

Historical Origins of the Personal Belief Exemption to Vaccination Mandates: The View from California

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ABSTRACT

A number of states, starting with California, have recently removed all non-medical exemptions from their laws requiring vaccinations for schoolchildren. California was also one of the earliest states to include a broad non-medical, or personal, belief exemption in its modern immunization law, which it did with a 1961 law mandating polio vaccination for school enrollment, Assembly Bill 1940 (AB 1940). This paper examines the history of AB 1940's exemption clause as a case study for shedding light on the little-examined history of the personal belief exemption to vaccination in the United States. This history shows that secular belief exemptions date back further than scholars have allowed. It demonstrates that such exemptions resulted from political negotiation critical to ensuring compulsory vaccination's political success. It challenges a historiography in which antivaccination groups and their allies led late-nineteenth and early-twentieth century opposition to vaccination mandates while religious groups drove mid-twentieth century opposition. It also complicates the historiographic idea of a return to compulsion in the late 1960s, instead dating this return a decade earlier, to a time when belief exemptions in polio vaccination mandates helped reconcile the goal of a widely vaccinated population with the sacrosanct idea of health as a personal responsibility.

KEYWORDS: Vaccination, vaccines, polio, personal belief exemptions, public health, health law, antivaccination

United States vaccination laws and regulations currently recognize three types of exemptions to children's school vaccination requirements: medical, religious, and personal belief exemptions. In recent years, especially in response to measles outbreaks, a significant number of states have considered removing all non-medical exemptions from their laws, and several have succeeded in doing so. Maine removed its personal

belief and religious exemptions in 2019, leaving only a medical exemption in effect.¹ New York removed its religious exemption that same year, also leaving only a medical exemption in effect.² California removed its personal belief exemption in 2015, leaving only a medical exemption in effect.³ From the 1970s to the 2010s, just two states, Mississippi and West Virginia, allowed only medical exemptions to school vaccine mandates.⁴ California's move thus made it the first state to eliminate all non-medical exemptions from its school vaccine laws in the current wave of state vaccination law updates.

California was also one of the earliest states to encode a personal belief exemption into its modern immunization law for children, which it did when it adopted a law mandating polio vaccination for school enrollment, Assembly Bill 1940 (AB 1940), in 1961. The state thus bears the distinction of being both one of the earliest to pass a broad belief exemption in the modern era of vaccination and the first to eliminate all non-medical exemptions in recent years. As a result, California possesses the longest-lasting personal belief exemption to have been repealed or removed from a U.S. state vaccination law. Importantly, in the years between its introduction and its removal, the exemption was applied to each new vaccine added to the state's school immunization law, amplifying its influence over vaccination uptake in the state over time. For these reasons, California's exemption offers a unique case study for shedding light on the little-examined history of the personal belief exemption to vaccination in the U.S.

This essay examines the history of this exemption in four parts. The essay's first section discusses the nineteenth-century origins of opposition to compulsory vaccination in California, which led to the state's first broad belief exemption. Compulsion was later eliminated in California, as in some other Western states, only to return in the middle decades of the twentieth century, in vaccination laws tempered by exemptions. The essay's second section analyzes the legislative history of one such law, California's AB 1940, co-sponsored by Democrats Umberto J. DeLotto and William Byron Rumford, and strongly opposed by two organizations with roots in late-nineteenth century health libertarianism, whose efforts gave shape to the law's exemption clause. The essay's third section traces the legacy of AB 1940's exemption clause through its 2015 repeal. The essay's final section considers the story of California's now-eliminated belief exemption in historical and historiographic context.

The history of AB 1940's belief exemption is significant for three reasons. First, it expands current historical understanding—admittedly limited—of the factors determining the personal belief exemption's origins and form. Second, it shows that personal belief exemptions date back further than other historians have claimed. Third, it

1 National Conference of State Legislatures, "States with Religious and Philosophical Exemptions From School Immunization Requirements," National Conference of State Legislatures, <https://www.ncsl.org/research/health/school-immunization-exemption-state-laws.aspx>.

2 Ibid.

3 Ibid.

4 *Brown v. Stone*, 378 So. 2d 218 (Miss. 1979), *cert. denied*, 449 U.S. 887 (1980); Act of Feb. 23, 1905, ch. 58, 27 W. Va. Acts 458. Mississippi's religious exemption was formally removed from state law in 1983. Arkansas briefly lacked any nonmedical exemptions between 2002 and 2004.

demonstrates how, in California at least, this exemption acquired its broad shape through political negotiation critical to ensuring compulsory vaccination's political success. The story of this law's exemption also expands historical understanding of vaccination in the U.S.⁵ It challenges a historiography in which antivaccination groups and their allies led late-nineteenth and early-twentieth century opposition to vaccination mandates while religious groups drove mid-twentieth century opposition.⁶ In California, alternative medicine advocates with antivaccinationist views led the mid-century charge against mandatory vaccination. Additionally, AB 1940 belongs to a generation of vaccination laws that complicates what historian James Colgrove calls "the return of compulsion" in the late 1960s.⁷ California was one of several states to pass laws mandating polio vaccination in the late 1950s and early 1960s, a time when broad exemptions helped separate the modern era of vaccination, characterized by multiple routine vaccinations required for children's school enrollment, from the earlier era of often epidemic-driven compulsory smallpox vaccination. Notably, such exemptions helped reconcile the tension between the goal of a widely vaccinated population and the sacrosanct idea of health as a matter of individual or family responsibility at mid-century. The history of AB 1940's belief exemption also supports other work attesting to the highly divergent ideological underpinnings of American health libertarianism generally and antivaccinationism specifically.⁸

COMPULSION ELIMINATED, AND RETURNED

California's first broad exemption to mandatory vaccination predated the state's 1961 polio vaccine mandate by over half a century. The state passed its first vaccination mandate, requiring smallpox vaccination for school admission, in the late 1880s, a time when compulsory schooling and rising smallpox rates had been prompting such laws in eastern and midwestern states, too.⁹ In time, as local enforcement increased, popular opposition to the 1889 mandate emerged.¹⁰ In 1899, opponents in Los Angeles formed

- 5 Lawrence O. Gostin, "Law, Ethics, and Public Health in the Vaccination Debates: Politics of the Measles Outbreak," *JAMA* 313 (2015): 1099–1100; James Colgrove, *State of Immunity: The Politics of Vaccination in Twentieth-Century America* (Berkeley: University of California Press, 2006); Philip B. Cawkwell and David Oshinsky, "Childhood Vaccination Requirements: Lessons from History, Mississippi, and a Path Forward," *Vaccine* 33 (2015): 5884–5887.
- 6 Colgrove, *State of Immunity*, 180; James Colgrove, "The Coercive Hand, the Beneficent Hand: What the History of Compulsory Vaccination Can Tell Us about HPV Vaccine Mandates," in *Three Shots at Prevention: The HPV Vaccine and the Politics of Medicine's Simple Solutions*, ed. Keith Wiloo et al. (Baltimore: Johns Hopkins University Press, 2010); Robert D. Johnston, *The Radical Middle Class: Populist Democracy and the Question of Capitalism in Progressive Era Portland, Oregon* (Princeton: Princeton University Press, 2013).
- 7 Colgrove, *State of Immunity*, 174; Elena Conis, *Vaccine Nation: America's Changing Relationship with Immunization* (Chicago: University of Chicago Press, 2015).
- 8 Conis, *Vaccine Nation*; Jennifer Reich, *Calling the Shots: Why Parents Reject Vaccines* (New York: New York University Press, 2016).
- 9 John Duffy, "School Vaccination: The Precursor to School Medical Inspection," *Journal of the History of Medicine and Allied Sciences* 33 (1978): 344–355; Act of Feb. 20, 1889, ch. 24, 1889 Cal. Stat. 458.
- 10 "Health Board Meets: Health Officer Powers Unanimously Re-Elected—Vaccination," *Los Angeles Evening Express*, 7 January 1899, 3.

an antivaccination society whose members declared their “conscientious scruples against vaccination.”¹¹ In Berkeley, students withdrew from the state university over a campus edict requiring their vaccination, and supporters commended them for their “moral courage.”¹² Two years later, anti-compulsory vaccination groups formed in Berkeley and Oakland, drawing crowds to their inaugural meetings.¹³

The 1905 U.S. Supreme Court ruling upholding compulsory vaccination, *Jacobson vs. Massachusetts*, further fueled antivaccination activism in California.¹⁴ That year, lawmakers sympathetic to antivaccinationism approved a bill to prevent vaccination from being made a precondition of school attendance. Governor George Pardee (a physician) vetoed, calling the bill a “sad mistake.” The sponsoring senator sent him “scathing remarks” in return.¹⁵ A total of twelve bills with similar goals—to either restrict or eliminate compulsory vaccination—were introduced before the decade was through; none was successful.¹⁶ Antivaccination groups continued to apply pressure, however, and in 1911 they achieved some success. This time, California lawmakers replaced the state’s 1889 law with a law to “encourage” vaccination of all individuals in public and private schools, including language that allowed anyone “conscientiously opposed” to vaccination to “be exempt” from the law’s provisions.¹⁷ Governor Hiram Johnson signed. The clause echoed language in Britain’s vaccination law, which had been amended in 1898 to include a “conscience clause” for those opposed to vaccination or its compulsory application.¹⁸ It also reflected a trend in western states generally, which, as historian Robert Johnston has noted, “witnessed the greatest antivaccination successes” of the early twentieth century.¹⁹

