

Institute for Vaccine Safety



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Dear Dr. Boozman,

We write to call to your attention to the unique opportunity you have to influence the Arkansas legislature to structure and effectively implement a provision for philosophical exemptions from immunization requirements, a policy that could serve as a model for the nation (U.S. District Court decision in *McCarthy v. Boozman*). We (Salmon and Siegel, 2001) recently published the enclosed article, "Religious and Philosophical Exemptions from Vaccination Requirements and Lessons Learned from Conscientious Objectors from Conscription." In this article we raise concerns that permitting certain religious exemptions may violate the Establishment Clause of the First Amendment. While the *McCarthy* issue arose before publication of our article, we believe that conscientious objectors released from conscription are a particularly useful model to consider given the many similarities and the significant judicial and legislative thought given to the issue.

The balance between the clear public benefit of vaccination and the importance of parental autonomy in making vaccination decisions can be optimally achieved by focusing on assuring the sincerity of fully informed parents' beliefs rather than whether those beliefs are grounded in religion or philosophy. This strategy is consistent with current epidemiological data. Two recent studies (Salmon et al, 1999, and Feiken et al, 2000, enclosed) substantiate the increased individual and community risks associated with exemptors. While the type of exemption permitted (i.e. philosophical in addition to religious) has not been associated with the frequency of exemptions nor immunization coverage (NVAC Report of the Philosophical Exemption Working Group, 1998), the ease of obtaining an exemption has been associated with the rate of exemptions (Rota et al, 2000, enclosed). Additional preliminary data from ongoing studies indicate that the implementation and enforcement of exemptions is often highly variable within states (Salmon and Halsey, unpublished). Policies requiring annual renewal of exemptions are associated with a decreased likelihood of a parent claiming an exemption for his/her child.

A properly structured and effectively implemented philosophical exemption is the best course for the Arkansas Department of Health and the people of the State. This approach has significant historical precedence. The following statements come from the British Royal Commission on Vaccination in the late 19<sup>th</sup> century. "For those who entertain an honest opposition to the practice (vaccination), we suggest that a statutory declaration of objection be allowed, and that such declaration should be accepted as a bar to proceeding...The making of such a declaration must involve as much trouble on the part of the parent as the attendance at a vaccination station would involve...any such alternative shall be so contrived as to exclude cases in which the objection arises merely from an indisposition to incur the trouble involved...we agree that every objecting parent ought to have the trouble of coming into court, and of appearing personally before a magistrate, in order to make a statutory declaration". (BMJ, 1896)

Appearance before a court may not be a reasonable approach to ensuring the sincerity of beliefs for those parents requesting an immunization exemption in contemporary society. However other indications of sincerity of beliefs such as requiring notarization and having parents complete a personally written explanation of their beliefs have been associated with lower rates of exemptions. Both the Rota study and our ongoing research indicate that seeking exemptions is often a missed opportunity for vaccine risk communication and education. Parents seeking exemptions should be informed of the individual and community risks of not having their child vaccinated.

The court was mistaken in its statement that “the statute is complete and capable of execution without the religious-exempt provision”. Many parents who had their children exempted from school immunization requirements will be affected by this recent ruling. The Court’s suggestion of legislative remedy requires careful consideration. Forcing vaccination upon those who truly have sincere religious (or philosophical) opposition to vaccination may not benefit the immunization program. Infringement upon parental autonomy risks public backlash and could threaten school immunization laws. Changes in public policy and perception of vaccination have resulted in resurgence of vaccine preventable disease (Gangarosa et al, 1998, attached). A hastily written philosophical exemption could result in an increase in the rate of exemptions and consequence resurgence of disease.

Please feel free to contact us if we can be of assistance when considering these important issues.

Sincerely,



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cc: Charles Beets

## References

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