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IN THIS ISSUE

ONE THING MANAGERS NEED TO DO TO INSPIRE, EXCITE, MOTIVATE, AND RETAIN EMPLOYEES – RECOGNIZE STRONG WORK PERFORMANCE

Trish Petak

WEIGHING THE ISSUES OF SAFETY AND EMPLOYEE RETENTION (WISER) FOR LEADERSHIP IN HEALTHCARE

Creel, Pearson, Dame, House and Brooks

POLITICAL ECONOMY OF THE PANDEMIC: AN ANALYSIS OF EPICENTER MANAGEMENT

Rubayat Jesmin

A MEDICAL LABORATORY RESPONSE TO THE COVID-19 PANDEMIC

Davis, Posteraro, Leighton, Redman and Stuart

EXPLORING THE AWARENESS OF THE BRAND NAME: “THE GOP”

Marvin G. Lovett

THE RISING NEED FOR NON-EMERGENT EMERGENCY ROOM (ER) CENTERS

Hernandez, Schmidt, Flores and Dayama

LET THE GOOD TIRES ROLL

Dittfurth, Joiner and Lewis

ETHICS COURSES TAUGHT WITH BIBLICAL PRINCIPLES: SOME IDEAS FROM THE BOOK OF JAMES

Carol Sullivan

REPORT ON A CONTINUOUS IMPROVEMENT PROJECT WITH A VA SURGICAL SERVICE LINE

John E. McCall and Jack Militello

DARN TOOT’N ENVIRONMENTAL IMPACT: METHANE AND CLIMATE CHANGE

Meyer, Greets, Noe and Hutchison

WHY THE SPLIT? WHY SIMILAR ONLINE ACCESSIBILITY CASES WERE DECIDED VERY DIFFERENTLY

Thompson Sullivan and Knight

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TABLE OF CONTENTS

ONE THING MANAGERS NEED TO DO TO INSPIRE, EXCITE, MOTIVATE,
AND RETAIN EMPLOYEES – RECOGNIZE STRONG WORK PERFORMANCE
Trish Petak.....3

WEIGHING THE ISSUES OF SAFETY AND EMPLOYEE RETENTION (WISER)
FOR LEADERSHIP IN HEALTHCARE
Creel, Pearson, Dame, House and Brooks.....17

POLITICAL ECONOMY OF THE PANDEMIC: AN ANALYSIS OF EPICENTER
MANAGEMENT
Rubayat Jesmin.....31

A MEDICAL LABORATORY RESPONSE TO THE COVID-19 PANDEMIC
Davis, Posteraro, Leighton, Redman and Stuart.....49

EXPLORING THE AWARENESS OF THE BRAND NAME: “THE GOP”
Marvin G. Lovett.....64

THE RISING NEED FOR NON-EMERGENT EMERGENCY ROOM (ER)
CENTERS
Hernandez, Schmidt, Flores and Dayama.....70

LET THE GOOD TIRES ROLL
Dittfurth, Joiner and Lewis.....84

ETHICS COURSES TAUGHT WITH BIBLICAL PRINCIPLES: SOME IDEAS
FROM THE BOOK OF JAMES
Carol Sullivan.....92

REPORT ON A CONTINUOUS IMPROVEMENT PROJECT WITH A VA
SURGICAL SERVICE LINE
John E. McCall and Jack Militello.....102

DARN TOOT’N ENVIRONMENTAL IMPACT: METHANE AND CLIMATE
CHANGE
Meyer, Greets, Noe and Hutchison.....111

WHY THE SPLIT? WHY SIMILAR ONLINE ACCESSIBILITY CASES WERE
DECIDED VERY DIFFERENTLY
Thompson Sullivan and Knight.....123

ONE THING MANAGERS NEED TO DO TO INSPIRE, EXCITE, MOTIVATE, AND RETAIN EMPLOYEES – RECOGNIZE STRONG WORK PERFORMANCE

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ABSTRACT

Organizations benefit from having inspired, excited, and motivated employees, as well as employees that see longevity with their perspective organization. The study investigated the effect of an employee's inspiration, excitement, motivation, and retention with the organization when management recognizes strong work performance. The literature review provides findings that organizations benefit from inspired, excited, and motivated employees, as well as organizational retention. The selected instrument for this study was a survey which was designed to reveal data to measure correlation among variables. The study amounted to 63 voluntary participants.

Key Words: Inspired, excited, motivated, motivation, retain, retention, feedback, management, work performance

INTRODUCTION

The purpose of the study was to determine if employees were more inspired to work, more excited about work, more motivated at work, and more likely to retain with their organization when their managers recognize strong work performance. Inspiration, excitement, motivation, and retention are all positive additions to an organization. This study aims to find strong positive correlations with employee inspiration, employee excitement, employee motivation, and employee retention after a manager recognizes an employee's strong work performance.

