

SB385- 2026 Vax Act

Unfavorable

February 10, 2026

Good Afternoon Chair Beidle, Vice Chair Hayes and members of the Senate Finance Committee,

My name is Megan Montgomery, and I am a proud citizen and Democrat as well as a member of the Alliance for Science Based Policy which is also testifying here today. I write to express my concerns about SB385- Governor Moore's "Vax Act" of 2026.

My concerns center around the unintentional liability for vaccine administrators that may be created with this bill. Like all of the members of this committee, I want to live in a state where children have proper access to all the healthcare they need, including routine vaccinations. However, this committee addressed that very issue of vaccination access last session with 2025 HB1315- Vaccinations by Pharmacists and Health Insurance Coverage for Immunizations- which passed both houses and was signed by the Governor. It seems the 2026 Vax Act is a bill that seeks to address a problem that doesn't exist in this state with a 96+% vaccination rate and guaranteed insurance coverage for vaccinations from last year's HB1315. This bill also inadvertently opens up some serious problems for vaccine administrators in the process.

The state of Maryland has over a 96% vaccination rate for incoming kindergartners. The DOH recently posted a celebratory message about the state's high vaccine compliance rate: <https://www.instagram.com/reel/DS7jfcFDV-V/?hl=en> stating: "Maryland families are doing a great job keeping kids safe and healthy! Last year, more than 96% of Maryland's kindergarten students were vaccinated and ready to learn.* Keep up the good work in 2026, and stay vaccinated.

*Source: Maryland Department of Health Center for Immunization"

This bill appears to be a solution looking for a problem.

Below I have laid out my 3 main concerns:

1. Unintentional liability for vaccine administrators

2. Lack of liability for AAP and other private sector organizations
3. Potential liability under future Gubernatorial Administration

Unintentional Liability for Vaccine Administrators

Currently, ALL vaccine injuries for routine vaccinations listed in the compensation table are covered by the Vaccine Injury Table (VIT) in the Vaccine Injury Compensation Program (VICP). See <https://www.hrsa.gov/sites/default/files/hrsa/vicp/vaccine-injury-table-01-03-2022.pdf> and <https://www.hrsa.gov/vaccine-compensation> Moving the state to a recommended vaccination schedule that is potentially not covered by the VICP opens up our vaccine administrators to individual liability which will be litigated through their medical malpractice (med-mal) insurance.

The VICP is a fund set up in conjunction with the 1986 Federal vaccine act that authorizes the government to collect \$0.75 per vaccine and use that money to compensate people for their vaccine injuries. Vaccines and vaccine administrators that fall under this program are 100% immune from suit for injury that occurs from either a faulty dose of the vaccine or faulty administration of the vaccine. That waiver of liability has allowed vaccine administrators including doctors, nurses, pharmacy techs and pharmacists to give vaccines without worrying about lawsuits from their patients.

This VICP federal fund even covers the most common type of vaccine injury- Shoulder Injury Related to Vaccine Administration (SIRVA)- which is a 100% preventable injury caused solely by improper administration of the vaccine. SIRVA is responsible for over 50% of all vaccine injury claims: <https://pmc.ncbi.nlm.nih.gov/articles/PMC9175103/>

Governor Moore's "Vax Act" which would move decision making for vaccine recommendations from the elected state Legislature to the Secretary of Health while simultaneously recommending that Maryland move from the CDC schedule to the AAP schedule is likely to open up a scenario where vaccinations that are currently covered under the federal compensation program may ultimately be on the state schedule but not eligible for compensation under the VICP. This list of potentially med-mal liable vaccines currently includes Hep A and B, Covid, Flu and Meningococcal. Flu is the vaccine with the most VICP filings and SIRVA is the most filed for injury. There are approximately 2 million flu shots given in the state of Maryland every year according to our own DOH. If even .01%

of those shots result in a potential injury that would be eligible for litigation, we are talking about THOUSANDS of potential lawsuits every year. If the VICP protection for this vaccination for vaccine administrators in the state of Maryland gets removed while the vaccine remains on the state schedule, we risk opening every vaccine administrator in the state up to this individual medical malpractice liability and corresponding insurance rate increases.