Though California’s conscience clause effectively nullified compulsory vaccination, antivaccination sentiment persisted. In 1919, the libertarian Public School Protective League crafted an amendment to the state constitution to prohibit compulsory vaccination or medication; the league’s president claimed that “80 percent” of parents were “opposed to the practice of vaccination.”²⁰ In 1921, California repealed its compulsory vaccination law (still narrowly applicable to smallpox), placing vaccination policy under express field preemption, which gave state health officials the authority to determine vaccination requirements as needed. The new law also expressly prohibited local

- 11 “Don’t Like Virus: Anti-Compulsory Vaccination Meeting Held at Music Hall,” *Los Angeles Times*, 19 January 1899, 10.
- 12 A.H.P., “Vaccination Causes Death,” *Berkeley Gazette*, 31 March 1902, 3.
- 13 “Vigorous Campaign Is Inaugurated Against Enforced Vaccination,” *Berkeley Gazette*, 12 August 1904, 1; “Oakland League Formed,” *Berkeley Gazette*, 20 August 1904, 8.
- 14 *Jacobson v. Massachusetts*, 197 U.S. 11 (1905).
- 15 “Vaccination Bill Vetoed by the Governor: Smallpox Epidemics Held to Have Preceded the Practice—Leavitt Makes Hot Retort,” *San Francisco Chronicle*, 9 March 1905, 3.
- 16 Office of the State Board of Health, “Does Vaccination Protect Against Smallpox?” *Monthly Bulletin of the California State Board of Health* 6 (1910): 96–107.
- 17 Act of Mar. 7, 1911, ch. 134, 1911 Cal. Stat. 295.
- 18 Nadja Durbach, “Class, Gender, and the Conscientious Objector to Vaccination, 1898–1907,” *Journal of British Studies* 41 (2002): 58–83.
- 19 Johnston, *The Radical Middle Class*, 183.
- 20 “Constitution Change Is League’s Object: School Protective Society Plans Initiative at Annual Meeting,” *Los Angeles Times*, 28 October 1919, II3.

school or health authorities from adopting rules or regulations “on the subject of vaccination.”²¹ The Public School Protective League considered the change a “great victory.”²² Meanwhile, the objection clause, extraneous without vaccination a precondition for school attendance, was removed.²³

Over the next thirty years, as smallpox dissipated, state authority to control the disease was rarely invoked, and talk of mandatory vaccination was scarce in the legislature, as it was in other states.²⁴ Physicians, meanwhile, generally saw it as their duty to encourage smallpox vaccination.²⁵ Health departments, too, relied on persuasion and education, even as new vaccines against diphtheria, tetanus, and pertussis—and a combined vaccine against all three—were developed.²⁶ Not all physicians were content, however, with the new fashion for persuasion over compulsion. A Los Angeles physician lamented that there was only so much doctors could—or should—do to manage “the conscientious objector,” who in his view, “would get his due reward.”²⁷ A San Francisco doctor pointed out that California’s smallpox cases had averaged just over 500 a year between 1912 and 1916 but more than 4,000 a year by 1929. The 1921 repeal, he claimed, had given “the people of California. . . the privilege of enjoying all the smallpox they wanted.”²⁸

Though medical professionals found cause to complain about the limits of persuasion in the 1920s and 1930s, accounts by historians and others date the return of compulsion to the late 1960s, following the 1967 announcement of a national measles eradication campaign by President Lyndon B. Johnson and the Communicable Disease Center (CDC). The campaign identified schoolchildren’s vaccination as one of four pillars of elimination, and a push for a new generation of compulsory laws swept states, encouraged by CDC epidemiologists, an influential philanthropy, and state lawmakers eager to reduce fiscal burdens (since vaccines were cheaper than disease). In 1968, notes Colgrove, “just half the states had a law requiring one or more vaccinations prior to school entry, and most of these were antiquated smallpox laws.” Six years later, 40 states had such laws, covering smallpox, measles, and all or most of the new vaccines then recommended for children, nearly all of them containing exemptions for children of parents with religious objections.²⁹

This emphasis on the years following 1968, however, diminishes the significance of the mandates—and associated exemptions—states adopted in the preceding decades. In the 1930s and 1940s, a number of states passed legislation mandating vaccination against diseases other than smallpox—namely typhoid, diphtheria, pertussis, and

21 Act of Mar. 7, 1911, ch. 134, 1911 Cal. Stat. 295.

22 “Prolonged Campaign Against Vaccination Is Won by Crutcher,” *The Long Beach Telegram and The Long Beach Daily News*, 17 June 1921, 6.

23 “Non-Vaccination No Bar in Schools,” *The Recorder*, 8 August 1921, 1.

24 Wilton L. Halverson and Harlin L. Wynns, “Communicable Disease Trends in California,” *California and Western Medicine* 61 (1944): 236–237.

25 “Vaccination,” *California and Western Medicine* 43 (August 1935): 155–159.

26 Colgrove, *State of Immunity*, 10–11.

27 Frederick Ebersson, “Smallpox and Vaccination,” *California and Western Medicine* 30 (1929): 401–404.

28 *Ibid.*

29 Colgrove, *State of Immunity*, 180.

tetanus. As they did so, most allowed exemptions for religious and personal reasons. North Carolina mandated diphtheria immunization in 1939, modifying it with a religious exemption.³⁰ New Mexico mandated the same in 1943, originally allowing only a medical exemption, but later adding a religious exemption (though declining, at the same time, to meet citizen demand for a secular exemption).³¹ Hawaii's 1945 mandate included only a medical exemption, until the territory appended a religious exemption in 1951.³² A 1949 Michigan law required physicians to provide patients with diphtheria, pertussis, tetanus, and smallpox immunization but allowed medical, religious, or "consent"-based exemptions.³³

In the late 1950s, following the approval of the first polio vaccine, several states—most of them with smallpox and diphtheria vaccination mandates already in place—began to enact polio vaccination mandates, too. Ohio adopted one of the first in 1959, requiring immunization against polio (in addition to smallpox, diphtheria, pertussis, and tetanus) for schoolchildren, but allowing an exemption for anyone submitting "a written statement of his parent or guardian objecting to immunization."³⁴ Within a few years, nine states in total enacted polio vaccination mandates. Just one of them, New Hampshire, allowed only medical exemptions.³⁵ On the other end of the spectrum, Ohio, Kansas, Michigan, Missouri, and California all allowed exemptions on the basis of personal belief or objection, while New Mexico, Virginia, and Kentucky permitted exemptions on the basis of religious or spiritual beliefs.³⁶ Adelaide M. Hunter, an education professor who surveyed state health officers about their school vaccination laws in the early 1960s, noted a divide in professional opinion about the value of mandates. On the one hand, health officers saw mandates as compatible with the idea of vaccines as a public good, as critical to public health as "milk, water, sewage, and traffic laws."³⁷ On the other hand, officers noted that the voluntary approach to vaccination worked "exceedingly well" and did not "discourage the tenet that preservation of health is an individual or family responsibility."³⁸

30 Act of Mar. 17, 1939, ch. 126, 1939 N.C. Sess. Laws 141.

31 Act of Apr. 12, 1943, ch. 50, 1943 N.M. Laws 71; "'Citizens Group' Protests State Vaccination Law," *Albuquerque Journal*, 28 September 1959, 2.

32 Act of May 15, 1945, series A-49, 1945 Haw. Sess. Laws 79.

33 Act of May 26, 1949, no. 165, 1949 Mich. Pub. Acts 172.

34 Act of July 7, 1959, Am. H.B. no. 323, 1959 Ohio Laws 707.

35 Adelaide M. Hunter, Robert Ortiz, and Joe Martinez, "Compulsory and Voluntary School Immunization Programs in the United States," *Journal of School Health* 33 (1963): 98–102. We were unable to locate the session law supporting Hunter et al.'s assessment of New Hampshire, but newspaper reports suggest that some form of immunization mandate was in effect by mid-1961. See "Pre-School Children Attend Clinic," *Nashua Telegraph*, 20 April 1961, 9.

36 Hunter, Ortiz, and Martinez, "School Immunization Programs," 98–102; Act of March 9, 1962, ch. 95, 1962 Ky. Acts 371. The Virginia bill's sponsor added the religious belief exemption after the bill's initial introduction. The law in its final form also applied only to counties with a specific population, indicating that the bill was approved only because it applied to a specific locality, not the whole state. The New Mexico law did not expressly mandate polio vaccination but delegated authority to the Health Board, which did. See "Vaccination Bill Offered in House," *The Times Dispatch*, 8 February 1962, 6; Act of April 2, 1962, ch. 618, 1962 Va. Acts 953; Act of April 2, 1959, ch. 329, 1959 N.M. Laws 1013.