LITERATURE REVIEW

The literature review section will focus on five main components—inspired employees, excited employees, extrinsically motivated employees, employee retention, and management recognizing strong work performance. It is important to note the research did not aim to include much evidence regarding employee engagement. While employee engagement has been a widely studied research topic for longer than a decade, the researcher aimed to itemize some specific feelings and behaviors that do ultimately lead to employee engagement. Thus, the feeling of being inspired, the feeling of being excited, and the feeling and behavior of being motivated all lead to employee engagement (Popli & Rizvi, 2016, Kroth & Boverie, 2001, and Delaney & Royal, 2017). Recent research also supports engaged employees are far more likely to retain within their perspective organizations (Al-

Emadi, Schwabenland, & Qi, 2015). This study investigates whether one managerial behavior could ignite the positive additives that can collectively lead to overall engagement. For this purpose, employee engagement is bypassed in research, as inspiration, excitement, motivation, and plans of retention are all integrals of employee motivation; meaning, these feelings and behaviors are necessary for an employee to maintain engagement. Ultimately, the research aims to showcase a strong positive correlation of managerial recognition leading to three ingredients of the overall recipe of employee engagement-- inspiration, excitement, and motivation—and an outcome of employee engagement, employee retention.

Inspired employees outperform satisfied employees by more than 100%, in terms of productivity (Horwich and Callahan, 2016). When employees are inspired, they feel a desire to want to work as opposed to having to work, generating an intrinsic motivation (Morgan, 2017). Inspiring an employee comes from the ability of a manager to increase the positive emotions of his or her subordinates (Bass, 1985). Inspiring employees positively trigger organizational human capital, or workers, to want to achieve or accomplish organizational tasks (Avolio, Waldman, & Yummarino, 1991).

Over the past 15 years, employee engagement has been a highly studied and researched human resource management topic. Kahn, in 1990, originated the concept of employee engagement (Kahn, 1990). Since around the mid-1990s, academic research has taken a step back on employee inspiration and employee excitement, while focusing more on employee engagement. Employee engagement leads to many positives in the workplace, such as commitment to the organization, higher productivity from the engaged employee, and overall less turnover (Xu & Payne, 2018). According to a study by Popli and Rizvi, leaders contribute to employee engagement by inspiring their employees (Popli & Rizvi, 2016). More so, an employee feels inspired after confidence in their abilities is expressed by their manager (Popli & Rizvi, 2016).

Excited employees tend to be passionate about their work, enthused about their work, and productive while working (Kroth & Boverie, 2001). While the research about employee excitement is scarce, workplace excitement refers to a worker's enthusiasm, positivity, and commitment to his or her work (Simms, Erbin-Roesemann, Darga, & Coeling, 1990). The research indicates when workers are more excited about their work, they are more creative, more accepting of learning new things, more adaptive to organizational change, and are more likely to take on new opportunities within the organization (Simms, et. al, 1990).

Motivation in the workplace refers to factors that influence behavior, enthusiasm, and ultimately fulfilling daily tasks (Faletar, Jelačić, Sedliačiková, Jazbec, & Hajdúchová, 2016). Employee motivation is comprised of two main branches, intrinsic and extrinsic. Since the researcher hypothesizes a positive relationship between employee motivation and receiving recognition from management based on strong work performance, the motivation section of the literature focuses on extrinsic motivation. Extrinsic motivation is centered on

behaviors by employees in an effort to obtain external rewards and avoid workplace punishment (Kremen, Fiszdon, Kurtz, Silverstein, & Choi, 2016).

Motivated employees have characteristics non-motivated do not. Some of the most obvious characteristics include increased productivity, employees being passionate about their work, employees caring about the organization (colleagues, clients, patients, customers), and employees exploring more efficient ways to complete tasks (Sabir, 2017). A somewhat recent article focusing on financial and non-financial rewards acknowledged feedback as an imperative non-financial reward (Yousaf, Latif, Aslam, & Saddiqui, 2014). The researchers found when employees receive feedback from managers, a trust-based relationship and participatory feeling occurs (Yousaf, et. al, 2014).

Recent research regarding employee retention has aimed to find important themes or elements that help create or increase employee retention (Al-Emadi, Schwabenland, & Qi, 2015; Allen, Peltokorpi, & Rubenstein, 2016; Ruvimbo & Hlanganipai, 2016). Employee retention has been studied and categorized for different industries and different locations. While this study aims to see if there is a desire of an employee to retain his or her current position after management has recognized his or her strong performance, or vice versa, the literature review section of retention will focus mainly on how management can benefit an employee's desire to retain. Smith and Galbraith (2012) conducted a study regarding retention as it pertains to the millennial generation. Their survey respondents acknowledged 33% of millennials admitted their manager is 1 of the top 2 reasons as to why they would retain at an organization whereas only 9% of supervisors felt millennials would respond in that manner (Smith & Galbraith, 2012). In a recent study titled *Total rewards that retain: A study of demographic preferences*, a total of 6 attributes, such as learning, career advancement, remuneration, benefits, work-life balance, and performance and recognition were tested to see relative importance amongst various demographics (Pregolato, Bussin, & Schlechter, 2017). The study illustrates performance and recognition rank as the second most sought after attribute that leads to retention, pulling a weight value of 20%; the highest was attribute was benefits, with a weight value of 35.2% (Pregolato et. al, 2017).

Strong work performance indicates an employee has achieved his or her work objectives (Griffin & Hesketh, 2004) and perhaps exceeded those objectives. The summation of employees' accomplished tasks factor into an organization's overall performance; therefore, individual employee's work performance is valuable. Individual performance is a collection of an employee's activities assigned to them in an effort to fulfill their short-term strategies and long-term goals, ultimately leading to meeting organizational objectives (Kocak, 2006).

