

The History of the Personal Belief Exemption

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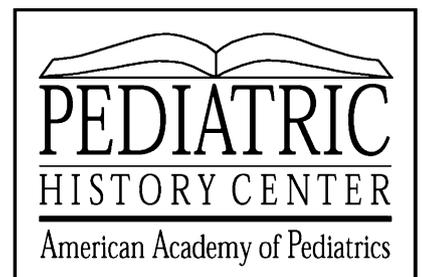
California's 2015 elimination of personal belief exemptions to required childhood vaccinations may have set off a trend. In 2019, in response to record-breaking measles outbreaks, lawmakers in at least 10 states attempted to eliminate or restrict the exemption. The moves suggest a possible end for the legal tool, which has a long yet little-examined history. The term "personal belief exemption" first came into popular use in the 1990s, but the idea of granting exemption from compulsory vaccination on the basis of secular convictions dates to the late 19th century. Since then, the exemption has evolved through 4 stages, each prompted by new vaccines or vaccine laws. In each stage, the exemptions reflected political compromise in the lawmaking process and broader struggles over liberties and rights.

Smallpox prompted the earliest vaccination mandates, and by the late 19th century, those laws inspired the first personal belief exemptions. California passed its first law requiring smallpox vaccination for school admission in 1889, a time when compulsory schooling and rising smallpox rates had been prompting such laws nationwide.¹ The law included a medical exemption, but other states' laws often omitted exemptions, and the unvaccinated could generally be fined, quarantined, or suspended. On the other side of the Atlantic, meanwhile, England's 1853

compulsory vaccination law triggered decades of widespread noncompliance and openly hostile antivaccinationism.² In 1898, the British government responded by adding a "conscience clause" to the law.²

US antivaccinationists and their political allies soon also pressed for limits on compulsory vaccination, often in response to tightened laws or stepped-up enforcement. Their victories included repeals of such laws, restrictions on them, and the first nonmedical exemptions. Utah prohibited compulsory vaccination in 1901; in 1903, Minnesota made it unlawful in most circumstances. When a 1905 US Supreme Court ruling upheld compulsory vaccination, California lawmakers approved a bill to prevent required vaccination for school enrollment.³ The governor vetoed.⁴ Compulsory vaccination's opponents kept lobbying. In 1911, California replaced its 1889 vaccination law with one that waived required vaccination for anyone "conscientiously opposed."⁵ In 1929, the state repealed its compulsory vaccination law altogether. The conscience clause went with it.

The second phase of personal belief exemptions, which introduced their contemporary moniker, came in response to polio vaccine mandates 50 years later. In the interim, health departments relied on persuasion to encourage the use of new vaccines against



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diphtheria, tetanus, and pertussis. Persuasion was initially applied to the first polio vaccine, which was approved in 1955. Polio plummeted, but some states soon saw the declines reverse, especially in poor, urban areas. They responded with new mandates, but several of the laws passed only after political negotiations that introduced a second wave of belief exemptions. Michigan lawmakers introduced a mandate in 1959 in response to 1958 polio outbreaks, but the bill did not pass until 1960, with an exemption allowing “religious or other objection.”⁶ A 1959 Ohio bill was held up for weeks by Democrats opposed to its destruction of “the right of freedom of choice” and by school districts opposed to a law overriding their jurisdiction.^{7,8} The solution was an exemption allowing parents to submit a “written statement...

objecting to immunization.”⁹ A 1961 polio mandate introduced in California originally allowed exemptions based on “religious beliefs,” but objections from constituents, mostly alternative-health adherents, convinced bill sponsors to strike the word “religious.”¹⁰ The move secured California a broad exemption clause that would be applied to each vaccine added to the state code for the next 50 years.

The third stage of belief exemptions came in tandem with a wave of laws, passed from the mid-1960s through the 1970s, that largely focused on requiring measles vaccination for school enrollment. The first measles vaccine was approved in 1963, and early mandates were inspired by enthusiasm for its potential to prevent “mental retardation” and

reduce health care spending.¹¹ The later measles mandates, introduced mostly in the 1970s, were a response to measles’ persistence in urban, impoverished areas despite mass eradication campaigns and to new evidence demonstrating that school mandates prevented outbreaks. As these mandates were passed, some exemptions, like California’s, were carried over from preexisting laws. Others, like Louisiana’s and Minnesota’s, were modifications of religious exemptions in earlier laws. But the more defining feature of this stage is evident in states that included broad exemptions when adopting school mandates for the first time, or the first time since smallpox mandates.