37 Hunter, Ortiz, and Martinez, "School Immunization Programs," 98–102.

38 *Ibid.*

The mandate modified by exemptions, especially broad exemptions, accommodated both views. It recognized the universal public value of vaccine use while simultaneously leaving vaccine deployment at the discretion of individuals. (New Hampshire, notably, levied no penalties for noncompliance with its otherwise strict mandate.³⁹) The exemption-modified mandate reflected the tension in the transition from the era of smallpox immunization at the turn of the twentieth century, during which most states and localities enforced compulsion at risk of fine or exclusion, to the era of diphtheria immunization in the 1920s and 1930s, when most states opted for persuasion.⁴⁰ It also reflected the tension between public health and medical professionals over responsibility for immunization. Though perceived by many as a public good, most immunizations were administered in private physician's offices, and the medical profession in the 1930s and 1940s spoke out against ceding control over immunization administration to the public sector, one of several ways the profession defended medical care as a private good at the time.⁴¹ As the polio vaccination mandates were introduced in the late 1950s, these tensions remained unsettled. The belief exemption to immunization mandates mollified them, while also defusing popular objections to the laws, whether from religious or secular groups.

This is precisely what happened in California, where objections to the state's polio vaccination mandate voiced by secular organizations and individuals citing ideological concerns were quelled with a broad exemption clause that elicited little complaint from doctors and health professionals ambivalent toward compulsion. In the case of the state's earlier smallpox vaccination mandate, citizens fought after the fact for an exemption clause. In the case of the state's polio vaccination mandate, a broad exemption was included before the mandate became law, and importantly, in order for the mandate to become law. This difference was partly a function of the growing professional preference for persuasion and partly a function of the organized nature of opposition to the regulated medical marketplace more generally, which had taken new forms in the half-century since California's first vaccination mandate.

ASSEMBLY BILL 1940

The first state laws mandating polio vaccination for school enrollment followed reports that polio cases were climbing after several years of sharp decline. Jonas Salk's inactivated-virus polio vaccine was approved in 1955; by 1957, U.S. polio cases had fallen to 5,485 from a high approaching 60,000 in 1952.⁴² But select U.S. cities saw severe polio outbreaks in 1958, and cases nationwide ticked up.⁴³ In 1959, cases climbed again, and it became clear that they were especially concentrated among lower-income groups and communities of color, particularly in urban areas, where access to routine

39 Ibid.

40 Colgrove, *State of Immunity*, 81–103.

41 Beatrix Hoffman, *Health Care for Some: Rights and Rationing in the United States Since 1930* (Chicago: University of Chicago Press, 2012).

42 Sophie Ochmann and Max Roser, "Polio," *Our World in Data*, 10 October 2017, <https://ourworldindata.org/polio>.

43 "4 States Take Brunt of '58 Polio Attacks," *Chicago Daily Tribune*, 12 September 1958.

pediatric care lagged that in White, middle-class communities.⁴⁴ In California, where cases climbed from 232 in 1958 to 408 in 1959, the rise was initially attributed to “apathy” and “forgetfulness.”⁴⁵ Medical and media analyses over the subsequent year, however, emphasized that cases were occurring among those who were unvaccinated or only partially vaccinated, as it took four injections of Salk vaccine to confer complete immunity.⁴⁶ Local news reports announced that North Carolina and Ohio had taken steps to address polio outbreaks by making vaccination mandatory.⁴⁷ Before long, two California lawmakers followed suit.⁴⁸

Early in 1961, William Byron Rumford and Umberto J. DeLotto co-sponsored Assembly Bill 1940 to compel polio immunization for anyone seeking to attend a California school. Rumford, the Bay Area’s first Black legislator, was a longstanding lawmaker and pharmacist with a record of civil rights and equal justice legislation; he was also chair of the Assembly’s Committee on Public Health, a post he had held since 1953.⁴⁹ Newly elected Fresno County Democrat DeLotto was an Ohio-born war veteran locally active in the March of Dimes, the nation’s powerful polio philanthropy. DeLotto and Rumford’s bill required schools to bar students from admission if they could not provide either proof of immunization, a letter stating that “such immunization is contrary to his or her religious beliefs,” or a statement by a licensed physician describing why “immunization was not considered safe” for the student.

State records contain no explicit explanation of DeLotto and Rumford’s specific interest in AB 1940, but their personal biographies offer some clues. DeLotto, born in Cleveland, earned his engineering degree in Ohio, served in World War II, and then moved to Fresno, where he was active in the community.⁵⁰ He served on the board of the local Catholic Welfare Bureau, with the Fresno County Tuberculosis Association, and with a local community center. He was also chair of the Fresno County chapter of the March of Dimes when he was elected to the Assembly in 1960.⁵¹ Created as the National Foundation for Infantile Paralysis by President Franklin D. Roosevelt in 1938, the March of Dimes was still by 1960, “the largest voluntary health organization of all time.”⁵² Through its thousands of county chapters across the U.S., local communities had helped the national organization realize its objectives, from fundraising and

44 Colgrove, *State of Immunity*, 140.

45 Paul Lewis, “Health Officials Urge Adults to Get Polio Shots,” *Oakland Tribune*, 1 April 1959, 72; Editorial, “Apathetic Public Shares Blame for Polio Outbreaks,” *The (Long Beach) Independent*, 20 August 1959, 9; “Poliomyelitis,” *California Medicine* 93 (1960): 176–177.

46 “Big Advance in Health Reported in State in 1957,” *Valley News*, 21 January 1958.

47 See for example, “Polio Shots Required,” *San Bernardino County Sun*, 6 February 1958, 4; Paul Lewis, “Health Officials Urge Adults to Get Polio Shots,” *Oakland Tribune*, 1 April 1959, 72.

48 Act of Mar. 31, 1959, ch. 177, 1959 N.C. Sess. Laws 165.

49 Lawrence P. Crouchett, *William Byron Rumford, the Life and Public Services of a California Legislator: A Biography* (El Cerrito, CA: Downey Place Pub. House, 1984).

50 John D. Cramer, “DeLotto, Dies in Fresno at 72: Former Assemblyman and Supervisor, Regarded by Friends and Colleagues as a Man of Unquestionable Integrity, Succumbs to Leukemia,” *Fresno Bee*, 18 October 1991, B1.

51 Ibid; “Bert DeLotto: He Spent a Relatively Brief but Exceptionally Productive Time in Local and State Political Offices,” *Fresno Bee*, 19 October 1991, B4.

52 David M. Oshinsky, *Polio: An American Story* (Oxford: Oxford University Press, 2005), 53.

publicity to patient care and medical research. But by the early 1960s, the organization's funding was in decline, and new leadership had thrown its mission and future direction into question.⁵³

March of Dimes chapters had wide latitude to design their own programs in response to local priorities and initiative.⁵⁴ As a county chair, DeLotto was likely aware of national efforts to stem polio's rise at a time when the organization was struggling. He also likely knew that a new, oral polio vaccine was expected to come to market in 1961. The new vaccine, developed by Albert Sabin, was drumming up both anticipation, because it required no shots, and controversy, because it contained live, weakened polio virus. Even the March of Dimes's director had spoken out against it, worried that the controversy was driving the public to avoid vaccination altogether.⁵⁵ DeLotto's bill, introduced just before the Sabin vaccine was made commercially available, may have originated as a proposal brought forth by the foundation or local chapter members. It may also have been brought to him by officials in his district, who lost foundation support to care for polio patients in 1957. Subsequently, the substantial cost of treating polio patients unable to pay for their own care had fallen to the county itself.⁵⁶

Rumford, meanwhile, had his own record supporting anti-polio efforts. A respected pharmacist in the Bay Area's East Bay, he had long been involved in community issues before a coalition of Black leaders approached him about running for state Assembly.⁵⁷ Elected in 1948, he quickly earned a reputation for leading "the struggle to desegregate the promise and opportunity of the West Coast."⁵⁸ In part, this involved ensuring Black access to medical care and pharmaceuticals. Four years earlier, in 1957, he had sponsored an appropriations bill that provided \$3 million for the purchase and administration of the original Salk polio vaccine, supporting a mass polio vaccination drive throughout the state.⁵⁹ The same year that he sponsored AB 1940, he sponsored a bill to eliminate the state sales tax on prescription drugs, one of several moves he supported to ensure more equitable access to pharmaceuticals generally.⁶⁰ He was undoubtedly aware of polio's uptick in communities of color, as well. His support for AB 1940 thus squared neatly with his support for civil rights and health care overall.

And yet the general preference for persuasion in immunization policy at the time meant that DeLotto and Rumford's bill caught some California health professionals by

53 Ellen Gerl, "Out of the Back Rooms," *Journalism History* 42 (2016): 122–129.

54 David Rose, personal communication, late 2019 to early 2020. The March of Dimes archives became inaccessible to researchers just prior to this time, but finding aids to the collections suggest they may contain legislative files the Fresno County chapter created or consulted.

55 Oshinsky, *Polio*, 264.

56 "County Will Pay Bills for Indigent Polio Outpatients," *Fresno Bee / Republican*, 11 December 1957, 4.

57 "Overlooked No More: William Byron Rumford, a Civil Rights Champion in California," *New York Times*, 7 August 2019.

58 Crouchett, *William Byron Rumford*; "Overlooked No More."

59 William Byron Rumford, *Legislator For Fair Employment, Fair Housing and Public Health: Oral History Transcript / William Byron Rumford*, interview by Joyce Henderson, Amelia R. Fry, and Edward France, Digital Transcript of Oral History, 1970, The Bancroft Library, <http://content.cdlib.org/view?docId=hb8n39p2g3;Crouchett,WilliamByronRumford>, 53.