Managerial to subordinate feedback has been researched for decades. There are many positive organizational additives and employee benefits when a manager provides feedback to an employee. First, it allows managers to communicate expectations to employees and allows for employees to learn of opportunities for improvements as well as other incentives in the workplace (McCauley, Moxley, & Van Velsor, 1998). Second, it allows managers to be open and transparent to

Petak

employees, preparing them for the possibility of promotion or leadership positions (Alimo-Metcalf, 1998). Third, it enables managers to provide positive reinforcement or redirects, allowing employees to continue performing at high levels or making changes for improvement (Wohlers, Hall, & London, 1993).

While recent research neglects some of the main foci of this study (there are gaps in research regarding mainly employee inspiration and employee excitement) this research and study add to the field of management by discovering a manager simply recognizing strong work performance can inspire an employee, excite and employee, increase motivation in an employee, and lead to retention of an employee.

RESEARCH METHODOLOGY

The data consists of survey responses from 63 participants. Participants consisted of full-time business professionals, that were currently employed in their respective positions for a minimum of one year, and employed by a for-profit organization. The survey was available online via SurveyMonkey and the survey was a custom set of questions. The responses this study used from the survey included 8 demographic questions and 6 Likert-scale questions. The first 8 questions were categorization questions as outlined below in the tables. This allowed the researcher to comprise trends and outliers in the data. The remaining 6 questions provided data to assess an employee's inspiration, excitement, motivation, and plans of retention as it relates to their current position and the dependency of those items on an employee's managers' recognizing or not recognizing strong work performance. The research methodology and data set of questions allowed the researcher to analyze different conceptual frameworks in an effort to best present the data. The empirical findings of the data are outlined below, in the next section.

THE DESCRIPTIVE STATISTICS AND DATA

Below illustrate 13 tables. The first 8 tables are the results from the categorization questions; the final 5 tables are graphical presentations providing data from the Likert-Scale questions, followed by detailed analysis based on the data.

Industry	Total	Percentage
Accommodation and food services	5	7.94%
Agriculture	3	4.76%
Arts and entertainment	3	4.76%
Construction	3	4.76%
Education	6	9.52%
Finance and insurance	11	17.46%
Healthcare and social assistance	11	17.46%
Manufacturing	7	11.11%
Mining	0	0.00%
Retail	6	9.52%
Transportation	1	1.59%

Other	7	11.11%
Total	63	100%

Table 2: Participants' current job title		
Current job title	Total	Percentage
Owner	1	1.59%
President/CEO	3	4.76%
Vice president; executive	11	17.46%
Department manager	18	28.57%
Supervisor; shift leader	7	11.11%
Employee with no subordinates	20	31.75%
Other	3	4.76%
Total	63	100%

Table 3: Participants' current department in which they are employed		
Department	Total	Percentage
Finance and accounting	11	17.46%
Marketing and communication	7	11.11%
Human Resources	4	6.35%
Education	4	6.35%
Customer service	7	11.11%
Transportation	4	6.35%
Manual labor	8	12.70%
Patient care	7	11.11%
Hospitality	3	4.76%
Other	8	12.70%
Total	63	100%

Table 4: Participants' number of years working in their current position		
Number of years	Total	Percentage
1-3 years	17	26.98%
3-5 years	22	34.92%
5-7 years	15	23.81%
8-9 years	2	3.17%
10 years or more	7	11.11%
Total	63	100%

Table 5: Participants' current salary range		
Salary range	Total	Percentage
0 - \$24,999	5	7.94%
\$25,000 - \$34,999	6	9.52%
\$35,000 - \$44,999	15	23.81%
\$45,000 - \$54,999	14	22.22%
\$55,000 - \$64,999	10	15.87%
\$65,000 - \$74,999	5	7.94%

Petak

Over \$75,000	8	12.70%
Total	63	100%

Table 6: Participants' highest level of education		
Education	Total	Percentage
Some high school	0	0.00%
High school diploma or GED	7	11.11%
Some college	3	4.76%
Associate degree	18	28.57%
Bachelor degree	22	34.92%
Master degree	11	17.46%
Doctoral or terminal degree	2	3.17%
Total	63	100%

Table 7: Participants' age		
Age	Total	Percentage
18-22	3	4.76%
23-27	4	6.35%
28-32	20	31.75%
33-37	10	15.87%
38-42	6	9.52%
43-47	4	6.35%
48-52	5	7.94%
53-57	6	9.52%
58-62	1	1.59%
Over 62	4	6.35%
Total	63	100%

Table 8: Participants' gender		
Gender	Total	Percentage
Male	27	42.86%
Female	36	57.14%
Total	63	100%

The next section organizes and illustrates the data collected. The researcher broke down the data in regards to how a participant, or worker, scored the Likert-scale question that posed management within my organization recognizes strong work performance. Respondents chose one of the following: strongly agree (5); agree (4); neither agree or disagree (3); disagree (2); or strongly disagree (1). The remaining five Likert-scale questions all have the same options of response with the same scoring allocation.

