

Massachusetts Chapter of the American Academy of Pediatrics (MCAAP)
August 2024
Report of Counsel
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Legislation for 2023-24 Session

The formal session of the Legislature came to an end on August 1, 2024. This report provides the current status of the bills the Chapter is monitoring. Please note that a bill sent to “a study” is effectively dead for the session. A bill referred to HW&M or SW&M indicates that the bill was sent to either the House or Senate Ways & Means Committee. Both committees have jurisdiction over any legislation which would impose a cost, including administrative cost, on the Commonwealth.

While the legislature can pass a bill during an informal session, it requires unanimous consent. Any legislator can stop a bill by objecting to taking it up. To be honest, bills listed as still in committees are for all practical purposes considered dead for the session. There is discussion by the House and Senate, however, to try to work out differences in bills that have passed both branches and are currently in conference committees, and try to pass those bills during an informal session if consensus can be reached.

In the following report, I outline bills MCAAP has monitored during 2024, which have been enacted; issues still pending in conference committees which could be taken up during the informal session; and an update on the status of all the bills the Chapter has taken a position on during the session.

A Personal Note

This is my last Report. It has been an honor and privilege to represent the Massachusetts Chapter, American Academy of Pediatrics for so many years on Beacon Hill. I have been fortunate to work with so many dedicated MCAAP leaders and members in helping the Chapter advocate for its members and your patients.

Thank you for the opportunity to work with you on so many important legislative and regulatory issues relating to children, pediatrics and health care over the years, and I wish the MCAAP much success in the future.

Ed

I. 2024 Enacted Legislation

Gun Control. Chapter 135 of Acts of 2024 “An act modernizing firearm laws:” MCAAP supported

- Bans guns in public spaces like schools, government buildings and polling places (except off-duty police);
- Requires businesses to explicitly post any gun “carry” restrictions;

- Prohibits visitors from carrying firearms into another person’s home without permission;
- Updates assault weapons ban to include new weapons manufactured after 2004 (new AR-15) and by including new technology that can convert firearms into assault weapons;
- Cracks down on “ghost” guns - all kit or homemade firearms, if sold, must be etched with unique serial numbers and registered with state;
- Expands state’s “Red Flag” law by adding to list of those who can file under the law: licensed health care providers, school administrators and employers.

Parentage. Chapter 166 of acts of 2024 “An Act to ensure legal parentage equality,” MCAAP

Supported. The law updates Massachusetts statutes to clarify who can be a parent and how to establish parentage. The law ensures that all children can access the security of legal parentage, regardless of the circumstances of their birth by providing a path to parentage through birth, adoption, acknowledgment, adjudication, genetics, assisted reproduction, surrogacy, de facto parentage, and presumptions (including a marital presumption).

Maternal Health. Chapter 186 of Acts of 2024. “An Act promoting access to midwifery care and out-of-hospital birth options,” licenses and regulates certified professional midwives and lactation consultants, eliminates regulatory barriers for opening birthing centers for low risk pregnancies, requires MassHealth coverage of doula services and **of particular interest to the MCAAP includes issues we have supported:**

- requires insurance coverage for postpartum screenings and postpartum home visits without co-pay or deductible;
- changes the mandated insurance coverage for well-child care visits from “annually” from ages 2-6 to “once per calendar year” until age 6;
- provides coverage for the provision of medically necessary pasteurized donor human milk and donor human milk-derived products.

Chapter 167 of Acts of 2024, “An Act Criminalizing Sexual Assault by Fraud of a Medical Professional.”

In response to recent allegations of physicians sexually assaulting patients during treatment. The Legislature passed on the closing day of the formal session Chapter 167, which criminalizes a sexual assault on a patient or client during the course of diagnosis, counseling, or treatment, where consent to the act was procured by a false representation that the act was for a bona fide medical purpose and not consistent with generally accepted principles of professional medical practice.