60 UPI, "Tax Savings on Cigarettes [sic], Drugs Due," *Santa Rosa Press Democrat*, 6 June 1961.

surprise. The bill “amazed health officers throughout the state, since the current voluntary inoculation program had gained speed in the past year,” one health officer said.⁶¹ The California Conference of Local Health Officers took the position that “enlightened self-interest, by voluntary and persuasive means,” was better than “law enforcement” when it came to vaccinating the public. They worried that Rumford and DeLotto’s legislation would encourage parents to delay immunization until school age, even though polio affected all ages; they also worried it would encourage delay of all immunizations, including diphtheria, pertussis, smallpox and tetanus, all then promoted on a voluntary basis in the state.⁶²

Although they left a record of objection on paper, health authorities did not turn up in person to object to the bill, nor did they mobilize members of the public to speak out. Another constituency, however, did both. When the Assembly’s Public Health Committee held a hearing on the bill a month after it was introduced, a single citizen turned out to voice opposition: a man named Don C. Matchan, appearing on behalf of the *Herald of Health* and the National Health Federation (NHF), a pair of tightly connected organizations with roots in late nineteenth-century health libertarianism and a record of state-level lobbying.

The NHF, officially founded in 1954, had been forged from the ashes of the Electronic Medical Foundation (EMF), a multimillion-dollar, San Francisco-based mail-order company popular from the 1920s through the 1940s, when it promised predictions of individuals’ medical futures via analysis of the electrons in a drop of their blood, and sold a diverse array of devices advertised to diagnose and cure disease with electric waves.⁶³ The NHF’s founder, dilettante Fred Hart (Matchan was secretary), had taken over the EMF from San Francisco doctor Albert Abrams. Hart believed EMF’s devices had cured his wife’s cancer and his daughter’s tuberculosis, and in his retirement he sought to patent them.⁶⁴ When an injunction forced him to shutter the EMF, Hart founded the NHF with the mission to “strive vigorously against any or all trends or movements which would deny freedom of choice on the part of the doctor and the patient,” and to “serve as the voice of the people in matters pertaining to health.”⁶⁵ As historian James Harvey Young put it, the NHF “fought regulatory pressure however they could.”⁶⁶

61 “Polio Shot Law Raises Problem for County,” *Los Angeles Times*, 16 July 1961, OC1.

62 California Conference of Local Health Officers, “Minutes of Meeting of California Conference of Local Health Officers, May 4–5, 1961” (Los Angeles, California, 4 May 1961), Surge Area, Bioscience, Natural Resources & Public Health Library, Berkeley, California.

63 Austin C. Lescarboua, “Our Abrams Verdict,” *Scientific American* 131 (1924): 158–160; Don C. Matchan, “Thumbnail Sketch of Fred J. Hart: Action-Packed Career Often Embraced Controversy,” *Herald of Health* 63 (April 1958); James Harvey Young, *American Health Quackery: Collected Essays of James Harvey Young* (Princeton: Princeton University Press, 2014).

64 Bob de Vries, “Some Memories of a Hewlett Packard Product Designer, Part 6,” The HP Memory Project, https://web.archive.org/web/20150103003452http://www.hpmemory.org/timeline/bob_devries/some_memories_06.htm.

65 “What Is NHF?” *National Health Federation Bulletin* II (1956): 3–6.

66 Young, *American Health Quackery*, 174.

The *Herald of Health*, which Matchan edited, was an organ with slightly deeper roots in unorthodox medical traditions. The journal grew out of a series of newsletters and broadsides published and distributed by late nineteenth-century water-cure adherents and naturopaths, including *The Kneipp Water Cure Monthly*, founded in 1896, a date *Herald of Health* featured on its cover.⁶⁷ Water-cure proponent and *Monthly* publisher Benedict Lust had spent the late 1800s popularizing the notion of “naturopathy,” and in 1902 he founded the American Naturopathic Association and repackaged the *Monthly* as *The Naturopath and Herald of Health*. Washington, D.C. naturopath Theresa M. Schippell succeeded Lust as editor, and Matchan, until then “a newspa[re]man of 25 years,” succeeded Schippell.⁶⁸ By the time Matchan assumed the role in 1958, American naturopathy had fragmented into East and West coast schools, the latter distinguishing itself by its embrace of what historian Susan Cayleff described as “more scientific methods.”⁶⁹

The NHF and the *Herald of Health* belonged to different healing traditions, but they had a set of shared ideologies and a shared office space on upper Van Ness Avenue in San Francisco.⁷⁰ Matchan and Hart had personal biographies with certain parallels, too: upbringings and early work experience in rural, agricultural settings, and time spent working in the media, Hart as a radio station manager and on-air host in San Jose, California, and Matchan as founder of a North Dakota newspaper.⁷¹ Under Matchan, the *Herald* extolled the NHF and Hart. “Meet Fred J. Hart – Farmer, Scholar, Gentleman,” announced the *Herald*’s April 1958 cover. “The *Herald* stands four-square for the objectives of the National Health Federation,” another issue announced.⁷² Though based in San Francisco, the NHF had a large constituency of supporters in Southern California and a San Jose chapter “well under way.”⁷³ Outside of California, its members—comprising 30,000 to 40,000 “doctors, dentists, chiropractors, nurses, health-food-store owners, and individuals” in the 1960s—were most concentrated in Florida, Pennsylvania, and Illinois.⁷⁴

Neither the NHF nor the *Herald* was dedicated to antivaccinationist principles, but the antivaccinationist cause aligned with other health freedoms they sought to defend. During the winter and spring of 1961, Matchan and Hart fought DeLotto and Rumford’s bill using tactics the NHF had employed on other issues, including water fluoridation, physician licensing restrictions, health food regulation, and compulsory

67 Susan E. Cayleff, *Nature’s Path: A History of Naturopathic Healing in America* (Baltimore: Johns Hopkins University Press, 2016), 83.

68 Ibid; “The Editor’s Desk: A Statement of Policy . . . a Promise . . . a Prayer . . . New Year, New Horizons,” *Herald of Health* 63 (January 1958).

69 Cayleff, *Nature’s Path*.

70 California Legislature, Senate, “List of Legislative Advocates and Organizations,” in *Appendix to the Journal of the Senate - 1959 Regular Session*, vol. 2 (Sacramento, California: Legislature of the State of California, 1959), 18, <https://hdl.handle.net/2027/mdp.39015073221247>.

71 “Don Matchan Discusses MVA,” *Spectrum*, 28 February 1946, 1.

72 “The Editor’s Desk.”

73 “Here and There with State Federations,” *National Health Federation Bulletin* VII (1961): 21–22.

74 Personal communication with Scott Tips, current president of the National Health Federation, September 26, 2020.

vaccination in other states. The NHF urged members to share opinions with legislators, published guidelines for writing to government officials, and dispatched board members to speak to state and national lawmakers. “Write to your legislators when you are interested in a particular bill,” early, “straight from the heart,” and “with respect and calmness,” the NHF’s *Bulletin* encouraged.⁷⁵ In one example of its activities, the NHF helped Laetrile inventor Ernst Krebs, Jr. testify in 1959 against California Senate Bill 194, which aimed to limit access to unorthodox cancer treatments. Hart testified against the bill himself and the organization mobilized members to donate to Krebs and mail opposition letters to lawmakers.

Though based in California, Hart saw the NHF’s purview as national. In 1960, the organization responded to a request from Virginia members for help defeating a mandatory polio vaccination law in that state; they succeeded.⁷⁶ The same year the NHF supported Krebs, it mobilized members to help a Tennessee man fined and charged for refusing to vaccinate his children against polio, which the state was attempting to enforce under a 1909 vaccination statute. NHF members mailed letters and quarters to the man in a drive meant to mock the March of Dimes’s fundraising campaigns.⁷⁷ Marginal in size compared to the March of Dimes, the NHF nonetheless wielded its influence to marked effect in states across the U.S. and at the national level. Young notes that the organization was responsible for 40,000 of the 54,000 mailings sent in opposition to new federal drug regulations proposed in 1962.⁷⁸ Other writers estimate that in the 1960s and 1970s, the organization generated 40,000 to two million public responses in opposition to proposed regulations at the federal level.⁷⁹ On many causes, the small group was able to generate an “avalanche of mail” by aligning and collaborating with allied stakeholders, from anti-fluoride groups and homeopaths to organic growers and supplement makers.⁸⁰

In 1959, the same year Ohio and North Carolina passed polio vaccination mandates, the NHF made the fight against compulsory polio vaccination one of its key campaigns.

75 “What Is NHF?”

76 “Virginia Compulsory Vaccination Bill,” *National Health Federation Bulletin* VI (1960): 6, X; Larry Weekly, “Inoculation Bill is Debated,” *The (Richmond, Virginia) Times Dispatch*, 10 February 1960, 1.

77 “Let’s Give Ben a Shower,” *National Health Federation Bulletin* V (1959): 7.

78 Young, *American Health Quackery*, 175.

79 Marion Nestle, *Food Politics* (Berkeley: University of California Press, 2003), 237; Catherine Price, *Vitamina* (New York: Penguin Books, 2015), 132–134. For a characterization of NHF’s later activities, see Dan Hurley, *Natural Causes* (New York: Broadway Books, 2007), 47–48.