Analysis 1

Of the 63 participants who completed the survey, a total of 17 respondents, or 26.96%, chose strongly agree (5) when answering the question: Management within my organization recognizes strong work performance. Of the 17 respondents, below outlines how they responded to the additional Likert-scale questions:

Of the respondents who chose strongly agree (5), it should be noted that the following responses occurred: 88.24% of the respondents agree or strongly agree they are inspired at work; 88.24% of the respondents agree or strongly agree they are determined to give their best effort at work each day; 82.35% of the respondents agree or strongly agree they get excited about going to work; 88.24% agree or strongly agree they think positive thoughts about work; and 94.12% agree or strongly agree they foresee themselves working for their organization one year from survey completion.

Of the respondents who chose strongly agree (5), it should be noted that the following responses occurred: 5.88% of the respondents disagree or strongly disagree they are inspired at work; 5.88% of the respondents disagree or strongly disagree they are determined to give their best effort at work each day; 5.88% of the respondents disagree or strongly disagree they get excited about going to work; 5.88% disagree or strongly disagree they think positive thoughts about work; and 0.00% disagree or strongly disagree they foresee themselves working for their organization one year from survey completion.

Therefore, based on the survey results, employees who strongly agree management within their organization recognizes strong work performance, many employees admit to employee inspiration, excitement, motivation, and retention.

Analysis 2

Of the 63 participants who completed the survey, a total of 29 respondents, or 46.03%, chose agree (4) when answering the question: Management within my organization recognizes strong work performance. Of the 29 respondents, below outlines how they responded to the additional Likert-scale questions:

Of the respondents who chose agree (4), it should be noted that the following responses occurred: 97.59% of the respondents agree or strongly agree they are inspired at work; 96.55% of the respondents agree or strongly agree they are determined to give their best effort at work each day; 51.72% of the respondents agree or strongly agree they get excited about going to work; 72.41% agree or strongly agree they think positive thoughts about work; and 100.00% agree or strongly agree they foresee themselves working for their organization one year from survey completion.

Of the respondents who chose agree (4), it should be noted that the following responses occurred: 0.00% of the respondents disagree or strongly disagree they are

Petak

inspired at work; 0.00% of the respondents disagree or strongly disagree they are determined to give their best effort at work each day; 0.00% of the respondents disagree or strongly disagree they get excited about going to work; 0.00% disagree or strongly disagree they think positive thoughts about work; and 0.00% disagree or strongly disagree they foresee themselves working for their organization one year from survey completion.

Therefore, based on the survey results, employees who agree management within their organization recognizes strong work performance, many employees admit to employee inspiration, excitement, motivation, and retention.

Analysis 3

Of the 63 participants who completed the survey, a total of 8 respondents, or 12.70%, neither agree or disagree (3) when answering the question: Management within my organization recognizes strong work performance. Of the 8 respondents, below outlines how they responded to the additional Likert-scale questions:

Of the respondents who chose neither agree or disagree (3), it should be noted that the following responses occurred: 62.50% of the respondents agree or strongly agree they are inspired at work; 62.50% of the respondents agree or strongly agree they are determined to give their best effort at work each day; 37.50% of the respondents agree or strongly agree they get excited about going to work; 50.00% agree or strongly agree they think positive thoughts about work; and 62.50% agree or strongly agree they foresee themselves working for their organization one year from survey completion.

Of the respondents that chose neither agree or disagree (3), it should be noted that the following responses occurred: 25.00% of the respondents disagree or strongly disagree they are inspired at work; 12.50% of the respondents disagree or strongly disagree they are determined to give their best effort at work each day; 12.50% of the respondents disagree or strongly disagree they get excited about going to work; 37.00% disagree or strongly disagree they think positive thoughts about work; and 0.00% disagree or strongly disagree they foresee themselves working for their organization one year from survey completion.

Therefore, based on the survey results, employees who neither agree or disagree management within their organization recognizes strong work performance, many employees admit to employee inspiration, motivation, and retention, but lack excitement when going to work.

Analysis 4

Of the 63 participants who completed the survey, a total of 7 respondents, or 11.11%, chose disagree (2) when answering the question: Management within my organization recognizes strong work performance. Of the 7 respondents, below outlines how they responded to the additional Likert-scale questions:

Of the respondents that chose disagree (2), it should be noted that the following responses occurred: 14.29% of the respondents agree or strongly agree they are inspired at work; 28.57% of the respondents agree or strongly agree they are determined to give their best effort at work each day; 0.00% of the respondents agree or strongly agree they get excited about going to work; 0.00% agree or strongly agree they think positive thoughts about work; and 28.57% agree or strongly agree they foresee themselves working for their organization one year from survey completion.

Of the respondents that chose disagree (2), it should be noted that the following responses occurred: 57.14% of the respondents disagree or strongly disagree they are inspired at work; 57.14% of the respondents disagree or strongly disagree they are determined to give their best effort at work each day; 85.71% of the respondents disagree or strongly disagree they get excited about going to work; 71.43% disagree or strongly disagree they think positive thoughts about work; and 28.57% disagree or strongly disagree they foresee themselves working for their organization one year from survey completion.

Therefore, based on the survey results, employees who disagree management within their organization recognizes strong work performance, many employees lack employee inspiration, excitement, motivation, and retention.