II. Issues pending in Conference Committees that may see resolution during the Informal Session:

- **Health Care Market Oversight.** (H.4653/S.2881) Status: Conference Committee Negotiation
These bills are intended to prevent another Steward crisis and address the role of private equity in the healthcare marketplace, but went much further by imposing broad new oversight and regulation of hospitals and physicians.

Among the sticking points between the House and Senate are the provisions around private equity (PE) and management service organizations (MSO). The House wants a simple registration process for physician groups over 10 MDs for data collection purposes only as to whether a medical practice has PE investment or MSO contracts. The Senate took a much stronger approach and supports sweeping provisions to restrict the role of PE and MSO's in Massachusetts' health

care arena, which could have significant unintended consequences for physician practices, many of which contract with MSO's for administrative services. The Senate bill also requires a physician group of more than 1 physician to appoint a member to be the medical director of the practice responsible for ensuring compliance with all laws and regulations relating to the practice of medicine. The BORIM is authorized to discipline a medical director and physician owners of the practice for failure to adhere to such laws and regulations. There is concern within the physician community with the broad provisions of the Senate bill.

Both the House and Senate bills have some form of regulation of prior authorization.

- **Prescription Drug Bill**, H.4891/S.2520 “*An act relative to pharmaceutical access, costs and transparency*” Status: Conference Committee Negotiation

The bills would license and regulate Pharmacy Benefit Managers (PBMs), and empower the state's Center for Health Information Analysis and Health Policy Commission) to obtain and analyze information regarding various pricing factors from drug manufacturers and Pharmacy Benefit Managers (PBMs).

Note: House bill contains the Vaccine Provider Choice provision. MCAAP sent letters to conference committee members opposing Provider Choice. Further monitoring required.

- **Substance Use and Recovery**, H.4758/S.2921 “*An Act relative to treatments and coverage for substance use disorder and recovery coach licensure*” Status: Conference Committee Negotiation
The bills would expand access to substance use treatment. Included in the House bill, H.4758, is a provision that would no longer require a mandated reporter to file a 51A report automatically by the singular fact of prenatal substance exposure, similar to H.173, which the MCAAP supported.
- **Notice and Disclosure Law Delay**: Tied up in a supplemental budget bill that failed to pass during the formal session is a provision the Senate inserted that would delay until January 1, 2027 implementation of the Notice and Disclosure law that is scheduled to become effective Jan 1, 2025.

As a reminder, the Legislature passed a law in 2020 requiring all physicians, and other health care providers, to disclose to patients if they participate in the patient's insurance network and, if the patient requests it, to provide the patient with the cost of the service. There are some inconsistencies between the state law and the notice and disclosure requirements of the federal No Surprises Act that could result in two sets of differing laws being enforced. House leadership has indicated they will support the Senate's 2027 implementation delay. It is likely the supplemental budget will be passed during the informal session.

Legislation the Chapter is monitoring for the 2023-2024 legislative session

1. Repeal Vaccine Religious Exemption. H.604 & S.1391, “[An Act Relative to Vaccinations and Public Health](#)” would repeal the religious exemption for childhood vaccines. A **Chapter priority**. MCAAP is a member of a broad based coalition supporting the bill. **Public Health Committee. Committee reporting date extended to 12/31/24 (dead for the session)**

2. Community Immunity. S.1458 & H.2151, “[An Act Promoting Community Immunity](#)” requires childhood immunizations for day care, early education, public and private schools and colleges. Maintains

the religious exemption with a DPH approved form submitted to DPH after child's provider acknowledges in writing receipt of exemption application. DPH cannot question religious beliefs of parents and must approve the exemption. Medical exemptions must be filled out by patient's provider on a DPH form and approved by DPH. **MCAAP does not support because bill maintains religious exemption. Public Health Committee. Committee reporting date extended to 12/31/24. (dead for the session)**

