

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Alice K. Wolf

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

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

An Act establishing the Massachusetts childhood vaccine program and the Massachusetts immunization registry.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Alice K. Wolf	25th Middlesex
Tom Sannicandro	7th Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT ESTABLISHING THE MASSACHUSETTS CHILDHOOD VACCINE PROGRAM AND THE MASSACHUSETTS IMMUNIZATION REGISTRY.

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: The General Laws, as appearing in the 2006 Official Edition, shall be amended by
2 adding after section chapter 176R the following new chapter:

3

4 Chapter 176S:

5 Section 1:

6 Definitions. The following words, as used in this section, unless a different meaning is required
7 by the context or is specifically prescribed, shall have the following meanings:

8 "Child or Children," individuals less than nineteen years of age.

9 "Clinician," a health care professional licensed under chapter 112.

10 "Estimated vaccine cost," the estimated cost over the course of a fiscal year of the purchase,
11 storage, and distribution of vaccines for all children in the commonwealth.

12 "Facility," a hospital, clinic or nursing home licensed under chapter 111 or a home health agency.

13 "Health care provider," a clinician, a facility or a physician group practice.

14 “Health insurer,” an insurer licensed or otherwise authorized to transact accident or health insurance
15 under chapter 175; a nonprofit hospital service corporation organized under chapter 176A; a nonprofit
16 medical service corporation organized under chapter 176B; a health maintenance organization organized
17 under chapter 176G; an organization entering into a preferred provider arrangement under chapter 176I; a
18 contributory group general or blanket insurance for persons in the service of the commonwealth under
19 chapter 32A; a contributory group general or blanket insurance for persons in the service of counties,
20 cities, towns and districts, and their dependents under chapter 32B; the medical assistance program
21 administered by the division of medical assistance pursuant to chapter 118E and in accordance with Title
22 XIX of the Social Security Act or any successor statute; Medicaid managed care organizations referenced
23 in St. 1997, c. 47, § 28 for those health plans offered pursuant to M.G.L. c. 118H; group excess loss
24 insurance policies where the policy or certificate of coverage has been issued or delivered in
25 Massachusetts, and where coverage has been purchased by a group health insurance plan subject to the
26 Employee Retirement Income Security Act of 1974, Public Law No. 93-406 (ERISA); all self-insured
27 plans to the extent not preempted by federal law; any entity that offer Qualifying Student Health
28 Insurance Plans pursuant to 114.6 CMR 3.00; and any other medical assistance program operated by a
29 governmental unit for persons categorically eligible for such program. “Health Insurer” shall not include
30 any entity to the extent it offers a policy, certificate or contract of insurance that provides coverage solely
31 for dental care services or vision care services, or only for accident, credit, hospital indemnity, disability
32 income, supplements to liability insurance, specified disease or long term care.

33 “Insured,” an enrollee, covered person, member, policyholder, subscriber or beneficiary of a health
34 insurer.

35 “Participating provider”, a provider who, under a contract with a health insurer or with its contractor or
36 subcontractor, has agreed to provide health care services to insureds with an expectation of receiving
37 payment, other than coinsurance, copayments or deductibles, directly or indirectly, from the carrier.

38 “Physician group practice,” two or more physicians who deliver patient care, make joint use of
39 equipment and personnel and by agreement divide income earned by the physicians in the group.

40 “Routine childhood immunizations,” immunizations for children until their nineteenth birthday,
41 including, but not limited to: (1) the immunizations recommended by the federal Vaccines for Children
42 Program; and (2) any immunizations as recommended by the Advisory Committee on Immunization
43 Practices of the U.S. Department of Health and Human Services.

44 “Total non-federal program cost,” the estimated annual cost of vaccines needed for routine
45 childhood immunizations for children covered by health insurers in the Commonwealth less the amount

46 of federal revenue available to the commonwealth for purchase, storage, distribution and administration
47 of such vaccines.

48 "Vaccine Purchase Trust Fund," a fund to support a universal purchase system for childhood
49 vaccines in the commonwealth.