80 See for example Charles I. Creelius, “Fluoridation Doomed by 6 Developments,” *National Health Federation Bulletin* 12 (1976): 9–11. On some of the alternative health movements with which the NHF aligned, see for example Nestle, *Food Politics*; Christopher Sellers, “The Artificial Nature of Fluoridated Water: Between Nations, Knowledge, and Material Flows,” *Osiris* 19 (2004): 182–200; Anne Taylor Kirschmann, *A Vital Force: Women in American Homeopathy* (New Brunswick, NJ: Rutgers University Press, 2004); James Wharton, *Nature Cures* (Oxford: Oxford University Press, 2004); John S. Haller, Jr., *The History of American Homeopathy: From Rational Medicine to Holistic Health Care* (New Brunswick, NJ: Rutgers University Press, 2009); Catherine Carstairs and Rachel Elder, “Expertise, Health, and Popular Opinion: Debating Water Fluoridation,” *Canadian Historical Review* 89 (2008): 345–371; Andrew Case, *The Organic Profit: Rodale and the Making of Marketplace Environmentalism* (Seattle: University of Washington Press, 2018).

The campaign sought to cast doubt on polio's etiology, the safety and efficacy of the Salk vaccine, and the dubious intents of lawmakers and drug manufacturers. "No one knows yet whether the polio vaccine is good or bad," Hart wrote in the NHF's *Bulletin*. He described "an unholy alliance between our United States Department of Public Health and the large drug houses" and urged "the American people" to "fight for their lives." He warned that "several states are trying to enact compulsory polio vaccination laws, and two have already done so."⁸¹ The *Herald* championed the cause, too, running a lengthy account of a Connecticut woman's fight to prevent compulsory vaccination in her state. "Compulsory vaccination for polio is becoming an issue in more and more states and localities," Matchan wrote, adding that it "invades an area of freedom which many Americans believe should be beyond the power of state to regulate."⁸²

These ideas were echoed in letters that citizens sent to state lawmakers and local newspapers, many of which bore markers of the NHF's influence. Several contained the exact same wording, calling the bill "vicious, un-American, immoral, unscientific, and illegal."⁸³ Some came adorned with NHF stamps, which the NHF sold in \$1.00 batches of 100.⁸⁴ (By October 1959, the stamps had become so popular that the NHF reportedly put in a purchase order for 200,000 additional stamps.⁸⁵) Others referenced articles published in the *Herald of Health*, especially the December 1960 article "The Great Salk Fiasco," which denounced the value of the Salk vaccine; they also referenced the very sources Matchan cited in his testimony, which the *Herald* described in its May 1961 issue.⁸⁶ Some letters came from members of groups possibly supporting NHF's latest cause in return for NHF's support of their own causes. NHF supported organic labeling, for instance, and the legislative file on AB 1940 contains letters from organic growers, including one from the Sonoma County Organic Club arguing that the bill "is in direct violation of every citizen's freedom," "certainly could be proven un-constitutional," and "nullifies Freedom of choice by the individual citizens."⁸⁷ In newspapers all over the state, letters from individuals called DeLotto and Rumford's bill "a

81 "The Polio Muddle," *National Health Federation Bulletin* V (August 1959).

82 "The Case Against Compulsory Vaccination," *Herald of Health* 66 (1961): 5-7.

83 Drusilla D. Love, Letter to Assemblyperson William Byron Rumford dated 8 March 1961, Assembly Public Health Comm., 1961 Reg. Sess. (Cal.) (included in committee file on A.B. 1940 [1961], located in California State Archives, Sacramento).

84 Walter L. Cooks & Jeanette M. Cooks, Letter to Assemblyperson William Byron Rumford dated 9 March 1961, Assembly Public Health Comm., 1961 Reg. Sess. (Cal.) (included in committee file on A.B. 1940 [1961], located in California State Archives, Sacramento); Fred J. Hart, "Family Circle," *National Health Federation Bulletin* VII (1961): 3-5.

85 "Liberty Stamps," *National Health Federation Bulletin* V (1959): 2.

86 Various letters, Assembly Public Health Comm., 1961 Reg. Sess. (Cal.) (included in committee file on A.B. 1940 [1961], located in California State Archives, Sacramento); "The Case Against Compulsory Vaccination."

87 Downing B. Randal et al., Undated letters to Assemblyperson William Byron Rumford, Assembly Public Health Comm., 1961 Reg. Sess. (Cal.) (included in committee file on A.B. 1940 [1961], located in California State Archives, Sacramento).

flagrant violation of personal rights” and characterized the vaccine as “dangerous” and unproven, as the *Herald* and the NHF had.⁸⁸

Though AB 1940s’s opponents labeled it “a Pressure Group bill” that “should be decisively slapped down,” this was not Hart and Matchan’s request as they testified and wrote to Sacramento lawmakers.⁸⁹ Instead, they found a way to reconcile the bill with their respective, overlapping missions and values by looking to Ohio. The NHF had several chapters in Ohio, and in 1961 the majority of their governing board members were Ohio or California residents.⁹⁰ In their Assembly testimony and writings, Matchan and Hart directly referenced Ohio’s law multiple times, pressing for the exemption clause it contained. “This type of legislation violates our basic rights when it does not provide an escape clause,” Hart wrote. DeLotto and Rumford conceded, submitting an amended version of the bill in April with the modifier “religious” before the word “belief” struck out.⁹¹ Assembly members voted 59 to 3 in favor of the bill, Senate members approved it 27 to 1, and Governor Brown signed it into law that June.⁹²

The *Santa Maria Times* reported that the new law’s exemption provision was added “as a compromise to remove objections from religious groups,” but the historical record contains no evidence that this was the case.⁹³ Documents from newsletters to news clippings to legislative and other files provide robust evidence that the NHF and allied or like-minded groups and individuals mobilized against the bill. They do not bear evidence that religious groups such as Christian Scientists, who protested mandates in New Mexico and elsewhere, engaged legislators on the issue. The NHF, meanwhile, was openly pleased with the compromise and claimed credit for it. An update on AB 1940 published in the organization’s *Bulletin* reported that “the bill was amended to comply with the Federation’s position,” thanks to cooperation from DeLotto and Rumford.⁹⁴ “Freedom of choice,” wrote Hart, “has been maintained.”⁹⁵

88 Walter Bunnell, “Vaccination Law Is Clarified,” *Press Democrat*, 21 February 1962, 6; Jean Wilkinson, “The Polio Statute,” *San Francisco Examiner*, 1 October 1962, 34; Frances Bodeen, “Polio Law Violates Freedom,” *Daily Independent Journal*, 12 August 1961, 2; Agnes Albrecht, “Statistics,” *Oakland Tribune*, 15 August 1961, 2; Charles C. Hayes, “Polio Immunization Not School Requirement,” *Santa Maria Times*, 10 August 1961, 24.

89 Downing B. Randal et al., Undated letters to Assemblyperson William Byron Rumford, Assembly Public Health Comm., 1961 Reg. Sess. (Cal.) (included in committee file on A.B. 1940 [1961], located in California State Archives, Sacramento).

90 “N.H.F. Board of Governors and Directors for 1961,” *National Health Federation Bulletin* VII (1961): 22.

91 California Legislature, Assembly, *Assembly Final History - 1953 Regular Session* (Sacramento, CA: California Legislature, 1953), 47, https://clerk.assembly.ca.gov/sites/clerk.assembly.ca.gov/files/archive/FinalHistory/1953/53_ah_rs.PDF#page=47; A.B. 1940, 1961 Leg., Reg. Sess. (Cal. 1961) (as amended in Assembly, Apr. 14, 1961).

92 Alexander H. Pope, Legislative Secretary, Bill Memorandum for Governor Gerald “Pat” Brown dated 14 June 1961, Governor’s Office (included in Governor’s Chaptered Bill File on A.B. 1940 [1961], located in California State Archives, Sacramento); “Polio Vaccine Law Has Big Loophole,” *Oakland Tribune*, 29 August 1961.

93 “Pre-School Polio Shot Bill Passed,” *Santa Maria Times*, 12 May 1961, 1.

94 They also credited Assembly member Sheridan Hegland, a *San Diego Democrat*.

95 “California Polio Compulsory Immunization Bill A.B. 1940,” *National Health Federation Bulletin* VII (1961): 25–26.

