

## The Politics of Eliminating Nonmedical Vaccination Exemptions

The American Academy of Pediatrics has recently joined the American Medical Association and the American College of Physicians in calling for the elimination of nonmedical exemptions from state school-entry immunization laws. Although these calls have merit and are appealing from a public health perspective, the reality of such regulations are subject to political influence and also face substantial challenges on both legislative and judicial fronts.

There has been a vocal backlash against removing nonmedical exemptions, and some states have even attempted to add exemptions to law. One such state is New York, which introduced a bill to add philosophical exemptions in January 2015. Arkansas succeeded in broadening its vaccine exemption policy by adding philosophical exemptions to the state in 2003. As expected, there has been an increase in vaccination exemptions since that time; fortunately, there has not been the corresponding increase in vaccine-preventable diseases.<sup>1</sup>

Three US Supreme Court cases (*Jacobson v Massachusetts*, *Zucht v King*, *Prince v Massachusetts*) have upheld mandatory vaccination law, and lower courts have held against a right to decline vaccinations (*Phillips v City of New York*, *Workman v Mingo County Board of Education*, *Boone v Boozeman*, *Brown v Stone*). Despite this, a state eliminating religious exemptions may have implications under the First

Amendment if the state has a Religious Freedom Restoration Act. In this case, the government would need to prove that there are no less restrictive means to achieve a compelling government interest (prevention of disease) than eliminating religious exemptions.

Yet before a judicial challenge can even be invoked, the legislation must be written, voted, and executed into law. This is perhaps the greatest barrier to removing nonmedical vaccination exemptions. State-level voting patterns have been associated with a variety of health outcomes, including adolescent vaccination coverage.<sup>2</sup> Any law that removes existing vaccination exemptions will therefore be subject to the political climate of that state, making some states inherently more difficult to achieve the goal of removal of all nonmedical exemptions.

It is not inconceivable that widespread elimination of exemptions could have an opposite effect and give rise to medical exemptions granted by fringe practitioners or an increase in homeschooling, undermining legislative efforts to improve vaccination rates. There are a host of proposed alternatives that require less drastic (and polarizing) legislation, including stricter exemption policies and financial disincentives. Internationally, Australia has recently received attention for limiting child-care benefits for parents who philosophically object to vaccinating their children.<sup>3</sup> Domestically, an annual nonmedical exemption fee has been proposed acknowledging the challenges of altering exemption

laws.<sup>4</sup> Nonmandate approaches may be the path of least resistance to achieve the ultimate public health goal of increased vaccination rates.

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The contents are solely the responsibility of the authors and do not necessarily represent the official views of the Delaware Department of Justice.

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