SENATE DOCKET, NO. 1621 FILED ON: 1/21/2011

SENATE . . . . . No. 529

The Commonwealth of Massachusetts

PRESENTED BY:

Richard T. Moore

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:

An Act establishing the Massachusetts Childhood Vaccine Program and the Massachusetts Immunization Registry.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Richard T. Moore	☐ *[District]* ☐
Michael O. Moore	☐ *[District]* ☐
Jason M. Lewis	*31st Middlesex*
Martha M. Walz	*8th Suffolk*

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SENATE . . . . . No. 529

By Mr. Moore, a petition (accompanied by bill, Senate, No. 529) of Richard T. Moore, Michael O. Moore, Jason M. Lewis and Martha M. Walz for legislation to establish the Massachusetts Childhood Vaccine Program and the Massachusetts Immunization Registry. Health Care Financing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *2195* OF 2009-2010.]

The Commonwealth of Massachusetts

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:

SECTION 1. The General Laws, as appearing in the 2008 Official Edition, shall be amended by adding after section chapter 118H the following new chapter:

Chapter 1118I: Section 1:

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

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

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

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

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

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

13 “Health insurer,” includes surcharge payors as defined in section 34 of chapter 118G of
14 the General Laws; however, for the purposes of this section, health insurer shall also include a
15 contributory group general or blanket insurance for persons in the service of the commonwealth
16 under chapter 32A; a contributory group general or blanket insurance for persons in the service
17 of counties, cities, towns and districts, and their dependents under chapter 32B; and the medical
18 assistance program administered by the division of medical assistance pursuant to chapter 118E
19 and in accordance with Title XIX of the Social Security Act or any successor statute; Medicaid
20 managed care organizations referenced in St. 1997, c. 47, § 28 for those health plans offered
21 pursuant to M.G.L. c. 118H; and any other medical assistance program operated by a
22 governmental unit for persons categorically eligible for such program. For the purposes of this
23 act, “health insurer” shall not include any entity to the extent it offers a policy, certificate or
24 contract of insurance that provides coverage solely for dental care services or vision care
25 services. “Insured,” an enrollee, covered person, member, policyholder, subscriber or beneficiary
26 of a health insurer.

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

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

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

38 “Total non-federal program cost,” the estimated annual cost of vaccines needed for
39 routine childhood immunizations for children covered by health insurers in the Commonwealth
40 less the amount of federal revenue available to the commonwealth for purchase, storage,
41 distribution and administration of such vaccines.

42 “Vaccine Purchase Trust Fund,” a fund to support a universal purchase system for
43 childhood vaccines in the commonwealth.

44 Section 2: (a) There is established by the commonwealth a separate trust fund
45 to be known as the Vaccine Purchase Trust Fund, in this section called the “Fund,” to support a
46 universal purchase system for childhood vaccines in the Commonwealth. The specific purpose
47 of the Fund shall be to cover the costs to purchase, store and distribute vaccines for routine
48 childhood immunizations and to administer the Fund and the Massachusetts Immunization
49 Registry, as established under section 24K of chapter 111. The fund shall consist of all monies

50 paid to the commonwealth under subsection (c) and any interest earnings on such monies. The
51 Fund shall be maintained by the commissioner of the division of health care finance and policy
52 or his or her designee. The monies shall be expended under the direction of the department of
53 public health, without prior appropriation, solely for the purposes described in this section. Any
54 balance in the Fund at the close of a fiscal year shall be available for expenditure in subsequent
55 fiscal years and shall not be transferred to any other fund or revert to the General Fund. The
56 commissioner of the division of health care finance and policy or his or her designee shall report
57 annually to the house and senate committees on ways and means the amount of funds collected
58 and any expenditures made from the Fund.

