

1 NO. _____
2

3 **AN ACT ESTABLISHING THE MASSACHUSETTS CHILDHOOD VACCINES**
4 **PROGRAM AND THE MASSACHUSETTS IMMUNIZATION REGISTRY**
5

6
7 *Be it enacted by the Senate and House of Representatives in General Court assembled,*
8 *And by the authority of the same, as follows:*
9

10 **SECTION 1: The General Laws, as appearing in the 2006 Official Edition, shall be**
11 **amended by adding after section chapter 176R the following new chapter:**
12

13 **Chapter 176S:**

14 Section 1:

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

17 “Child or Children,” individuals less than nineteen years of age.

18 “Clinician,” a health care professional licensed under chapter 112.

19 “Estimated vaccine cost,” the estimated cost over the course of a fiscal year of the
20 purchase, storage, and distribution of vaccines for all children in the commonwealth.

21 “Facility,” a hospital, clinic or nursing home licensed under chapter 111 or a home health
22 agency.

23 “Health care provider,” a clinician, a facility or a physician group practice.

24 “Health insurer,” an insurer licensed or otherwise authorized to transact accident or health
25 insurance under chapter 175; a nonprofit hospital service corporation organized under chapter 176A; a
26 nonprofit medical service corporation organized under chapter 176B; a health maintenance organization
27 organized under chapter 176G; an organization entering into a preferred provider arrangement under
28 chapter 176I; a contributory group general or blanket insurance for persons in the service of the

29 commonwealth under chapter 32A; a contributory group general or blanket insurance for persons in the
30 service of counties, cities, towns and districts, and their dependents under chapter 32B; the medical
31 assistance program administered by the division of medical assistance pursuant to chapter 118E and in
32 accordance with Title XIX of the Social Security Act or any successor statute; Medicaid managed care
33 organizations referenced in St. 1997, c. 47, § 28 for those health plans offered pursuant to M.G.L. c.
34 118H; group excess loss insurance policies where the policy or certificate of coverage has been issued or
35 delivered in Massachusetts, and where coverage has been purchased by a group health insurance plan
36 subject to the Employee Retirement Income Security Act of 1974, Public Law No. 93-406 (ERISA); any
37 entity that offer Qualifying Student Health Insurance Plans pursuant to 114.6 CMR 3.00; and any
38 other medical assistance program operated by a governmental unit for persons categorically eligible for
39 such program. “Health Insurer” shall not include any entity to the extent it offers a policy,
40 certificate or contract of insurance that provides coverage solely for dental care services or vision
41 care services, or only for accident, credit, hospital indemnity, disability income, supplements to
42 liability insurance, specified disease or long term care.

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

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

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

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

56 "Total non-federal program cost," the estimated annual cost of vaccines needed for
57 routine childhood immunizations for children covered by health insurers in the Commonwealth
58 less the amount of federal revenue available to the commonwealth for purchase, storage,
59 distribution and administration of such vaccines.

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

62 Section 2:

63 (a) There is established by the commonwealth a separate trust fund to be known as the Vaccine
64 Purchase Trust Fund, in this section called the "Fund," to support a universal purchase system
65 for childhood vaccines in the Commonwealth. The specific purpose of the Fund shall be to
66 cover the costs to purchase, store and distribute vaccines for routine childhood immunizations
67 and to administer the Fund and the Massachusetts Immunization Registry, as established under
68 section 24K of chapter 111. The fund shall consist of all monies paid to the commonwealth
69 under subsection (c) and any interest earnings on such monies. The Fund shall be maintained by
70 the commissioner of insurance or his or her designee. The monies shall be expended under the
71 direction of the department of public health, without prior appropriation, solely for the purposes
72 described in this section. Any balance in the Fund at the close of a fiscal year shall be available
73 for expenditure in subsequent fiscal years and shall not be transferred to any other fund or revert

74 to the General Fund. The commissioner of insurance or his or her designee shall report annually
75 to the house and senate committees on ways and means the amount of funds collected and any
76 expenditures made from the Fund.

