

Vaccine Medical Exemptions Are a Delegated Public Health Authority

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Vaccines are safe, >1000 times safer than the diseases they prevent. Protection from vaccines extends beyond individuals when vaccination rates are high enough to confer community immunity. However, vaccine risks may be too high for a few people, for example, those with a known severe allergy to a vaccine. Public health and medical experts have identified contraindications and precautions for each vaccine based on data from extensive postapproval monitoring that reveal actual or theoretical risk.¹ Some conditions are so uncommon that despite years of administration of millions of vaccine doses, it is still unclear whether the condition is truly associated with the vaccine; but out of an abundance of caution, those conditions may be listed as a vaccine precaution.

The passage of Senate Bill 277 (SB277) in 2015 abolished all nonmedical exemptions in California. SB277 proved to be a great success, with sharp increases in vaccination rates seen in kindergarteners entering school. For the 2014–2015 school year, when the Disneyland measles outbreak occurred and SB277 was introduced and passed into law, the statewide kindergarten full-vaccination rate was only 90.4%,² below the 94% needed for community immunity to measles. After the passage of SB277, the kindergarten full-vaccination rate for the 2015–2016 school year rose to 92.6%,² which has been attributed to families receiving information about the importance of vaccination from the widespread press coverage of SB277 and the measles outbreak; and after the actual implementation of SB277 in 2016, the

kindergarten full-vaccination rate rose to >95% for the past 2 school years.³

Given the laxity of the previous personal belief exemption, experts anticipated a rise in medical exemptions (MEs) because some parents whose children qualified for MEs had previously used the more convenient personal belief exemption. However, MEs more than tripled, with some schools reporting ME rates >20%,⁴ revealing that many students received inappropriate MEs.

SB277 made no major changes to California law regarding granting MEs, a power that lies solely in the discretion of any physician licensed by the Medical Board of California or the Osteopathic Medical Board of California. Mohanty et al⁵ interviewed California health officers after the passage of SB277 regarding their role in and observations of granting MEs. Health officers expressed frustration with their lack of authority to limit unprofessional behavior by physicians granting large numbers of unwarranted MEs and thus putting students at risk. A local health officer who tracked MEs faced a failed lawsuit and personal attacks by antivaccine extremists. Health officers also felt it is was unfair for school staff to review MEs.

Our constitutional jurisprudence recognizes state authority to mandate vaccination to protect public health and safety.⁶ Historically, courts granted states extensive leeway to set conditions attached to school mandates.⁷ Policymakers should recognize that granting MEs to legally required vaccines is not the practice of medicine but a delegation of state authority to licensed physicians to

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protect public health and individuals. Essentially, physicians are fulfilling an administrative role: certifying to the state that a patient meets professionally recognized criteria that justify granting an ME. This delegation makes sense because physicians already evaluate patients for existing health conditions and can identify which of their patients warrant MEs. In addition, standards of care for vaccination that are established by medical professional associations make granting unwarranted MEs unprofessional behavior that is subject to potential liability and discipline by a state licensing board. However, the lack of cooperation by patients' families who desire unwarranted MEs makes disciplining physicians who are engaged in this unprofessional behavior difficult and costly because licensing boards need to subpoena patient records over families' objections to obtain evidence. Similarly, professional standard-setting organizations, including professional associations and certification boards, have been reluctant to withdraw credentials or expel members who promote vaccine misinformation and grant unwarranted MEs.

Public health officers should have the authority to invalidate unwarranted MEs and revoke the delegation of authority to grant MEs from physicians who abuse it. These powers maintain the state's constitutional authority to protect public health and safety. For example, West Virginia, another state with only MEs, requires physicians to provide information to the state's public health department, which then grants MEs.⁸ With this model, the state avoids putting school personnel in the position of reviewing the appropriateness of MEs.

Unfortunately, currently, only 6 states require the involvement of public health departments in reviewing MEs. Thus, most health officers and licensing boards do not have direct access to data on MEs. To protect public health, this situation needs to change. States can collect and maintain searchable records of MEs, which could be included as part of state immunization registries. This information would both benefit patients with valid MEs by alerting clinicians of patient MEs and provide important data for public health. Laws should also require parents to submit MEs to public health departments as well as schools.

These data allow for public health officers to assess public health risks from a congregation of unvaccinated children and limit the risk of outbreaks.

Vaccines are one of the greatest public health successes in history. Mandating vaccination for school is an effective strategy to prevent outbreaks. This protection is undermined when unscrupulous physicians monetize their license and abuse the authority delegated to them from the state by granting unwarranted MEs. Public health officers need the information to identify these physicians and the authority to withdraw their ability to grant MEs and to invalidate unwarranted MEs to protect children and public health. Pediatricians can partner with public health advocates and proscience parents to pass laws that empower public health officers to protect our children and community. Every child needs community immunity.

ABBREVIATIONS

ME: medical exemption

SB277: Senate Bill 277

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