Analysis 5

Of the 63 participants that took the survey, a total of 1 respondent, or 1.59%, chose strongly disagree (1) when answering the question: Management within my organization recognizes strong work performance. Of the 1 respondent, below outlines how they responded to the additional Likert-scale questions:

Of the respondents that chose strongly disagree (1), it should be noted that the following responses occurred: 0.00% of the respondents agree or strongly agree they are inspired at work; 0.00% of the respondents agree or strongly agree they are determined to give their best effort at work each day; 0.00% of the respondents agree or strongly agree they get excited about going to work; 0.00% agree or strongly agree they think positive thoughts about work; and 0.00% agree or strongly agree they foresee themselves working for their organization one year from survey completion.

Of the respondents that chose strongly disagree (1), it should be noted that the following responses occurred: 100.00% of the respondents disagree or strongly disagree they are inspired at work; 100.00% of the respondents disagree or strongly disagree they are determined to give their best effort at work each day; 100.00% of the respondents disagree or strongly disagree they get excited about going to work; 100.00% disagree or strongly disagree they think positive thoughts about work; and

Petak

100.00% disagree or strongly disagree they foresee themselves working for their organization one year from survey completion.

Therefore, based on the survey results, the employees who strongly disagree management within their organization recognizes strong work performance, employees completely lack employee inspiration, excitement, motivation, and retention.

Analysis 6

The final analysis includes correlation coefficients dependent upon the above data. All of the following correlation coefficients have the survey results from the question management within my organization recognizes strong work performance as the dependent variable, whereas the remaining five questions each representing the independent variable. Below outline the questions and its correlation coefficients: I am inspired to meet my goals at work, .5677; I am determined to give my best effort each day, .6190; I get excited about going to work, .7244; When I think about work, I think positive thoughts, .6849; and I foresee myself working for this organization one year from today, .6913

Based on the correlation coefficients, there is a moderately strong positive relationship between employee inspiration and management recognizing strong work performance; a moderately strong positive relationship between employee excitement and management recognizing strong work performance; a very strong positive relationship between employee motivation and management recognizing strong work performance; and nearly a very strong positive relationship based on plans of employee retention and management recognizing strong work performance.

CONCLUSION

Organizations benefit from having employees who are inspired, excited, and motivated, as well as employees who see longevity with their perspective organization. The study investigated what happens to an employee's inspiration, excitement, motivation, and plans of retention with the organization when management recognizes strong work performance. The literature review provided several findings that organizations benefit from inspired, excited, and motivated employees, as well as organizational retention. The selected instrument for this study was a survey which was designed to reveal data in order to find correlation among variables. The study amounted to 63 voluntary participants. The findings reveal there is a moderately strong positive relationship between employee inspiration and management recognizing strong work performance; a very strong positive relationship between employee excitement and management recognizing strong work performance; a moderately strong positive relationship between employee motivation and management recognizing strong work performance; and a nearly very strong positive relationship based on plans of employee retention and management recognizing strong work performance.

The overall conclusion of the study proves managers recognizing an employee's strong work performance is an imperative positive reinforcement tool that leads to many added positives in an employee's workplace feelings and behaviors, such as inspiration, excitement, motivation, and retention.

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Petak

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**WEIGHING THE ISSUES OF SAFETY AND
EMPLOYEE RETENTION (WISER) FOR LEADERSHIP
IN HEALTHCARE**

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ABSTRACT

Safety and employee retention are pressing issues for healthcare administrators. The theories of leadership, as evaluated on the spectrum from Transactional Leadership to Transformational Leadership, can provide an influential platform for organizational culture to improve safety and employee retention in the healthcare industry. A review of the literature on Transactional and Transformational Leadership demonstrated the components of employee retention to include psychological distress, psychological empowerment, burnout, job satisfaction, work engagement, absenteeism, and employee intention to stay or leave. The components of safety in the healthcare industry as related to Transactional and Transformational Leadership were defined as psychosocial working conditions, safety compliance, safety participation, adverse patient outcomes, medication safety, and quality of care. This illuminates the correlation between Transformational Leadership and the improved outcomes of safety and employee retention while supporting the negative effects of Transactional Leadership on safety and employee retention in the healthcare industry. These findings are relevant to all facets of healthcare administrators seeking to improve safety and employee retention in their organizations through leadership styles.

Keywords: healthcare leadership, employee safety, employee retention, healthcare management,

INTRODUCTION

The safety of those who encounter the ecosphere of healthcare organizations and the retention of employees is the most substantive duty charged to leaders of healthcare organizations worldwide. The evidence of the central role played by organizational leaders in both influencing safety and improving employee retention is plentiful. The mechanisms by which leaders influence those in their

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charge can produce either positive or negative outcomes with unanticipated collateral damage. Leadership styles can be evaluated on a spectrum between Transactional Leadership (TRAL) and Transformational Leadership (TRFL). Though likely to be problematic well into the twenty-first century, the safety of the employee, as well as employee retention in healthcare can be effectively improved by implementing an organizational culture reflective of Transformational Leadership.

