** Sections 92, 93, 94, 96, 97, 105, 110, 110B and 113 of chapter 111 of the General Laws are hereby repealed.~~

²⁸
SECTION 22. Subsection (c) of section 24G of chapter 175 of the General Laws shall apply to all contracts between the insurer and a health care provider entered into, renewed or amended on or after the effective date of this act.”; and by striking out the title and inserting in place thereof the following title: “An Act relative to public health emergency preparation and response in the Commonwealth.”.

under the circumstance of a public health emergency or gross negligence
negligence not committed