3. **Protection of Medical Exemptions.** H.582 [“An Act relative to the protection of medical exemptions for immunizations for school attendance.”](#) is a new bill that allows for a medical exemption where a physician has examined the child and in the physician's opinion, based the totality of the child's medical circumstances, the child's health would be endangered by such vaccination. Such opinion may be based upon such factors as are deemed relevant by the physician in their independent medical judgment including, among other factors, concerns regarding an increased risk of adverse events, family history, or exacerbation of pre-existing medical conditions relating to the child. A physician making such determination would not be subject to discipline by BORIM absent manifest bad faith. The bill would maintain the religious exemption. **Chapter Opposes. Public Health Committee. Sent to Study.**

4. **Cover All Kids.** S.740 & H.1237, [“An Act to Ensure Equitable Health Coverage for Children”](#) would establish a program of comprehensible health coverage for children and young adults under age 21, who are not otherwise eligible for Medicaid solely due to immigration status. Benefits would be same as MassHealth. **Chapter supports. Health Care Financing Committee. RFDASH bill for advocacy June 2023. Favorable to Senate W&M.**

5. **Healthy Youth.** S.268 & H544, [“An Act Relative to Healthy Youth”](#) would require school districts that choose to offer sexual health education to provide age-appropriate, medically accurate information, including information on both abstinence and contraception; relationship and communications skills to form healthy, respectful relationships; age appropriate information about gender identity and sexual orientation. The bill maintains existing state law that allows parents to remove their children from sex education programs. **Chapter supports. Education Committee. Senate passed redraft of bill (S.2686). Before House Ways & Means.**

6. **Lead Poisoning.** S.1352 & H.2280 [“An Act Modernizing Childhood Lead Poisoning Prevention”](#) decreases the action level of lead from 25 micrograms per deciliter to 10; doubles tax credit for owners who de-lead their housing units; and increases penalties for housing discrimination. **Chapter supports. Public Health Committee. New Draft (S.2578). Favorable to Health Care Financing. HCF reported favorable to SW&M.**

7. **Epinephrine Supplies in Schools.** H.490 - [“An Act Relative to Emergency Stock Supply of Epinephrine in Schools”](#) requires each public school maintain a stock supply of non-patient specific epinephrine available to all students, including students with individualized health care plans prescribing epinephrine injections, to be administered in the event of an anaphylactic emergency. The stock epinephrine would be stored in an easily accessible unlocked location. The number and type of epinephrine auto-injectors required would be based on school population, and the individuals authorized to administer epinephrine would meet certain training requirements for such administration, including the

use of epinephrine dose calculation devices. The program would be administered by DPH and funded by assessment on health insurers. **Chapter supports.** Education Committee. **Reported favorable as H.4420 to HW&M.**

8. Diet Pills and Muscle-building Supplements. H.2215 & S.1465 [“An Act Protecting Children from Harmful Diet Pills and Muscle-building Supplements”](#) would ban the sale of over counter diet pills or diet supplements for weight loss to anyone under 18 years of age. Over counter diet pills and diet supplements for weight loss or muscle building “includes, but not limited to, thermogens, which are substances that produce heat in the body and promote calorie burning, lipotropics, which are compounds that break down fat during body metabolism, hormones, including hormone modulators and hormone mimetics, appetite supplements, or ingredients deemed adulterated under 21 USCA sec. 342.” **Chapter supports.** Public Health Committee. **Reported favorable to Health Care Financing. Reported to HW&M.**

9. Sugary Drinks. [S.1396 & H.2210 “An Act to Protect Youth from the Health Risks of Sugary Drinks”](#) prohibits marketing of sugary drinks in schools. The bill also requires labeling on certain sugary drink advertisements. Anyone who advertises sugary drinks must include a Warning: Drinking beverages with added sugar(s) contributes to obesity, diabetes, and tooth decay.” Not required on drink containers...limited to advertisements. A limitation on sugary beverages in children’s meals at chain restaurants would be imposed. Chain restaurants can only sell kid’s meal if the default beverage is: water, sparkling water or flavored water with no added natural or artificial sweeteners; nonfat or 1% milk or non-dairy alternative containing no more than 130 calories per container; or 100% juice, with no added sweeteners, in a serving size of no more than 8 oz. **Chapter supports.** Public Health Committee. **Reported favorable on S.1396 and referred to SW&M.**

