

**HOUSE . . . . . No. 3453**

**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
Christine E. Canavan	10th Plymouth
Frank I. Smizik	15th Norfolk
Cheryl A. Coakley-Rivera	10th Hampden
Timothy J. Toomey, Jr.	26th Middlesex
Anne M. Gobi	5th Worcester
Anthony D. Galluccio	Middlesex, Suffolk and Essex
Kay Khan	11th Middlesex
Denise Provost	27th Middlesex
Peter J. Koutoujian	10th 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 Chapter 176S:Section 1:

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

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

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

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

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

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

12 “Health insurer,” an insurer licensed or otherwise authorized to transact accident or health insurance  
13 under chapter 175; a nonprofit hospital service corporation organized under chapter 176A; a nonprofit  
14 medical service corporation organized under chapter 176B; a health maintenance organization organized  
15 under chapter 176G; an organization entering into a preferred provider arrangement under chapter 176I; a  
16 contributory group general or blanket insurance for persons in the service of the commonwealth under  
17 chapter 32A; a contributory group general or blanket insurance for persons in the service of counties,  
18 cities, towns and districts, and their dependents under chapter 32B; the medical assistance program

19 administered by the division of medical assistance pursuant to chapter 118E and in accordance with Title  
20 XIX of the Social Security Act or any successor statute; Medicaid managed care organizations referenced  
21 in St. 1997, c. 47, § 28 for those health plans offered pursuant to M.G.L. c. 118H; group excess loss  
22 insurance policies where the policy or certificate of coverage has been issued or delivered in  
23 Massachusetts, and where coverage has been purchased by a group health insurance plan subject to the  
24 Employee Retirement Income Security Act of 1974, Public Law No. 93-406 (ERISA); all self-insured  
25 plans to the extent not preempted by federal law; any entity that offer Qualifying Student Health  
26 Insurance Plans pursuant to 114.6 CMR 3.00; and any other medical assistance program operated by a  
27 governmental unit for persons categorically eligible for such program. "Health Insurer" shall not include  
28 any entity to the extent it offers a policy, certificate or contract of insurance that provides coverage solely  
29 for dental care services or vision care services, or only for accident, credit, hospital indemnity, disability  
30 income, supplements to liability insurance, specified disease or long term care.

31 "Insured," an enrollee, covered person, member, policyholder, subscriber or beneficiary of a health  
32 insurer.

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

36 "Physician group practice," two or more physicians who deliver patient care, make joint use of  
37 equipment and personnel and by agreement divide income earned by the physicians in the group.

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

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

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

48 Section 2: (a) There is established by the commonwealth a separate trust fund to be known as the  
49 Vaccine Purchase Trust Fund, in this section called the "Fund," to support a universal purchase system for  
50 childhood vaccines in the Commonwealth. The specific purpose of the Fund shall be to cover the costs to

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

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

82 (c) Pursuant to regulations to be promulgated by the commissioner of insurance, each health  
83 insurer in the commonwealth shall annually pay to the commissioner of insurance, for deposit in the  
84 Vaccine Purchase Trust Fund, a child immunizations fee assessed by the commissioner of insurance. The  
85 regulations shall establish dates for assessing and contributing such fee and shall permit and enable

86 expenditure of funds by the department of public health. The annual contribution into the trust fund  
87 initially shall be deposited by July 1, 2010, and annually thereafter. Such fee shall be a percentage of the  
88 final amount determined by the commissioner of insurance pursuant to subsection (b) of this section, and  
89 shall be calculated based on the number of children not eligible for federally purchased vaccines who are  
90 insured by each health insurer as a percentage of total children insured by all health insurers in the  
91 Commonwealth that are not eligible for federally purchased vaccines.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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