Later that summer, when the law was scheduled to go into effect, DeLotto spoke publicly about the exemption. “We had to drop ‘religious’ in order to get the bill passed,” he said. “There was too much opposition from people who do not believe in medications for treatment and prevention of disease on general as well as religious grounds.”⁹⁶ He told the *Oakland Tribune* that he and his fellow lawmakers hoped that people would not take advantage of the law’s “loophole” and “that a big majority of parents will have their children immunized.”⁹⁷ Deputy Attorney General Robert L. Bergman was among those who were publicly less sanguine. With the broadening of the exemption clause, the law’s “compulsory feature” had been “completely eliminated,” he said. “You could believe it hurts, or believe it’s ineffective, or believe anything,” he said, and whatever that belief it would be sufficient grounds for eschewing the vaccine.⁹⁸

THE BELIEF EXEMPTION’S LEGACY AND DEMISE

Although the law was scheduled to go into effect that September, delays ensued. The state’s Attorney General required the State Department of Public Health to adopt rules and regulations to carry out the law’s provisions and required the State Board of Public Health to approve them.⁹⁹ By the time the rules were approved late that fall, they compelled only newly enrolling students to receive their vaccinations starting in January; continuing students were not required to begin receiving vaccinations until the following September.¹⁰⁰ In the meantime, the NHF began to advertise and sell pre-written letters of objection for parents to give to their children’s schools. The letters came with “a full explanation” of parents’ rights under the law and a reprint, per the NHF, of “the section of the law which shows the exemption and the California Legislative Counsel’s statement, that the beliefs do not have to be religious.”¹⁰¹

That clarification may have stemmed from public knowledge of religious exemptions in other states, or it may have been a response to conflicting newspaper reports on the exemption clause. News articles on the law often noted that a child could be exempt from the vaccination requirement for medical or physical reasons, but the exact nature of the beliefs-based exemption was described inconsistently. Papers that ran a wire story on the law noted that “in cases where immunization is contrary to beliefs, religious or otherwise, exceptions will be made.”¹⁰² Other papers described the exception as applying only to religious groups. The *Sonoma West Times and News* described the exemption as applicable only to those for those whom “vaccination is against their

96 “Polio Vaccine Law Has Big Loophole.”

97 Ibid.

98 Ibid.

99 Arthur Ribbel, “Compulsory Polio Shots Delayed,” *News-Pilot*, 24 August 1961, 1; “First Hearing on Polio Shot Statute Held,” *Valley Times*, 4 October 1961, 6.

100 Elmer Wells, “School Bell: New Law Requiring Polio Shots in Effect Jan. 13,” *Independent Star-News*, 31 December 1961, 4.

101 Fred J. Hart, “A Service to Our Members and the Public,” *National Health Federation Bulletin* VII (1961): 5–6.

102 “State Rule Requires Polio Shots for School Children,” *Sacramento Bee*, 9 December 1961, A3; “School Polio Shots a Must,” *The Petaluma Argus-Courier*, 9 December 1961, 3.

religious belief.”¹⁰³ “Persons who believe immunization is against their religious faith can submit a statement of this fact,” reported the *Los Angeles Times*.¹⁰⁴

Health and education authorities brought several problems with the law to light over the next 18 months. Initially, it did not cover Sabin’s new oral vaccine. Responsibility for enforcement was muddled. And the law caught adults in its net. “We have one student who is over eighty—do we require him to be immunized?” a superintendent asked.¹⁰⁵ Another superintendent voiced worry that the law contradicted compulsory schooling.¹⁰⁶ He also criticized lawmakers for “placing the onus of enforcement” on local schools without any plans to reimburse them for time and personnel.¹⁰⁷ “The Legislature’s education committee,” said Fullerton Assembly member Richard T. Hanna, “was not happy with the law.”¹⁰⁸ DeLotto and Rumford co-sponsored an amendment in response.¹⁰⁹ Assembly Bill 19, approved and signed into law in 1962, removed students over 21 attending night classes, traffic school, or other part-time educational activities from the purview of the mandate and codified a two-week grace period for students to obtain their vaccinations after entering school. The scope of public health officials responsible for enforcing the law was also clarified to describe all “local” officials.

Over the next several years, polio rates declined, and state lawmakers added four more diseases to the list of those required for children’s school enrollment. In 1967, California lawmakers passed Senate Bill 288, making measles vaccination mandatory for all schoolchildren. The bill was expressly “patterned after the existing law relating to the immunization of school children against polio,” according to the state Legislative Secretaries, which meant that it, too, exempted anyone who stated “that such immunization is contrary to his or her beliefs.”¹¹⁰ In 1971, following reports of rising rates of diphtheria and other diseases, lawmakers introduced a mandate requiring diphtheria, pertussis, and tetanus immunization, available via a combined vaccine.¹¹¹ The Department of Finance and the Education Secretary described this mandate’s exemptions—including a broad belief exemption—as the “customary” and “prescribed

103 “Students Must Have Their Polio Shots,” *Sonoma West Times and News*, 8 February 1962, 11.

104 “Polio Vaccination Required by Law for All Entering Schools Monday,” *Los Angeles Times*, 28 January 1962, GB8.

105 James M. Reussig, Antioch Unified School District, Letter to Assemblyman Jerome Waldie dated 29 December 1961, Governor’s Office (included in Governor’s Chaptered Bill File on A.B. 19 [1962], located in California State Archives, Sacramento).

106 “Many Ignore State Law on Polio,” *Los Angeles Times*, 27 September 1962, 103.

107 “Lawmakers Offer Help to Change Polio Law: School District Chiefs Cite Conflict in Vaccine Statute, Attendance Rules,” *Los Angeles Times*, 4 November 1962, OC9.

108 “Lawmakers Offer Help to Change Polio Law.” His strongly conservative district continued to oppose the law once enacted. Lisa McGirr, “Introduction,” in *Suburban Warriors: The Origins of the New American Right* (Princeton: Princeton University Press, 2001), 4; “Many Ignore State Law on Polio.”

109 “Polio Shots for Pupils a ‘Must,’” *San Francisco Examiner*, 9 December 1961, 1.

110 Various documents, Governor’s Office, (included in Governor’s Chaptered Bill File on S.B. 288 [1967], located in California State Archives, Sacramento).

111 “Diphtheria and Plague on Rise,” *Independent*, 26 August 1970, 10.

exceptions.”¹¹² The bills invited little to no debate, save a mild rebuke from the Santa Monica Organic Garden and Nutrition Club.¹¹³ The National Health Federation, focused at the time on fluoridation, regulation of health supplements, and other issues, did not weigh in.

Another significant modification to the state’s school immunization laws followed later that decade, when rising measles incidence brought attention to low rates of immunization despite a mandate.¹¹⁴ In 1977, measles spread so extensively in Los Angeles that county health officials passed an emergency order requiring students to be vaccinated or “be barred from school.”¹¹⁵ “We wouldn’t be having this epidemic today if there’d been any [real] interest in enforcing the [state] law,” said Shirley Fannin, the county’s communicable disease control head.¹¹⁶ The Legislature responded by restructuring the state’s immunization law, combining past chapters created separately for each disease into “one uniform law for all specified immunizations.”¹¹⁷ Again, the exemption clause from the 1961 polio bill was folded in. The language of the exemption was modified slightly in the new law’s introductory section, where the adjective “personal” was added before the word “belief,” clarifying the intent of the edit made by DeLotto and Rumford sixteen years earlier.¹¹⁸

Although this restructuring introduced no new mandates and added no penalties for noncompliance, it invited controversy. School superintendents sought Governor Brown’s veto over a lack of sufficient funding for its new reporting requirements. The state’s chief deputy superintendent bemoaned the costs the new bill would force schools to assume. Some doctors and nurses voiced mixed opinions, and an outspoken naturopath objected.¹¹⁹ The NHF, focused at the time on the defense of alternative cancer cures, again did not record an objection.¹²⁰

When Governor Jerry Brown signed the restructured requirements, Senate Bill 942, into law in 1977, the personal belief exemption created in the process of political negotiation over the 1961 polio vaccination mandate became a *de jure* part of California

112 Department of Finance & Education Secretary, Bill analyses dated 30 September 1971 and 20 September 1971, respectively, Governor’s Office (included in Governor’s Chaptered Bill File on S.B. 535 [1967], located in California State Archives, Sacramento).

113 Kay Rogers, Santa Monica Organic Garden and Nutrition Club, Letter to Governor Ronald Reagan dated 6 August 1967, Governor’s Office (included in Governor’s Chaptered Bill File on S.B. 288 [1967], located in California State Archives, Sacramento).

114 “Doctor Warns about Measles,” *Times Standard*, 14 August 1976, 15.

115 “LA Orders ‘No Shots, No School’ in Measles Epidemic,” *Sacramento Bee*, 1 April 1977, 13.

116 Robert Kistler, “Measles Epidemic a Product of Neglect: Measles Outbreak Due to Widespread, Longstanding Failure to Enforce Law Epidemic—Product of Neglect,” *Los Angeles Times*, 1 April 1977, B1.

117 Department of Finance, Enrolled Bill Report dated Sept. 22, 1977, Governor’s Office (included in Governor’s Chaptered Bill File on S.B. 942 [1977], located in California State Archives, Sacramento).

118 Act of Sept. 30, 1977, ch. 1176, 1977 Cal. Stat. 3849.

119 George J. Tiss, California Immunization Action Advisory Committee, and Ida Honorof, Letters to Governor Edmund J. Brown, Jr. dated 22 September 1977, and 21 June 1977, respectively, Governor’s Office (included in Governor’s Chaptered Bill File on S.B. 942 (1977), located in California State Archives, Sacramento).

120 Sidney L. Arje and Lois V. Smith, “Cancer Quackery Collects Billions,” *Petaluma Argus-Courier*, 2 June 1977, 15.

vaccination law going forward. Over the next four decades, each time a vaccination was added to the list of those required for school enrollment, the exemption applied. This included bills passed in 1979, 1992, and 1999, adding mumps and rubella; *Haemophilus influenzae* type b; and varicella, respectively, to the list of required immunizations. When measles outbreaks swept the state between 1988 and 1990, the law's exemption clause was not held to blame; an analysis found that 1.6% of the state's unimmunized children had "religious or philosophical beliefs" and the "remaining 98% simply had not been immunized or could not document immunization."¹²¹ In 1999 and 2007, new bills were introduced to add the hepatitis A and pneumococcal vaccines, respectively, to the law. The law's belief exemption featured only minimally in discourse about the bills, neither of which passed.