This scenario is concerning for several reasons. First, we as a state have already been in this dangerous situation with our OBGYN providers in the 2010's. They were facing such high med mal insurance premiums that the state was going in critical specialist shortage and did not have enough OBGYN's to meet the citizens' needs. The Legislature responded with 2019's HB 1320- Maryland No-Fault Birth Injury Fund. We as a state cannot afford to lose our doctors, particularly pediatricians, nurses, pharmacists and pharmacy techs to a steady stream of vaccine injury claims and rising med mal premiums. And data suggests that only approximately 1% of vaccine injuries are currently reported, we could easily be talking about thousands of lawsuits against Maryland practitioners.

As Maryland is a geographically small state with 5 neighboring jurisdictions, we could see a scenario where local practitioners chose to commute across state lines and provide health care in another adjacent state rather than face higher med-mal insurance premiums here in Maryland. This would create **health care deserts** in the most already underserved communities that rely on local health care the most. Residents who often don't have access to personal transportation and rely on mass transit to meet their needs. Those are the families who are most in need of good health care and are least able to travel to get it. We must protect these families and communities by protecting health care providers from rising insurance rates.

MedChi concurs that rising exposure to liability and equitable access to health care are top concern here in the state of Maryland:

<https://www.medchi.org/Portals/18/2025%20Legislative%20Priorities.pdf>

- Fight initiatives that would weaken Maryland's current medical liability environment, including repealing or increasing non-economic damages caps
- Promote public health and safety initiatives that address health equity and social determinants of health

I believe that this bill sets up an inadvertent scenario where we risk the very health care that the state has worked so hard to provide for all Maryland families, particularly the most vulnerable.

Lack of Liability for AAP and other Private Sector Groups

Second, I want to raise the concern that the AAP and other private sector advocacy groups are NOT in fact liable for the recommendations that they make. Unlike the federal government that has an approval and compensation system built into their vaccination recommendation regime- private sector groups including the AAP do not. They have, in fact, zero liability for any recommendations they make. We have seen the AAP's position change on numerous vaccines, including the number and age of appropriate doses for HPV, COVID, polio (the AAP was recommending the live virus polio vaccine until the year 2000, despite the inactive polio vaccine being available for decades), RSV and others. The AAP is able to put out recommendations without any worry of future litigation, and they are able to change their recommendations as the science develops.

The AAP is also a private sector body heavily sponsored by vaccine manufactures. They are a big money organization with VERY high dollar sponsors. Current top tier sponsors include:

- CSL
- Genetech
- GSK
- Lilly
- Merck
- Moderna
- Pfizer
- Sanofi
- Sobi

AAP's annual revenue from 'contributions and grants' is almost 50 million dollars a year:

https://downloads.aap.org/AAP/PDF/AAP%20Financial%20Statements_FY25_Final.pdf?_gl=1*1hot01r*_ga*MTQzNzM5NDgwLjE3Njk2MTg5ODY.*_ga_FD9D3XZVQQ*cze3NzAzMTQ5NTEkbzmkZzAkdDE3NzAzMTQ5NTEkajYwJGwwJGgw*_gcl_au*Mzk1ODkzNjg3LjE3Njk2MTg5ODY.*_ga_GMZCQS1K47*cze3NzAzMTQ5NTEkbzmkZzAkdDE3NzAzMTQ5NTEkajYwJGwwJGgw That is a pretty hefty stake that vaccine manufactures have in the recommendations

that the AAP puts out, especially in light of the nonexistent liability the association faces if they get one wrong.

Concerns for Future Administrations

Finally, as a Democrat, I worry about the legislature giving the authority to make vaccine recommendations to an unelected official in a state where 2 of the last 4 governors have been Republican. What happens during the next change in administration? This authority belongs in the hands of elected officials, not in unelected Administration cabinet members that do not answer to the people. I urge you to maintain full control over the vaccination schedule within your own current legislative portfolios.

The Alliance for Science Based Policy urges the legislature to not delegate decisions involving vaccination recommendations, and other authority and decision-making regarding vaccinations to anyone outside of elected officials. This power and authority belongs with the legislature.

For the reasons above, I urge this committee to give SB385 an unfavorable report. Thank you for your time today.