Description of the Problem

Employee retention in the healthcare industry is a growing concern, especially when one considers the natural stressors of the workplace environment, long work hours, and continual pressures of performance. This trend has been even more noticeable in recent months in light of reduced financial reimbursement for healthcare services, often pushing many workers to leave the field for other career opportunities (Rubino, Esparza, & Chassiakos, 2020). In addition, the current COVID-19 pandemic has exacerbated many of the known stressors to the point that healthcare leaders are seeing employee turnover and burnout at some of the highest levels in recent memory. Healthcare leaders often underestimate their ability to impact their immediate environment. The leadership practices of healthcare managers can influence, either positively or negatively, the outcomes for providers and patients (Lavoie-Tremblay, Fernet, Lavigne, & Austin, 2016).

The repercussions of poor and undesirable leadership styles can be observed in the organizational culture and behavior through various quantitative and qualitative influences and outcomes related to employee retention. An evaluation of organizational cultures as they relate to employee retention should analyze several critical influences such as psychological distress, psychological empowerment, job satisfaction, work engagement, absenteeism, burnout, and intent to stay or leave.

The measurements of success in healthcare organizations can vary in their emphasis, though the fundamental insistence on safety is unwavering. Healthcare workers face safety challenges of chemical, psychosocial, and biological risks in the execution of their jobs. The American healthcare sector had the second-largest number of non-fatal occupational injuries in 2005 (Lievens & Vlerick, 2014). The continuing successes in determining the causes for past procedural errors and policy breakdowns will correlate to an increase in leaders' requirements to promote safety (Rubino et al., 2020). A proper evaluation of the organizational safety culture should include the assessment of safety performance with consideration of compliance and participation, psychosocial working conditions, adverse patient outcomes, medication safety, and quality of care.

LITERATURE REVIEW

The relationship between employer and employee is often surmised as a quid pro quo arrangement. As the employee labors, the employer provides the anticipated compensation, whether this is in the form of a paycheck, benefits, or a promotion (Rubino et al., 2020). This relationship between employer and employee is described as the Theory X concept of motivation which espouses that an average person's inherent dislike of work will correlate to work avoidance which requires coercion and control with punishment to achieve adequate effort towards organizational objectives because human beings prefer to be directed (McGregor & Cutcher-Gershenfeld, 2006). The Theory X approach to management was common in the past but more temporarily yielded to Theory Y leadership. This leadership style embraces the principle that people work because they want to derive some value from work and that employees willingly accept responsibility for their work and aim for high quality thereby requiring less supervision (Rubino et al., 2020).

Theory Y focuses on the creation of an environment that rewards the exercise of initiative, ingenuity, and self-direction by viewing self-actualization as motivating forces (Weiss, Tilin, & Morgan, 2018). While the command and control aspect of Theory X may yield short-term results, the social capital, engagement, loyalty, and sustained productivity associated with Theory Y may be sacrificed (Weiss et al., 2018). The concepts of Theory X and Theory Y leadership styles provided the basis for the development of James MacGregor Burns' theories of Transactional and Transformational Leadership (Rubino et al., 2020).

LEADERSHIP STYLES

James MacGregor Burns (2012) states that the transactional leader is motivated by personal interests with which followers comply as a mechanism to assure that their interests will be served if the leader is satiated. By comparison, the transformational leader creates a work culture wherein employee motivation is based on the individual needs and aspirations of employees while holding personal and professional aspirations secondary to those of employees (Rubino et al., 2020).

Transactional Leadership

Saravo, Netzel, and Kiesewetter (2017) include contingent reward as a component of TRAL. In contingent reward, leaders provide promised rewards when followers fulfill their agreed-upon goals which, when well-managed, are highly satisfying and beneficial to the leader, the followers, and the organization (Nahavandi, 2015). Similarly, Molnar et. al, (2019) also include contingent reward in addition to active management-by-exception and passive management by exception as a component of TRAL.

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Recognizing that most who work in healthcare are passionate about providing the best possible care, giving accurate diagnoses, maximizing patient comfort, and assuring the safety of their patients, Rubino et al. (2020) rationalize that assumptions of consistent employee motivation by the transactional leader will miss a tremendous opportunity to capitalize on the dedication and loyalty of the healthcare worker. In management-by-exception, leaders interact little with subordinates, provide limited or no direction, and only intervene when things go wrong (Nahavandi, 2015). More specifically, management-by-exception (MBEA) involves the leader monitoring the behavior of followers and taking corrective action before the occurrence of serious problems while management-by-exception passive (MBEP) implies that the leader monitor followers' behavior and only takes correction actions when noncompliance has occurred or when mistakes have already happened (Molnar et al., 2019).

Transformational Leadership

The four elements of TRFL are defined as idealized influence, inspirational motivation, intellectual stimulation, and individualized consideration (Saravo et al., 2017). Inspirational motivation is specified in the healthcare industry and defined by Vaismoradi, Griffiths, Turunen, and Jordan (2016) as the articulation of a vision and a challenge to provide care delivery of a high standard. Idealized influence is defined as demonstrating high standards of moral conduct in the behavior of the leader (Molnar et al., 2019).

Nahavandi (2015) subscribes to three factors of TRFL, two of which are consistent with Saravo et al. (2017) with the remaining factor being charisma and inspiration, a necessity for the creation of an intense emotional bond between leaders and followers. Individual consideration refers to the concept that the needs of the members of the team are focused and prioritized such that the leader serves as an exemplar, counselor, organizer,

and trainer to encourage employees to take part in team activities (Tian et al., 2020). Intellectual stimulation describes the leader's ability to motivate followers to solve problems by challenging them intellectually and empowering them to innovate and develop creative solutions (Nahavandi, 2015).