50 Section 2:

51 (a) There is established by the commonwealth a separate trust fund to be known as the Vaccine Purchase
52 Trust Fund, in this section called the "Fund," to support a universal purchase system for childhood
53 vaccines in the Commonwealth. The specific purpose of the Fund shall be to cover the costs to purchase,
54 store and distribute vaccines for routine childhood immunizations and to administer the Fund and the
55 Massachusetts Immunization Registry, as established under section 24K of chapter 111. The fund shall
56 consist of all monies paid to the commonwealth under subsection (c) and any interest earnings on such
57 monies. The Fund shall be maintained by the commissioner of insurance or his or her designee. The
58 monies shall be expended under the direction of the department of public health, without prior
59 appropriation, solely for the purposes described in this section. Any balance in the Fund at the close of a
60 fiscal year shall be available for expenditure in subsequent fiscal years and shall not be transferred to any
61 other fund or revert to the General Fund. The commissioner of insurance or his or her designee shall
62 report annually to the house and senate committees on ways and means the amount of funds collected and
63 any expenditures made from the Fund.

64 (b) There is established a vaccine purchase advisory council consisting of the commissioner of public
65 health or his or her designee; the Medical Director of the Massachusetts Immunization Program of the
66 Department of Public Health; the commissioner of insurance or his or her designee; the Executive
67 Director of the Commonwealth Health Insurance Authority or his or her designee; the medical directors
68 of the three health insurance companies having the most covered lives in the commonwealth; four health
69 care provider representatives appointed by the commissioner of public health, one of whom shall be a
70 member of the Massachusetts Medical Society; one of whom shall be a member of The Massachusetts
71 Chapter of the American Academy of Pediatrics; one of whom shall be a member of the Massachusetts
72 Academy of Family Physicians; and one of whom shall be a physician licensed to practice in the
73 commonwealth and who shall have expertise in the area of childhood vaccines. The commissioner of
74 public health, or his or her designee, shall be the chair of the council. The council shall determine the
75 types of vaccine(s) to be purchased based on a list of routine childhood immunizations and shall take into
76 account provider preference, cost, availability, and other factors as determined by the council. The
77 council shall also recommend the amount of funding needed each fiscal year by calculating the total non-
78 federal program cost. Such calculation shall be based on health care claims data, as defined in 129 C.M.R.
79 § 3.00, relating to all children covered by health insurers in the Commonwealth. The council shall be

80 advised by a committee within the department of public health, as determined by the commissioner of
81 public health. The council shall have independent authority to make the determinations and
82 recommendations required by this subsection. The commissioner of insurance shall determine the final
83 amount required to be included in the Vaccine Purchase Trust Fund for the next fiscal year to cover
84 vaccines required for purchase and distribution pursuant to this subsection.

85 (c) Pursuant to regulations to be promulgated by the commissioner of insurance, each health
86 insurer in the commonwealth shall annually pay to the commissioner of insurance, for deposit in the
87 Vaccine Purchase Trust Fund, a child immunizations fee assessed by the commissioner of insurance. The
88 regulations shall establish dates for assessing and contributing such fee and shall permit and enable
89 expenditure of funds by the department of public health. The annual contribution into the trust fund
90 initially shall be deposited by July 1, 2010, and annually thereafter. Such fee shall be a percentage of the
91 final amount determined by the commissioner of insurance pursuant to subsection (b) of this section, and
92 shall be calculated based on the number of children not eligible for federally purchased vaccines who are
93 insured by each health insurer as a percentage of total children insured by all health insurers in the
94 Commonwealth that are not eligible for federally purchased vaccines.

95 (d) The department of public health may promulgate rules and regulations as necessary to
96 implement the universal purchase and distribution system, in accordance with this section and other
97 applicable state and federal laws. The rules and regulations shall establish the system by which vaccines
98 are distributed for children in the Commonwealth.

99

100 Section 3:

101 (a) Every health insurer, as defined in section one, shall provide benefits for (1) routine childhood
102 immunizations for Massachusetts residents and (2) immunizations for Massachusetts residents who are 19
103 years of age and over according to the most recent schedules recommended by the Advisory Committee
104 on Immunization Practices of the U.S. Department of Health and Human Services. These benefits shall be
105 exempt from any copayment, coinsurance, deductible, or dollar limit provisions in the health insurance
106 policy or contract.

