

SENATE No. 470

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act establishing the Massachusetts Childhood Vaccines 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
2 amended by adding after section chapter 176R the following new chapter:

3 Chapter 176S:

4 Section 1:

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

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

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

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

11 “Facility,” a hospital, clinic or nursing home licensed under chapter 111 or a home health
12 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
15 health insurance under chapter 175; a nonprofit hospital service corporation organized under
16 chapter 176A; a nonprofit medical service corporation organized under chapter 176B; a health
17 maintenance organization organized under chapter 176G; an organization entering into a
18 preferred provider arrangement under chapter 176I; a contributory group general or blanket
19 insurance for persons in the service of the commonwealth under chapter 32A; a contributory
20 group general or blanket insurance for persons in the service of counties, cities, towns and
21 districts, and their dependents under chapter 32B; the medical assistance program administered
22 by the division of medical assistance pursuant to chapter 118E and in accordance with Title XIX
23 of the Social Security Act or any successor statute; Medicaid managed care organizations
24 referenced in St. 1997, c. 47, § 28 for those health plans offered pursuant to M.G.L. c. 118H; all
25 self-insured plans to the extent not preempted by federal law; any entity that offer Qualifying
26 Student Health Insurance Plans pursuant to 114.6 CMR 3.00; and any other medical assistance
27 program operated by a governmental unit for persons categorically eligible for such program.

28 “Health Insurer” shall not include any entity to the extent it offers a policy, certificate or contract
29 of insurance that provides coverage solely for dental care services or vision care services, or only
30 for accident, credit, hospital indemnity, disability income, supplements to liability insurance,
31 specified disease or long term care.

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

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

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

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

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

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

51 Section 2:

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

66 (b) There is established a vaccine purchase advisory council consisting of the
67 commissioner of public health or his or her designee; the Medical Director of the Massachusetts
68 Immunization Program of the Department of Public Health; the commissioner of insurance or his
69 or her designee; the Executive Director of the Commonwealth Health Insurance Authority or his
70 or her designee; the medical directors of the three health insurance companies having the most
71 covered lives in the commonwealth; four health care provider representatives appointed by the
72 commissioner of public health, one of whom shall be a member of the Massachusetts Medical
73 Society; one of whom shall be a member of The Massachusetts Chapter of the American
74 Academy of Pediatrics; one of whom shall be a member of the Massachusetts Academy of

75 Family Physicians; and one of whom shall be a physician licensed to practice in the
76 commonwealth and who shall have expertise in the area of childhood vaccines. The
77 commissioner of public health, or his or her designee, shall be the chair of the council. The
78 council shall determine the types of vaccine(s) to be purchased based on a list of routine
79 childhood immunizations and shall take into account provider preference, cost, availability, and
80 other factors as determined by the council. The council shall also recommend the amount of
81 funding needed each fiscal year by calculating the total non-federal program cost. Such
82 calculation shall be based on health care claims data, as defined in 129 C.M.R. § 3.00, relating to
83 all children covered by health insurers in the Commonwealth. The council shall be advised by a
84 committee within the department of public health, as determined by the commissioner of public
85 health. The council shall have independent authority to make the determinations and
86 recommendations required by this subsection. The commissioner of insurance shall determine
87 the final amount required to be included in the Vaccine Purchase Trust Fund for the next fiscal
88 year to cover vaccines required for purchase and distribution pursuant to this subsection.

89 (c) Pursuant to regulations to be promulgated by the commissioner of insurance, each
90 health insurer in the commonwealth shall annually pay to the commissioner of insurance, for
91 deposit in the Vaccine Purchase Trust Fund, a child immunizations fee assessed by the
92 commissioner of insurance. The regulations shall establish dates for assessing and contributing
93 such fee and shall permit and enable expenditure of funds by the department of public health.
94 The annual contribution into the trust fund initially shall be deposited by July 1, 2010, and
95 annually thereafter.. Such fee shall be a percentage of the final amount determined by the
96 commissioner of insurance pursuant to subsection (b) of this section, and shall be calculated

97 based on the number of children insured by each health insurer as a percentage of total children
98 insured by all health insurers in the Commonwealth.

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

103 Section 3:

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

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

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

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

125 The department shall promulgate rules and regulations to implement the Massachusetts
126 immunization registry.

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

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

137 All licensed health care providers practicing in Massachusetts who administer
138 immunizations to individuals in Massachusetts shall report to the Massachusetts immunization

139 registry such data related to immunizations as the department determines is necessary for disease
140 prevention and control.

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

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

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

159 Persons authorized by the commissioner may conduct research studies pursuant to c. 111,
160 §24A, provided that the researcher submits a written request for information and executes a
161 research agreement that protects the confidentiality of the information provided.

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

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

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