A notable shift occurred a decade into the new millennium, however. In the early 2000s, outbreaks of vaccine-preventable diseases continued to occur. Then, in 2010, California saw more than 9,000 cases of pertussis, the largest number since 1947.¹²² During the outbreak itself, the spike was largely attributed to waning immunity from the Tdap vaccine and access disparities associated with socioeconomic status and race.¹²³ Several years later, however, a paper in the journal *Pediatrics* concluded that geographical regions with high rates of "non-medical" vaccination exemptions showed pertussis rates 20 percent higher than in other areas.¹²⁴ Headlines that year, 2013, emphasized vaccine refusals in "fueling" California's whooping cough epidemic.¹²⁵ When, late the following year, a nationwide measles outbreak was traced to California's Disneyland, the state's rate of non-medical exemptions came immediately under fire.

Early in 2015, state lawmaker Richard Pan, a physician, introduced Senate Bill 277 to remove the personal belief exemption from California's Health and Safety Code. The bill's introduction followed not only the measles outbreak, but also a modification to the state's immunization law adopted the previous year, which made the belief exemption harder to claim by requiring parents to consult with a physician first.¹²⁶ That bill had invited some debate, but the debate over SB 277 was far more contentious, described as "loud and at times acrimonious." Some questioned whether Governor Jerry

- 121 L. G. Dales et al., "Measles Epidemic from Failure to Immunize," *Western Journal of Medicine* 159 (1993): 455–464.
- 122 Kathleen Winter et al., "California Pertussis Epidemic, 2010," *Journal of Pediatrics* 161 (2012): 1091–1096.
- 123 Varun K. Phadke et al., "Association between Vaccine Refusal and Vaccine-Preventable Diseases in the United States," *JAMA* 315 (2016): 1149–1158; Miriam Falco, "10 Infants Dead in California Whooping Cough Outbreak," *CNN*, 20 October 2010, <http://www.cnn.com/2010/HEALTH/10/20/california.whooping.cough/index.html>; Kathleen Doheny, "California Whooping Cough Epidemic: Vaccination Urged," *WebMD*, 2010, <https://www.webmd.com/children/vaccines/features/california-whooping-cough-epidemic>.
- 124 Jessica E. Atwell et al., "Nonmedical Vaccine Exemptions and Pertussis in California, 2010," *Pediatrics* 132 (2013): 624–630.
- 125 Nancy Shute, "Vaccine Refusals Fueled California's Whooping Cough Epidemic," *NPR*, 30 September 2013, <https://www.npr.org/sections/health-shots/2013/09/25/226147147/vaccine-refusals-fueled-californias-whooping-cough-epidemic>.
- 126 Rosanna Xia, Rong-Gong Lin, and Sandra Poindexter, "Fewer Seek Vaccination Exemptions," *Los Angeles Times*, 23 January 2015, A9.

Brown (former Governor Brown's son) would sign even if the legislature approved.¹²⁷ Despite vigorous public opposition—and equally vigorous support—the bill passed the Assembly and Senate, and Governor Brown signed it into law late that June.¹²⁸ The move added California to the then-small and long-stable list of states (Mississippi and West Virginia) prohibiting all non-medical exemptions to vaccination. In the words of one reporter, it gave “the most populous U.S. state some of the strictest rules in the country.”¹²⁹

CALIFORNIA'S BELIEF EXEMPTION IN CONTEXT

In his study of American middle-class radicalism, Johnston notes the long historiographic tradition in which scholars dismissed antivaccinationism as specious and its adherents as “cranks, extremists, and charlatans.”¹³⁰ He recognizes a shift with Judith Walzer Leavitt's study of opposition to compulsory vaccination among German and Polish immigrants in Progressive Era Wisconsin, and with Joan Retsinas's study of anti-vaccinationists in turn-of-the-twentieth century Rhode Island, published in the late 1970s and early 1980s.¹³¹ With social history ascendant in the history of medicine, Retsinas argued that antivaccinationists “deserve[d] another look.”¹³² The antivaccinationists she examined saw in compulsory vaccination a loss of individual liberty and a threat to local civic autonomy. Those critical of the practice in Milwaukee, Leavitt found, took issue with compulsory public health measures as a threat to personal liberty and a subversion of “immigrant culture.”¹³³ Such antivaccinationists were not “cranks,” but individuals with rational objections to a practice that encroached on values, traditions, or practices they felt moved to fervently defend.

By now, this historiographic view of antivaccinationism has become prevalent, and more complex. Recent scholarship has emphasized not just the various rationales shaping antivaccinationist arguments, but also the range of constituencies whose interests aligned with antivaccinationism historically, and who therefore lent support to the cause, from “irregular” medical practitioners to abolitionists and antivivisectionists in the late-nineteenth and early twentieth centuries.¹³⁴ Historical work has also examined the antivaccine—or vaccine critical—activism of the late twentieth and early twenty-

127 Caroline Porter, “California Vaccination Bill Passes, Heads to Governor,” *Wall Street Journal*, 29 June 2015.

128 Phil Wilson and Melanie Mason, “State Bars Vaccine Belief Exemptions,” *Los Angeles Times*, 1 July 2015.

129 Caroline Porter, “California Gov. Brown Signs Bill Requiring Vaccinations for Schoolchildren; Law Will End Use of Personal-Belief Exemptions to Avoid Immunizations,” *Wall Street Journal Online*, 30 June 2015.

130 Johnston, *Radical Middle Class*; Hunter, Ortiz, and Martinez, “School Immunization Programs.”

131 Joan Retsinas, “Smallpox Vaccination: A Leap of Faith,” *Rhode Island History* 38 (1979): 112–124; Judith Walzer Leavitt, “Politics and Public Health: Smallpox in Milwaukee, 1894–1895,” *Bulletin of the History of Medicine* 50 (1976): 553–568.

132 Retsinas, “Smallpox Vaccination.”

133 Leavitt, “Politics and Public Health.”

134 Johnston, *The Radical Middle Class*; Durbach, “Class, Gender, and the Conscientious Objector”; Nadja Durbach, *Bodily Matters: The Anti-Vaccination Movement in England, 1853–1907* (Durham, NC: Duke University Press Books, 2004); Michael Willrich, *Pox: An American History* (New York: Penguin, 2011).

first century in a similar light, finding associations, for example, between contemporary vaccination resistance and ideas about the body's relationship to various forms of authority and power articulated by such social movements as second-wave feminism and environmentalism.¹³⁵ Today's antivaccine activists, argues Bernice Hausman, are "acting in a time-honored tradition" as they "practic[e] good biological citizenship in the twenty-first century."¹³⁶

One of the nuances to emerge in recent historical work is that antivaccinationism—defined as a movement opposed to compulsory vaccination—may have been much more prevalent historically than generally acknowledged. Historian Karen L. Walloch, for instance, has argued that the legislative triumph of compulsory vaccination in turn-of-the-twentieth-century Massachusetts obscured a deep and nearly even divide over the issue at the time. Lawmakers backing compulsory smallpox vaccination won by a narrow margin, and only after great controversy.¹³⁷ Notably, the prevailing bill included a medical exemption written loosely enough that, with the cooperation of supportive physicians (which included those becoming disenfranchised by new medical licensing requirements and restrictions), it served the needs of religious and conscience objectors as well. It was such an effective escape hatch that antivaccinationists focused lobbying efforts on expanding the medical exemption to not just children, but adults, too.¹³⁸ The state's experience suggests that the absence of belief exemptions in some late-nineteenth and early-twentieth century vaccine mandates is no indication that they were not sought after, or in effect secured.

The story of the NHF and *Herald's* influence over AB 1940 speaks to this scholarship in several ways. Like Retsinas and Leavitt's subjects, AB 1940's opponents perceived in the bill a direct threat to what they felt ought to have been protected liberties. Like the antivaccinationists studied by Johnston and Nadja Durbach, AB 1940's opponents comprised a range of allied constituents. They were not all self-defined antivaccinationists, but they supported the cause for its alignment with their own battles against perceived state overreach and regulation. In contrast with Walloch's study, the story of AB 1940's passage does not necessarily indicate a greater prevalence of antivaccine sentiment than generally appreciated for the mid-twentieth-century United States, but it does indicate the underappreciated influence of the underlying values connecting the antivaccinationist cause to that of other alternative health and health libertarian causes of the time. The NHF's size and positions may have made it fringe, but it wielded its wide appeal to the general defense of health freedom and the limitation of the state's and medicine's reach into individual and family life to marked influence and effect.

Recently, the complexity of the ideological underpinnings of vaccine acceptance and refusal has become a running theme in the humanistic and social science scholarship on vaccination and antivaccination. Some scholars have emphasized the

135 Colgrove, *State of Immunity*.

136 Bernice Hausman, *Anti/Vax: Reframing the Vaccination Controversy* (Ithaca, NY: Cornell University Press, 2019).

137 Karen L. Walloch, *The Antivaccine Heresy: Jacobson v. Massachusetts and the Troubled History of Compulsory Vaccination in the United States* (Rochester, NY: University of Rochester Press, 2015), 162.