107 (b) Health insurers shall pay to health care providers 100% of the reasonable and customary
108 charges for those immunizations described in Section 3(a), including the cost of the vaccines not provided
109 by the commonwealth and any reasonable and customary costs associated with the administration of the
110 vaccines. Notwithstanding any general or special law to the contrary, a health insurer shall provide such
111 reimbursement to any health care provider who administers covered immunizations in any facility, health

112 care provider's office or any other setting in the Commonwealth and shall not limit such reimbursement to
113 providers that are participating providers.

114

115 SECTION 2: Chapter 111 of the General Laws, as appearing in the 2002 Official Edition, is
116 hereby amended by inserting after 24K the following section:-

117 Section 24L. The department of public health shall establish, maintain, and operate a
118 computerized information system to be known as the Massachusetts Immunization Registry. The
119 Massachusetts immunization registry shall record immunizations and immunization history with
120 identifying information. The Massachusetts immunization registry shall include appropriate controls to
121 protect the security of the system and the privacy of the information.

122 The department shall promulgate rules and regulations to implement the Massachusetts
123 immunization registry.

124 All licensed health care providers administering vaccinations shall discuss the reporting
125 procedures of the Massachusetts immunization registry with the parent, guardian, or individual receiving
126 the vaccinations, and offer them the right to object to the disclosure of such information as set forth in this
127 section.

128 Notwithstanding any restrictions set forth in chapter 46 and section 24B of chapter 111, upon
129 receipt of an initial birth record for a newborn, the state registrar of vital records and statistics shall
130 transmit to the Massachusetts immunization registry the information regarding immunizations
131 administered to a newborn and such other information transmitted with the birth record that the
132 department determines to be the minimum necessary for the effective operation of the Massachusetts
133 immunization registry.

134 All licensed health care providers practicing in Massachusetts who administer immunizations to
135 individuals in Massachusetts shall report to the Massachusetts immunization registry such data related to
136 immunizations as the department determines is necessary for disease prevention and control.

137 Immunization information may be released from the Massachusetts immunization registry to the
138 select group of individuals and agencies outlined below without further explicit consent of the individual
139 or the minor child's parent or guardian, unless the individual or the parent or guardian objects to such
140 disclosure.

141 The department may grant access to the Massachusetts immunization registry to the following
142 categories of users in the commonwealth: (1) licensed health care providers providing direct care to the

143 individual patient, (2) elementary and secondary school nurses and registration officials who require proof
144 of immunizations for purposes of school enrollment and disease control; (3) local boards of health for
145 disease prevention and control; (4) Women Infants and Children Nutrition Program (WIC) staff who
146 administer WIC benefits to eligible infants and Children; (5) staff of state agencies or state programs
147 whose duties include education and outreach related to the improvement of immunization coverage rates
148 among their clients.

149 The department may designate appropriate users who shall have access only to the individually
150 identifiable information for which access is authorized. Authorized users, including employees of the
151 department, who in good faith disclose or do not disclose information to the Massachusetts immunization
152 registry, shall not be liable in any cause of action arising from the disclosure or nondisclosure of such
153 information. The department may revoke access privileges for just cause.

154 Persons authorized by the commissioner may conduct research studies pursuant to c. 111, §24A,
155 provided that the researcher submits a written request for information and executes a research agreement
156 that protects the confidentiality of the information provided.

157 The department may enter into collaborative agreements with registries of other states, and
158 exchange individual or group information provided that maximum protections are afforded the
159 confidentiality of citizens of the commonwealth in accordance with state law.

160 Information contained in the Massachusetts immunization registry is confidential and shall not
161 constitute a public record nor be available except in accordance with this section. Such confidential
162 information shall not be subject to subpoena or court order and shall not be admissible as evidence in any
163 action of any kind before any court, tribunal, agency, board, or person.

164 The department shall establish procedures that allow for any individual, parent, or guardian to
165 amend incorrect information in the Massachusetts immunization registry and shall provide, upon request,
166 a record of all individuals and agencies that have accessed an individual's information.