EMPLOYEE RETENTION

The concern of retaining employees is consistent among all healthcare organizations because experienced employees are vital to organizational success. Tian et al. (2020) hypothesized that TRFL is positively correlated with employee retention. In this work, investigators evaluated the perception of the leader by the subordinate through the Multifactor Leadership Questionnaire and a five-item questionnaire to measure employee retention. The data collected by Tian et al.

(2020) from 505 employees of small- and medium-sized enterprises showed the positive and significant direct effects of TRFL on employee retention. Closer examination of the components afflicting employee retention and the correlation to TRAL and TRFL should analyze psychological distress, psychosocial empowerment, burnout, job satisfaction, work engagement, absenteeism, and employee intention to leave or stay.

PSYCHOLOGICAL DISTRESS

Labrague, Nwafor, and Tsaras (2020) used the 4-item Perceived Stress Scale to assess psychological distress among 770 registered nurses from 15 hospitals from December 2019 to February 2020 to examine the influence of toxic and transformational leadership practices. The 7-item Global Transformational Leadership Scale was utilized to evaluate TRFL and was found to have acceptable internal consistency with the Multifactor Leadership Questionnaire also used by Tian et al. (2020) (Labrague et al., 2020).

To establish the definition of a toxic leader, Labrague et al. (2020) identified the criteria as neglect of employees' well-being, the existence of a negative personality that influences organizational climate, and the presence of self-driven motivation and used The Toxic Behaviors of Nurse Managers Scale to examine the perception of leaders' toxic behaviors. The definition of a toxic leader by Labrague et al. (2020) is consistent with the aforementioned criteria of a transactional leader as described by Molnar et al. (2019), Nahavandi (2015), Rubino et al. (2020), and Saravo et al. (2017), as well as the Theory X leadership style espoused by McGregor and Cutcher-Gershenfeld (2006). The work of Labrague et al. (2020) demonstrated that toxic leadership correlates with increases in psychological distress among employees and evaluated that developing TRFL and addressing toxic leadership practices can promote employee retention.

PSYCHOLOGICAL EMPOWERMENT

Liu et al. (2019) sought to investigate the amelioration of employee burnout by improving the level of psychological empowerment among 385 employees. The Psychological Empowerment Scale was used to evaluate the four dimensions of meaningfulness, autonomy, competence, and impact while the Transformational Leadership Questionnaire, based on the Multifactor Leadership Questionnaire, was used to evaluate leadership styles (Liu et al., 2019). The work of Liu et al. (2019) demonstrated a consistent positive association with Transformational Leadership and psychological empowerment.

BURNOUT

When evaluating the association between TRFL and burnout, Liu et al. (2019) established that TRFL could decrease the risk of burnout by promoting the employee's psychological empowerment. The Maslach Burnout Inventory-Human Service Survey was used to evaluate the three dimensions of emotional exhaustion, depersonalization, and reduced personal accomplishment (Liu et al., 2019). The findings of Liu et al. (2019) below demonstrate a negative association with emotional exhaustion and that psychological empowerment likely mediated the association between TRFL and emotional exhaustion.

Variables	Emotional exhaustion		
	Step 1 (β)	Step 2 (β)	Step 3 (β)
Step 1			
Age	-0.112*	-0.110*	-0.118**
Gender ^a	-0.016	-0.020	-0.033
Employment status ^b	-0.150**	-0.147**	-0.122**
Step 2			
Transformational leadership		-0.305**	-0.178**
Step 3			
Psychological empowerment			-0.374**
Adjusted R ²	0.032	0.124	0.246
ΔR ²	0.040**	0.093**	0.123**

Notes: N=385 employees. *p<0.05, **p<0.01. ^a1=female, 2=male. ^b1=permanent, 2=contract. Age is a continuous variable.

JOB SATISFACTION

Labrague et al. (2020) examined the influence of toxic leadership and Transformational Leadership on job satisfaction. Job satisfaction was examined using the six-item Job Satisfaction Index which consists of items that reflect the five work domains: work, supervisory support, co-workers, salary/wage, and job promotion (Labrague et al., 2020). Labrague et al. (2020) observed that employees who worked for leaders demonstrating toxic leadership practices reported decreased job satisfaction while providing evidence of the positive influence of TRFL on employees' job satisfaction.

Boamah et al. (2018) sought to examine how TRFL influenced job satisfaction via staff empowerment in 378 acute care nurses. TRFL was measured using the

Multifactor Leadership Questionnaire while job satisfaction was measured using the Global Job Satisfaction questionnaire adapted from the Job Diagnostic Survey (Boamah et al., 2018).

Structural empowerment, measured using the Conditions of Work Effectiveness-II, explains how leaders can influence employees to accomplish their work effectively by providing access to the four organizational structures of information, support, resources, and opportunities (Boamah et al., 2018).