10. Prevention and Wellness Trust Fund. S.1400 & H.2260 [“An Act to Promote Public Health through the Prevention and wellness trust fund”](#) would renew funding for the Prevention and Wellness program that supports health initiatives in high need communities to prevent chronic conditions i.e. childhood asthma. **Chapter supports.** Health Care Financing Committee. **Sent to Study.**

11. Child Death Review. H.3624 & S.1376 [“An Act to Promote Public Safety and Certainty Related to Child Deaths”](#) would require the chief medical examiner to review and approve the autopsy findings of a medical examiner, and any change thereto, of a child under the age of two. **Chapter supports.** Public Health Committee. **House by amendment added it to last year’s budget and passed. Signed into law as part of FY24 Budget.**

12. Food Allergy. S.250 [“An Act to Establish Food Allergy Plans.”](#) would establish food allergy management and prevention plans for schools statewide. Committee on Education. **Chapter supports.** **Favorable to SW&M.**

13. Safe Communities Act. S.1510 & H.2288 [“An Act to protect the civil rights and safety of all Massachusetts residents”](#) would prevent local police departments from enforcing immigration enforcement.

- The bill would prohibit a law enforcement agency from inquiring about a person’s immigration status unless info is required by law or is an element in a crime for which the person is being investigated.
- No police officer can arrest or detain a person solely for immigration enforcement program; exception is if probable cause that the person has committed a crime.
- Police can’t continue to detain a person solely for immigration purpose once the person is released from local custody.

Chapter supports. Public Safety & Homeland Security Committee. **Sent to Study.**

14. Factor V Leiden Testing. H.1134 [“An Act Relative to Testing for Factor V Leiden”](#) would require all women seeking pharmacological contraceptive (oral contraceptive pills and long acting reversible contraceptives or LARCs) to undergo a blood test for FVL. **Chapter opposes.** Financial Services Committee. **Sent to Study.**

15. Children’s Cabinet. H.189 [“An Act to Establish a Massachusetts Children’s Cabinet”](#) which would consist of leaders of various state agencies that affect children. The goal of the Children’s Cabinet would include: Develop a shared vision for Massachusetts children, youth and families; address racial, social and economic disparities, ensuring equitable access to services; foster inter-agency and cross-sector coordination of programs and services for youth and families; review recommendations of legislative studies and state advisory committees and councils; recommend improvements to existing services and programs; produce an annual report on the status of children and youth in the Commonwealth in areas of education (including preschool), health, and other indicators of wellbeing. **Chapter Supports. State Administration Committee. Reported favorable to HW&M.**

16. Common Start. S.301 & H.489 [“An Act providing affordable and accessible high quality early education and care to promote child development and well-being and support the economy in the Commonwealth”](#) requires the Commonwealth invest in high quality child care and early education for all families who desire it through family subsidies or direct to provider payments. **Chapter supports goals but concerned whether it is achievable.** Education Committee. **Reported favorable as redraft S2619. Passed Senate. Referred to HW&M**

17. Promote Public Safety & better Outcomes for Young Adults. H.1710 & S942. [“An Act to promote public safety and better outcomes for young adults.”](#) The bills would raise the age for youth to be subject to juvenile justice from up to age 18, to age 19, 20 and 21 on a gradual basis. **Chapter Supports.** Judiciary Committee. **Reporting date extended to 7/31/24. Raise age to 19 included in Senate Economic Development bill, which is in conference committee with House.**