138 Walloch, *Antivaccine Heresy*, 146.

conservative ideologies at work in the contemporary antivaccine movement.¹³⁹ Others have emphasized the liberal, and still others have pointed to how, as sociologist Jennifer Reich put it, “vaccine questions are located at the place where left meets right.”¹⁴⁰ This nexus of ideologies is largely accepted for Progressive-era and contemporary antivaccination activity in the United States, and yet it is little explored for the midcentury moment in which U.S. antivaccinationism, then long dormant, began to rouse.¹⁴¹ Elena Conis has shown how the liberal social movements of the postwar period influenced the rise of contemporary antivaccinationism.¹⁴² The history of AB 1940’s belief exemption points to conservative origins that simultaneously fed that rise, and the NHF presents a vivid case example of the fusion of liberal and conservative perspectives on the issue.

To elaborate, Matchan was a well-known radical, reportedly run out of town North Dakota for his leftist views, and eulogized at the end of his life for his anti-nuclear, anti-war, and nonviolent activism.¹⁴³ NHF vice president and lobbyist Clinton R. Miller, who led the NHF’s lobbying against the federal Vaccination Assistance Act the year after AB 1940 passed, was an anticommunist member of the conservative John Birch Society.¹⁴⁴ On questions of health, their respective organizations espoused and defended the same ideals, agreeing on a view of the alignment between orthodox medicine and state power, and seeing health freedom as a “quintessentially” American type of freedom.¹⁴⁵ The belief clause, said Hart, speaking for the NHF, was in keeping with the “philosophy” that “made America Great and kept its people free.”¹⁴⁶ Matchan agreed. For Matchan, Hart, and Miller, the freedom to pursue health on one’s own terms was patriotic, constitutionally defended, and natural—not in the God-given sense, but in the tradition fostered by the natural healing philosophies that, like naturopathy, had flourished in the unfettered medical and healing culture of the late nineteenth-century United States.¹⁴⁷ To all three, compulsion in health matters was anathema to liberty. The exemption clause in vaccine mandates made it less so.

Even as a historiography has emerged to complicate the history of vaccination and antivaccinationism, this exemption itself has been little examined and, as a consequence, misunderstood. Historian Mark A. Largent dates the emergence of the

139 Anna Kirkland, *Vaccine Court* (New York: New York University Press, 2016), 24.

140 Reich, *Calling the Shots*, 260.

141 Martin Kaufman, “The American Anti-Vaccinationists and their Arguments,” *Bulletin of the History of Medicine* 41 (1967): 463-478.

142 Conis, *Vaccine Nation*.

143 Kenneth W. Simons, “Midwest States: Business Group Fights Editor on Radicalism Charge,” *New York Times*, 4 May 1947; “Obituaries: Don C. Matchan,” *Santa Cruz Sentinel*, 8 September 1993, 8.

144 Arthur Allen, *Vaccine* (New York: W.W. Norton and Company, 2007), 230.

145 Haejoo Kim, “Medical Liberty in Nineteenth-Century Anti-Vaccination Rhetoric,” presented at the 2 October 2020 meeting of the History of Medicine and Health Working Group of the Consortium for History of Science, Technology, and Medicine.

146 Fred J. Hart, Letter to Assemblyperson Bert DeLotto dated 7 April 1961, Assembly Public Health Comm., 1961 Reg. Sess. (Cal.) (included in committee file on A.B. 1940 [1961], located in California State Archives, Sacramento).

147 Norman Gevitz, *Other Healers* (Baltimore: Johns Hopkins University Press, 1988); Wharton, *Nature Cures*.

personal belief or “philosophical” exemption to the turn of the twenty-first century.¹⁴⁸ This was certainly a time when the exemption became increasingly used and lobbied for in states where it was not then in existence. But declaring this moment the beginning of the exemption ignores the long history of popular activism and lobbying for such exemptions in the U.S. When California lawmakers approved the state’s first secular belief exemption in 1911, pressure came from self-defined anti-vaccinationists, who found sufficient political support in the capital to overcome strict compulsion, then in growing use to thwart smallpox. At the time, the broad conscience, or belief, exemption represented an opportunity to preserve individual autonomy, local authority, and the freedom to choose one’s medical school of thought. In California, as elsewhere in the Western U.S., the battles against compulsory vaccination were won either with the inclusion of such exemptions or with the elimination of compulsion altogether.

California’s history of compulsory vaccination shows how the demand for non-medical exemptions, or “escape clauses” as Hart called them, waxed and waned as the force behind compulsion advanced and receded. When California lawmakers approved the second belief exemption in 1961, the pressure came not from antivaccinationists but from health libertarians. The former had little to defend in an era when compulsory vaccination was rarely invoked. The latter, however, fought compulsory vaccination as part of a broader attempt to impose limits on the growth of the state and increasing regulation of the health and medical marketplace. They were successful not due to popular support for antivaccinationism, but for their ability to tie compulsory vaccination to a larger set of threatened liberties—and because health officials themselves were reluctant to defend compulsory vaccination. After all, religious and secular belief exemptions had been included in most vaccination mandates approved by states in the preceding decades, and disease rates had declined with those exemptions in place.

Largent also describes the belief exemption as distinguished by its broad nature, encompassing “justifications drawn from parents’ political, ideological, or religious views, their chosen lifestyles, and even their personal opinions or political beliefs.” Additionally, he argues that the exemption stands in contrast with the “century-old” religious objection.¹⁴⁹ The former of these two arguments overlooks the variety of values driving exemption-seeking during the era of compulsory smallpox vaccination and again during the era of nascent compulsory polio vaccination. The latter argument reifies the legitimacy of religious over secular objections to compulsory vaccination by implying the virtue of their relative maturity—even though the personal belief exemption has just as long a lineage as the religious exemption in U.S. state vaccination law.

This conceptualization of the belief exemption also misses its political utility. This utility is illustrated by AB 1940’s history as a bill drafted to serve specific political interests, which faced resistance from specific interest groups—resistance readily resolvable through political concession. The mandate’s exemption clause is further explained by

148 Mark A. Largent, *Vaccine: The Debate in Modern America* (Baltimore: Johns Hopkins University Press, 2012), 3. See also See Jonathan M. Berman, *Anti-vaxxers: How to Challenge a Misinformed Movement* (Cambridge: MIT Press, 2020), 156.

149 Largent, *Vaccine*, 25.

DeLotto and Rumford's lack of support from constituencies most directly affected by their bill, namely education and public health professionals and the guardians of those to be vaccinated. These constituencies had little incentive or reason for supporting the bill: California's cases numbers did not point to severe, localized epidemics; no public health emergency had been declared anywhere in the state; and vaccination rates were high enough that health professionals saw no need for compulsion. In fact, two of the three Assembly members who voted against the bill were on the Assembly's Committee on Public Health. But health professionals also did not publicly oppose the bill to the extent that Matchan and Hart did. Since the only significant offense came from the NHF, the bill's smoothest route to passage was via elimination of its broad mandate. And so, as DeLotto publicly admitted, the mandate was weakened in the simple interest of political expediency.

AB 1940's history reveals how compulsory vaccination's opponents exerted influence through the standard democratic process to which vaccination has been subjected as long as it has been made compulsory in U.S. states. The secular belief exemption was, in this case, a democratic means of mitigating the police power inherent in compulsion. The belief exemption's history in California more broadly appears to be divided into at least three phases distinguished by shifting attitudes toward that power. In the exemption's first phase, compulsory smallpox vaccination was mitigated by after-the-fact belief exemptions demanded by antivaccinationists with sufficiently broad popular support for their cause at a time when the issue spoke directly to what Michael Willrich characterized as the "sharp uneasiness toward the authority of medicine and the power of the state at the height of the Progressive Era."¹⁵⁰ In the exemption's second phase, compulsion was initially modified by broad exemptions that became a *de facto* and then *de jure* aspect of modern immunization law, in a period when the expansion of what Nancy Tomes calls "free enterprise medicine" on the one hand and marketplace regulations on the other were drawing out critiques of medicine and health care from the left and the right.¹⁵¹ As other states enacted similar mandates, pertaining to the polio, measles, and other vaccines in the 1960s and 1970s, broad exemptions were often included from the start, reflecting not anti-regulatory activism but the influence of legal battles and rights movements of a time in which liberal ideologies prevailed.¹⁵² But as the number of vaccines and vaccine doses required by state law grew in the 1990s and 2000s, so did the press for personal belief exemptions, coming from both poles of the political spectrum.

In the most recent phase of the secular belief exemption, heralded by the restriction and then removal of California's personal belief exemption, the exemption appears to be losing purchase. In this phase it is instructive to recall that the state's modern belief exemption was born of a moment in which polio vaccination was widely accepted and mandates little used, their exemptions normalized, uncontroversial in their bipartisan appeal, and resoundingly influential in their long-unquestioned persistence as the scale and scope of state school vaccination laws expanded.

150 Willrich, *Pox*, 12.

151 Nancy Tomes, *Remaking the American Patient: How Madison Avenue and Modern Medicine Turned American Patients into Consumers* (Chapel Hill: University of North Carolina Press, 2016), 139–164.

152 Elena Conis, "The History of the Personal Belief Exemption," *Pediatrics* 145 (2020): e20192551.

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