

BILL SUMMARY

BILL NO: HWM Redraft – House No. 4271

TITLE: An act relative to public health emergency preparation and response in the Commonwealth.

SUMMARY:

Section 1

This section amends section 2A of chapter 17 of the General Laws by expanding the authority of the commissioner of public health to take action during periods of declared public health emergencies. If the emergency is localized, this section would extend such authority to the appropriate local public health authority, subject to approval by the commissioner. This section also provides civil liability protection to persons who voluntarily and without compensation allow the use of their property to assist in response to a public health emergency. All such emergency authority would terminate upon termination of the emergency by the governor, or after 90 days.

This section also adds section 2B to chapter 17 of the General Laws, setting forth several areas in which the commissioner may exercise authority or direct the exercise of authority by local public health authorities with respect to: evacuation and decontamination of public buildings; use of a health care facility; control of ingress and egress from a stricken public area; safe disposal of infectious waste; procurement, storage and distribution of anti-toxins, serums, and vaccines; temporary waivers of state licensing requirements for out-of-state health care professionals; allocation of controlled substances; authorization of the chief medical examiner to appoint emergency assistant medical examiners; care for emerging mental health or crisis counseling needs; and requesting assistance from the Massachusetts emergency management agency. This section provides that a person who violates an order issued by the commissioner or a local public health authority in relation to any of the above, shall be punished by imprisonment for not more than 6 months or by a fine of not more than \$1,000. This section also requires all state and local agencies to cooperate during a state of emergency.

Section 2

This section amends section 1 of chapter 111 of the General Laws by defining “local public health authority” as a body politic that acts as a board of health, public health commission or health department for a city or town.

Section 3

This section amends section 5 of chapter 111 by requiring the Department of Public Health (DPH) to also study and investigate the causes of “adverse health conditions”.

Section 4

This section amends section 5A of chapter 111 by adding immunizing agents, antibiotics and other pharmaceutical or medical supplies to the list of products that DPH can purchase,

produce or distribute when it is essential to the interest of the public health or when there is a shortage.

Section 5

This section makes a technical correction to section 6 of chapter 111.

Section 6

This section amends section 6 of chapter 111 by requiring the department to define which injuries and threats to health, in addition to diseases, are dangerous to the public health and make rules for their control and prevention.

Section 7

This section also amends section 6 of chapter 111 by requiring DPH to specify the responsibilities of health care providers, medical examiners, and local public health authorities to report diseases, injuries, and threats to health. This section would also allow the department to 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.

This section requires the department to immediately notify the appropriate federal, state or local public safety agency if it learns 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 an emergency detrimental to the public health. This section exempts a person making such a report from civil or criminal liability if it was made in good faith. A person required to make such a report and fails to do so would be subject to a maximum \$1,000 fine, and possible license suspension or revocation.

Section 8

This section amends section 7 of chapter 111 of the General Laws by allowing DPH to obtain medical records and other information that it considers necessary to investigate, monitor, prevent and control dangerous public health conditions; provided, however, that the medical records be kept confidential and only those individuals who have a specific need to review the information would be entitled to access the information. Violations are punishable by a fine of up to \$1,000.

Section 9

This section adds a new section to chapter 111 of the General Laws, which codifies an existing registry of medical professional volunteers available to provide emergency medical services, known as the Massachusetts System for Advance Registration. The commissioner of public health may activate the registry during a public health emergency, a state of emergency declared by the governor, an urgent public health incident, upon request of a local public health authority when its resources have been exhausted, or upon official request of another state or a province of Canada. Additionally, the commissioner may request similar assistance from another state. This section also allows these volunteers through the Massachusetts System for Advance Registration to be immune from civil suit while they are engaged in their voluntary good faith duties except in situations of willful, wanton, or reckless actions.

Finally, this section entitles the commissioner to activate the National Disaster Medical System, when it has not been formally activated in federal service, and the Massachusetts Medical Reserve Corps, and would offer members of the two groups the same liability protections provided to members of the Massachusetts System for Advanced Registration.

Section 10

This section amends section 94A of chapter 111 of the General Laws by protecting a law enforcement officer from liability who is called upon to transport a tuberculosis patient to a treatment center.

Section 11

This section strikes section 95 of chapter 111 of the General Laws and in its place codifies certain DPH regulations pertaining to isolation and quarantine. These include rules on delivering an oral or written order, the directive that isolation or quarantine must take place in the least restrictive setting, and the right of the commissioner or a local public health authority to petition the superior court to enforce an order and the right of individuals to petition the court to challenge said order. An employer would be prohibited from discharging a person or reducing his benefits during such period of isolation or quarantine.

Section 12

This section makes a technical correction as a result of the repeal of section 96 of chapter 111 of the General Laws.

Section 13

This section amends section 12C of chapter 112 of the General Laws by expanding immunity from civil suits to persons assisting physicians or nurses in the administration of immunization or other protective public health programs.

Section 14

This section amends section 12C of chapter 112 of the General Laws by adding that willful, wanton or reckless acts are exempted from liability protections.

Section 15

This section amends section 12V of chapter 112 of the General Laws by expanding civil immunity to all persons who, in good faith, attempt to render emergency care, other than cases of gross negligence or willful or wanton misconduct, regardless whether their usual and regular duties include the provision of emergency medical care.

Section 16

This section makes a technical correction to section 13 of chapter 122 of the General Laws.

Section 17

This section amends chapter 175 of the General Laws by adding a new section, which requires a health insurance plan to waive administrative requirements, including prior

authorization and limitation on provider networks, during a declared public health emergency, and requires a reconciliation of charges and reimbursements within 180 days of the declared end of the emergency. This section imposes a 3 year statute of limitations on any investigations of fraud and resultant recovery actions from the declared end of the emergency, and requires all contracts between providers and carriers to include the provisions of this section.

Section 18

This section amends chapter 268 of the General Laws by adding a new section, which would subject a person to a \$5,000 fine or 1 year imprisonment for fraudulently representing themselves to be an agent of the commonwealth, including as a volunteer in the medical reserve corps or disaster medical assistance team.

Section 19

This notwithstanding section protects health care providers and any other person, corporation, partnership, governmental unit, state institution, or other entity performing or providing health care services from liability for damages or from administrative or licensing sanctions as a result of good-faith acts or omissions while volunteering for a preparedness program sanctioned by a state agency or engaged as an employee in rendering emergency care in direct response to a declared public health emergency or state of emergency. Willful, wanton, or reckless acts are not covered under this section.

Section 20

This section requires DPH to convene a panel of public health preparedness experts to assess current funding resources available for preparedness activities and to examine what is needed to sustain such activities. The panel would convene within 30 days and report within 9 months.

Section 21

This section repeals sections 92, 93, 94, 96, 97, 105, 110, 110B and 113 of chapter 111 of the General Laws.

Section 22

This section limits the application of subsection (c) of section 24G of chapter 175 of the General Laws, as added by section 17 of this bill, requiring contracts between insurance carriers and health care providers to include the other provisions of section 24G, to contracts entered into, renewed or amended on or after the effective date of this bill.