18. Modifier-25. H.1011 & S.699. [“An Act Relative to Fair and Equitable Compensation for Medical Services”](#) The bill would prohibit health insurers from inappropriately reducing physician reimbursement when a modifier 25 code is applied. **Chapter Supports.** Financial Services Committee. **Favorable to Health Care Financing, Reported favorable to HW&M.**

19. Child Passenger Safety. H.2318 & S.1524 [“An Act to Enhance Child Passenger Safety”](#) would require rear facing child seats for children under 2 years of age riding in a vehicle. **Chapter Supports.** Committee on Public Safety and Homeland Security. **Report favorable. Received initial reading in House referred to Committee on 3rd Reading.**

20. Prenatal Substance Exposure. H.173 & S.64 [“An Act to Support Families”](#) would no longer require a mandated reporter to file a 51A report automatically by the singular fact of prenatal substance exposure. **Chapter Supports.** Committee on Children, Families and persons with Disabilities. **Reported favorably as H.4392 and referred to HW&M. Included in the House passed Substance Use bill, which is before a House/Senate conference committee.**

21. Postural Screening in Schools. H.2211 & S.1350, [“An Act to update postural screenings in schools”](#) which updates the statutory mandate for postural screening in schools by requiring a screening during one of the grades 6, 7, 8 or 9. Public Health Committee. **Chapter monitoring.** Chapter is engaged in further review of bill. Favorable to Health Care Financing. **Reported favorable as S.1350 to SW&M.**

22. Diaper Benefits Pilot Program. H.149 & S.104, [“An Act Establishing a Diaper Benefits Pilot Program”](#) which would establish a pilot program throughout the Commonwealth that would fund up to 12 organizations to distribute diapers to families in need. **Chapter Supports.** Committee on Children and Families. **Favorable to HW&M**

23. Non-medical school staff administering glucagon. S.279 & H.552, [“An Act improving students’ access to life saving treatments,”](#) which would allow non-medical school staff to be trained to administer the emergency medication glucagon to a student with diabetes who is experiencing a dangerous, severely low, blood glucose level. Education Committee. **Chapter Supports. Favorable on S.279 and referred to SW&M.**

24. Parentage Terminology. H.1602 & S.1130 [“An Act relative to parentage to promote children's security,”](#) would update Massachusetts statutes to clarify who can be a parent and how to establish parentage. The bill ensures that all children can access the security of legal parentage, regardless of the circumstances of their birth by providing a path to parentage through birth, adoption, acknowledgment, adjudication, genetics, assisted reproduction, surrogacy, de facto parentage, and presumptions (including a marital presumption). Judiciary Committee. **Chapter Supports. Passed by House and Senate July 31. Signed into law on Aug. 8, 2024, as Chapter 166 of Acts of 2024.**

25. Pesticide Protection of Schoolchildren. H.811 [“An Act relative to improving pesticide protections for Massachusetts schoolchildren.”](#) would narrow the list of acceptable pesticides for use on outdoor grounds of any school, childcare center, or school age childcare program in the Commonwealth. Only pesticides considered minimum risk by the U.S. Environmental Protection Agency (EPA) and those permitted for organic use would be allowed, except in the case of a health emergency when school officials could apply for a waiver. Environmental and Natural Resources Committee. **Chapter Supports. Favorable to House. Initial approval. In Committee on 3rd Reading**

26. Health Equity. H,1250/S.799 “An Act to Advance Health Equity” would directly benefit children in the most underserved parts of Massachusetts through funds that would be prioritized to be put towards initiatives that promote health equity. The bill would also provide opportunities for high-quality disparities research to help promulgate its impact across state lines. **Chapter Supports.** Health Care Financing Committee. Reported favorably on S.799 and **referred to SW&M.**