59 (b) There is established a vaccine purchase advisory council consisting of the
60 commissioner of public health or his or her designee; the Medical Director of the Massachusetts
61 Immunization Program of the Department of Public Health; the commissioner of the division of
62 health care finance and policy or his or her designee; the Executive Director of the
63 Commonwealth Health Insurance Connector Authority or his or her designee; the medical
64 directors of the three health insurance companies having the most covered lives in the
65 commonwealth; four health care provider representatives appointed by the commissioner of
66 public health, one of whom shall be a member of the Massachusetts Medical Society; one of
67 whom shall be a member of The Massachusetts Chapter of the American Academy of Pediatrics;
68 one of whom shall be a member of the Massachusetts Academy of Family Physicians; and one of
69 whom shall be a physician licensed to practice in the commonwealth and who shall have
70 expertise in the area of childhood vaccines. The commissioner of public health, or his or her
71 designee, shall be the chair of the council. The council shall recommend the types of vaccine(s)
72 to be purchased based on a list of routine childhood immunizations and shall take into account
73 provider preference, cost, availability, and other factors as determined by the council. The
74 council shall recommend the amount of funding needed each fiscal year by calculating the total
75 non-federal program cost. The council shall have independent authority to make
76 recommendations required by this subsection. The commissioner of the department of public
77 health shall determine the final vaccine(s) to be purchased. The commissioner of the division of
78 health care finance and policy shall determine the final amount required to be included in the
79 Vaccine Purchase Trust Fund for the next fiscal year to cover vaccines required for purchase,
80 storage and distribution pursuant to this subsection.

81 (c) Pursuant to regulations to be promulgated by the commissioner of the
82 division of health care finance and policy, each health insurer in the commonwealth shall pay to
83 the commissioner of the division of health care finance and policy, for deposit in the Vaccine
84 Purchase Trust Fund, a child immunizations fee assessed by the commissioner of the division of
85 health care finance and policy. The regulations shall establish dates for assessing and
86 contributing such fee and shall permit and enable expenditure of funds by the department of
87 public health. The annual contribution into the trust fund initially shall be deposited by July 1,

88 2010 and annually thereafter. Such fee shall be a percentage of the final amount determined by
89 the commissioner of the division of health care finance and policy pursuant to subsection (b).

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

94 Section 3: (a) Every health insurer, as defined in section one, shall provide
95 benefits for (1) routine childhood immunizations for Massachusetts residents and (2)
96 immunizations for Massachusetts residents who are 19 years of age and over according to the
97 most recent schedules recommended by the Advisory Committee on Immunization Practices of
98 the U.S. Department of Health and Human Services. These benefits shall be exempt from any
99 copayment, coinsurance, deductible, or dollar limit provisions in the health insurance policy or
100 contract.

101 (b) Health insurers shall pay to health care providers 100% of the reasonable
102 and customary charges for those immunizations described in Section 3(a), excluding those costs
103 covered by the commonwealth or the federal government,, and any reasonable and customary
104 costs associated with the administration of the vaccines. Notwithstanding any general or special
105 law to the contrary, a health insurer shall provide such reimbursement to any health care provider
106 who administers covered immunizations in any facility, heath care provider's office or any other
107 setting in the Commonwealth and shall not limit such reimbursement to providers that are
108 participating providers.

109 SECTION 2. Chapter 111 of the General Laws, as appearing in the 2008
110 Official Edition, is hereby amended by inserting after 24K the following section:-

111 Section 24L. The department of public health shall establish, maintain, and
112 operate a computerized information system to be known as the Massachusetts Immunization
113 Registry. The Massachusetts immunization registry shall record immunizations and
114 immunization history with identifying information. The Massachusetts immunization registry
115 shall include appropriate controls to protect the security of the system and the privacy of the
116 information.

117 The department shall promulgate rules and regulations to implement the
118 Massachusetts immunization registry.

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

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

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

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

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

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

151 Persons authorized by the commissioner may conduct research studies pursuant to c. 111,
152 §24A, provided that the researcher submits a written request for information and executes a
153 research agreement that protects the confidentiality of the information provided.

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

157 Information contained in the Massachusetts immunization registry is
158 confidential and shall not constitute a public record nor be available except in accordance with

159 this section. Such confidential information shall not be subject to subpoena or court order and
160 shall not be admissible as evidence in any action of any kind before any court, tribunal, agency,
161 board, or person.

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