77 (b) There is established a vaccine purchase advisory council consisting of the commissioner of
78 public health or his or her designee; the Medical Director of the Massachusetts Immunization
79 Program of the Department of Public Health; the commissioner of insurance or his or her
80 designee; the Executive Director of the Commonwealth Health Insurance Authority or his or her
81 designee; the medical directors of the three health insurance companies having the most covered
82 lives in the commonwealth; four health care provider representatives appointed by the
83 commissioner of public health, one of whom shall be a member of the Massachusetts Medical
84 Society; one of whom shall be a member of The Massachusetts Chapter of the American
85 Academy of Pediatrics; one of whom shall be a member of the Massachusetts Academy of
86 Family Physicians; and one of whom shall be a physician licensed to practice in the
87 commonwealth and who shall have expertise in the area of childhood vaccines. The
88 commissioner of public health, or his or her designee, shall be the chair of the council. The
89 council shall determine the types of vaccine(s) to be purchased based on a list of routine
90 childhood immunizations and shall take into account provider preference, cost, availability, and
91 other factors as determined by the council. The council shall also recommend the amount of
92 funding needed each fiscal year by calculating the total non-federal program cost. Such
93 calculation shall be based on health care claims data, as defined in 129 C.M.R. § 3.00, relating to
94 all children covered by health insurers in the Commonwealth. The council shall be advised by a
95 committee within the department of public health, as determined by the commissioner of public
96 health. The council shall have independent authority to make the determinations and

97 recommendations required by this subsection. The commissioner of insurance shall determine
98 the final amount required to be included in the Vaccine Purchase Trust Fund for the next fiscal
99 year to cover vaccines required for purchase and distribution pursuant to this subsection.

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

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

115
116 Section 3:

117 (a) Every health insurer, as defined in section one, shall provide benefits for (1) routine
118 childhood immunizations for Massachusetts residents and (2) immunizations for Massachusetts
119 residents who are 19 years of age and over according to the most recent schedules recommended
120 by the Advisory Committee on Immunization Practices of the U.S. Department of Health and

121 Human Services. These benefits shall be exempt from any copayment, coinsurance, deductible,
122 or dollar limit provisions in the health insurance policy or contract.

123 (b) Health insurers shall pay to health care providers 100% of the reasonable and
124 customary charges for those immunizations described in Section 3(a), including the cost of the
125 vaccines not provided by the commonwealth and any reasonable and customary costs associated
126 with the administration of the vaccines. Notwithstanding any general or special law to the
127 contrary, a health insurer shall provide such reimbursement to any health care provider who
128 administers covered immunizations in any facility, health care provider's office or any other
129 setting in the Commonwealth and shall not limit such reimbursement to providers that are
130 participating providers.

131
132 SECTION 2: Chapter 111 of the General Laws, as appearing in the 2002 Official
133 Edition, is hereby amended by inserting after 24K the following section:-

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

139 The department shall promulgate rules and regulations to implement the Massachusetts
140 immunization registry.

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

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

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

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

159 The department may grant access to the Massachusetts immunization registry to the
160 following categories of users in the commonwealth: (1) licensed health care providers providing
161 direct care to the individual patient, (2) elementary and secondary school nurses and registration
162 officials who require proof of immunizations for purposes of school enrollment and disease
163 control; (3) local boards of health for disease prevention and control; (4) Women Infants and
164 Children Nutrition Program (WIC) staff who administer WIC benefits to eligible infants and
165 Children; (5) staff of state agencies or state programs whose duties include education and
166 outreach related to the improvement of immunization coverage rates among their clients.

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

173 Persons authorized by the commissioner may conduct research studies pursuant to c. 111,
174 §24A, provided that the researcher submits a written request for information and executes a
175 research agreement that protects the confidentiality of the information provided.

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

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

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