The language in these exemptions reflected the influence of legal battles and rights movements of the 1970s that blurred the line between religious and moral beliefs, popularized health care rights, and promoted the idea of informed consent. Court decisions concerning conscientious objection to war detached conscience from the religious connection it had legally required since World War I. *Roe v Wade* prompted state lawmakers to transfer conscience rights from the military context to health care. Legal challenges to religious exemptions in vaccine mandates found that some violated constitutional principles.¹¹ As Utah, Wisconsin, Oklahoma, Colorado, and Washington state adopted or modified their child immunization laws, they granted exemptions for “personal” or “philosophical” “convictions” or “beliefs.” North Dakota sanctioned a “right to refuse.”¹² Vermont allowed exemptions based on “moral convictions.”¹³ Arizona granted them to those who “do not consent.”¹⁴ Such exemptions were often included or added to garner needed support in the process of passing or strengthening mandates. In Vermont, state senators argued for a law that

TABLE 1 States With Personal Belief Exemptions and Years Adopted

State	Year Vaccination First Made Compulsory (and Year Broader Mandate Added or Restored if Previously Repealed or Prohibited)	Year First Personal Belief Exemption Clause Adopted, Second, and Third (if Any) ^a
Arizona	1903	1981, 1990
Arkansas	1967	2003
California	1889	1911, ^b 1961 (removed 2016)
Colorado	1973	1978
Idaho	1978	1978
Kansas	1961	1961 (removed 1965)
Louisiana	1968	1976 (replaced the state’s religious exemption)
Maine	1855	1850, 1981, and 2001 (removed 2019)
Michigan	1891	1960
Minnesota	1861 (and 1967; a 1903 law had prohibited compulsory vaccination)	1978
Missouri	1961	1961 (revised to eliminate personal belief exemptions in 1992)
North Dakota	1975	1979
Ohio	1959	1978
Oklahoma	1976	1976
Oregon	1973	2013
Pennsylvania	1895 (and 1974)	2000
Texas	1971	2003
Utah	1975	1975
Vermont	1979	1979 (repealed 2015)
Washington	1889 (and 1969)	1979
Wisconsin	1887 (and 1975)	1980

^a The Centers for Disease Control and Prevention Public Health Law Program defines philosophical exemptions as including “exemptions based on philosophical or personal beliefs or allowing the right to decline an immunization.”²⁴

^b Many of the 19th- and early-20th-century clauses applied, as the law often did, to vaccination against specific individual diseases, generally smallpox. Twenty-first-century personal belief exemptions that applied to specific individual vaccines, such as those for human papillomavirus or meningococcal disease, are not included in this table.

respected the “rights” of atheists.¹⁵ In Arizona, lawmakers opposed to harsher penalties for noncomplying parents pressed for a broadened exemption in response.¹⁶

Yet more vaccines would be added to those required of schoolchildren in the 1990s and 2000s, including vaccines for hepatitis B, varicella, and meningococcal disease. As state laws were created or updated, the personal belief exemption entered a fourth stage, one whose complexity mirrored the growing complexity of school mandates. Some states continued the earlier trend of rewording or replacing religious exemptions with personal belief clauses. Others adopted personal belief exemptions for the first time; still others adopted them exclusively for specific new vaccines. These exemptions had various points of origin. In 2003, organized vaccination opponents lobbied Texas lawmakers to tack a “conscience” objection to immunization onto a large health care bill.¹⁷ That same year, Arkansas expanded the religious exemption in its 1967 mandate to include philosophical beliefs after a court found its religious exemption invalid.¹⁴ Oregon added a personal belief exemption the same year lawmakers introduced a bill to make exemptions harder to obtain.¹⁸

As Table 1 shows, most personal belief exemptions were adopted in the same period, the late 1950s through the early 1980s, that the majority of modern school vaccine mandates were passed. Legal precedent suggests states can keep mandates strict and exemptions, which are not “constitutionally required,” narrow.¹⁹ Some have argued that carefully crafted or selective belief exemptions may help defuse compulsory immunization backlash.^{19–23} This conclusion stems partly from a long history of immunization sprinkled with instances in which compulsion inspired antivaccinationism. At such

moments, as the details of the history sketched here show, the personal belief exemption served political purposes, placating or securing the support of oppositional parties.

This history offers no comment on the exemption’s legal or moral justification, but rather its political utility in a democracy reliant on the state lawmaking process to ensure the broad vaccination of children.

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