27. Prescription Cost Transparency and Affordability. H.945 “An Act to ensure prescription drug costs transparency and affordability” would empower CHIA [Center for Health Information Analysis - the research and analysis arm of the HPC (Health Policy Committee)] to obtain and analyze information regarding various pricing factors from drug manufacturers and Pharmacy Benefit Managers (PBMs). The bill would equip pediatric providers with up-to-date prescription drug information so that they can provide accurate information to children and families. **Chapter Supports.** Financial Services Committee. **Reported to SW&M. Senate passed. House passed different version. In conference committee.**

28. Gun Control. H.4139 “An act modernizing firearm laws” The bill:

- Bans guns in public spaces like schools, government buildings and polling places (except off-duty police);
- Requires businesses to explicitly post any gun “carry” restrictions;
- Prohibits visitors from carrying firearms into another person’s home without permission;
- Updates assault weapons ban to include new weapons manufactured after 2004 (new AR-15) and by including new technology that can convert firearms into assault weapons;
- Cracks down on “ghost” guns - all kit or homemade firearms, if sold, must be etched with unique serial numbers and registered with state;
- Expands state’s “Red Flag” law by adding to list of those who can file under the law: licensed health care providers, school administrators and employers.

Chapter Supports. Differing versions have passed both the House and Senate. **A conference committee reconciled difference and bill passed and signed into law, Chapter 135 of Acts of 2024.**

29. Pediatric Care Appointments. S.706/H.1017 “An act relative to pediatric care appointments” would change the mandated insurance coverage for well-child care visits from “annually” from ages 2-6 to “once per calendar year” until age 6. **Chapter Supports.** Financial Services Committee. **Favorable to Health Care Financing Committee. Included in Maternal Health bill enacted and expected to be signed into law.**

30. Insurance Coverage for Prenatal Pediatric Visits. H.3586 “An act supporting maternal and pediatric health” would require health insurers to cover a prenatal pediatric visit between a pregnant person and a pediatrician. **Chapter Supports.** Financial Services Committee. **Sent to Study**

31. Pharmacists as Health Care Providers. H.4066/S.1425 “An act relative to pharmacists as health care providers” would allow the **MA Board of Pharmacy** to establish a written statewide protocol for pharmacists to test or screen for and initiate treatment or therapy for qualified health conditions. The list of qualified conditions for testing, screening, and treatment or therapy shall include Influenza, Streptococcal infections, COVID-19, HIV, and any other health condition approved by the board. **Chapter Opposes.** Could undermine the Medical Home. Financial Service Committee. **Favorable to Health Care Financing Committee. Sent to Study.**

32. Prior Authorization. S.1249 “An act relative to reducing administrative burden” would reform the burdensome prior authorization process used by health insurers. **Chapter Supports.** Mental Health

and Substance Abuse Committee. **Reported favorably to SW&M. Provisions of S.1249 added by Senate to health care reform bill (S.2881) which is before a conference committee.**

33. Aversive Therapy. H.180 “An Act regarding the use of aversive therapy” would ban the use of aversive therapy in Massachusetts. **Chapter Supports.** Committee on Children, Families and Persons with Disabilities. **Sent to Study.**

34. Breast Pumps. S.600 “An act improving access to breast pumps” would require MassHealth and commercial insurers to cover the cost of the rental and usage of a multi-user breast pump by the mother of a newborn infant who is receiving care at an intensive care or special care nursery, or has cardiac, neurological, or oral anomalies that prevent direct feeding at the breast. **Chapter Supports.** Health Care Financing Committee. **Reported favorably to SW&M**

35. Provider Choice of Vaccines. A proposed amendment offered by MassBio to the Fiscal Year 25 budget debate in the House on 4/24/24 would require the Mass. Childhood Vaccine Program administered by DPH to allow provider choice for all childhood vaccines. **The Chapter Opposed.** The amendment would undermine the successful and cost-effective vaccine program, render meaningless the expert Vaccine Purchasing Advisory Council and increase costs. **The Amendment was not adopted. However, amendment added by House to Prescription Drug bill (H4891) and is currently before a conference committee.**