WORK ENGAGEMENT

Ree and Wiig (2020) address an evaluation of the relationship between TRFL and work engagement in a cross-sectional survey of 139 healthcare professionals. TRFL was measured using the Global Transformational Leadership Scale (Ree & Wiig, 2020). Work engagement in this study is addressed as a mechanism of affecting patient safety culture, however, the engagement of employees is equally necessary to achieve the requisite buy-in to facilitate change in organizational behavior. Considering such, the findings of Ree and Wiig (2020) illuminate the positive relationship between TRFL and work engagement to validate the dully pertinent considerations related to employee retention.

ABSENTEEISM

Labrague et al. (2020) assessed absenteeism by asking the participants to report the number of absences that occurred in the past 12 months. There were no modifications in obtaining information related to TRFL and toxic leadership from the aforementioned reviews. The work of Labrague et al. (2020) demonstrated a significant and positive correlation between toxic leadership and absenteeism while TRFL was observed to negatively correlate with absenteeism.

EMPLOYEE INTENTION

Wang et al. (2018) sought to examine the role of emotional intelligence between transformational leadership and intent to stay in 535 nurses. Intent to stay is defined as the probability of an individual staying in the current job and is determined by measuring employee perceptions of the likelihood of staying for a specified time (Wang et al., 2018). Wang et al. (2018) demonstrated that employees who possessed higher levels of emotional intelligence and worked for a manager with transformative leadership traits expressed greater intent to stay, thereby concluding that this leadership style directly and indirectly, positively influences intent to stay.

The earlier study by Lavoie-Tremblay et al. (2016) examined the relationship between abusive leadership and intention to quit. The components of abusive

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leadership are consistent with the aforementioned qualities of TRAL. Lavoie-Tremblay et al. (2016) determined abusive leadership positively and significantly predicted the intention to quit the healthcare facility while TRFL negatively and significantly predicted the intention to quit the healthcare facility. Additionally, abusive leadership practices significantly predicted the intention to quit the nursing profession (Lavoie-Tremblay et al., 2016).

SAFETY

Safety considerations of those within the ecosphere of the healthcare organization are paramount. Organizational leaders play a central role in influencing patient and occupational safety-related attitudes and actions in the workplace (Kelloway, Mullen, & Francis, 2006). The Institute of Medicine estimates that up to 98,000 patients die, and more than 1 million are injured each year in the United States as a result of preventable medical errors (Boamah et al., 2018). Successful healthcare executives embrace their roles as safety change agents (Rubino et al., 2020). Poor patient safety culture is associated with injuries to employees and patients while a good safety culture is associated with an improvement in patients' safety-related outcomes (Ree & Wiig, 2020). Safety of the employee and patient in healthcare organizations should analyze the components of psychosocial working conditions, safety performance including safety compliance and safety participation, adverse patient outcomes, medication safety, and quality of care.

PSYCHOSOCIAL WORKING CONDITIONS

Healthcare organizations are dynamic by nature which presents healthcare professionals with major changes in psychosocial working conditions characterized by skills shortage or imbalance, increasing workload, and task complexity (Wagner et al., 2019). Wagner et al. (2019) measured staffs' perceptions of psychosocial working conditions according to multiple scales inclusive of strain, influence at work, and burnout. Ultimately, investigators discovered a negative relationship between TRFL and psychosocial working conditions, which positively related to patient safety culture.

SAFETY PERFORMANCE

Lievens and Vlerick (2014) define safety performance as the behaviors that employees exhibit to promote and adhere to safety in the workplace and pursued an evaluation of the impact of TRFL on nurses' safety performance. Safety performance, according to Lievens and Vlerick (2014) is comprised of two components: safety compliance and safety participation. Similarly, Molnar et al. (2019) differentiated safety performance between compliance and initiative and sought to examine the relative importance of Safety-Specific Leadership, TRFL, and TRAL for non-healthcare employee safety outcomes. Safety-Specific

Leadership, as defined by Molnar et al. (2019), is not necessarily characterized by either TRAL or TRFL behaviors. The Safety- Specific Leadership of Molnar et al. (2019) indicated the degree to which the leader gives focus and priority to safety over other aspects such as speed and schedules, reactions to subordinates' safe/unsafe conduct, and initiative to actions concerning safety issues and was measured by the Group Safety Climate scale which measures workers' perception of the supervisors' safety behaviors and expression of safety values and priority.

SAFETY COMPLIANCE

Lievens and Vlerick (2014) used a four-item Safety Compliance Scale to analyze 152 nurses and execute a hierarchical regression which demonstrated a positive relationship with TRFL. Molnar et al. (2019) analyzed safety compliance behaviors with four items from the compliance/risk-taking scale which measures the extent to which employees follow safety rules and regulations. Safety-Specific Leadership demonstrated a positive relationship with safety compliance while TRFL and TRAL exhibited a modest and moderate negative relationship, respectively, with safety compliance (Molnar et al., 2019).

SAFETY PARTICIPATION

A four-item Safety Participation Scale was implemented to evaluate safety participation among 152 nurses, which demonstrated a positive relationship with Transformational Leadership (Lievens & Vlerick, 2014, p. 656) Molnar et al. (2019) established the parameters of safety initiative by measuring employees' tendency to participate and take initiative in favor of workplace safety with the Safety Self-Efficacy Scale. TRAL demonstrated a negative impact on safety initiatives while Safety-Specific and TRFL demonstrated a positive impact on safety initiatives (Molnar et al., 2019).

ADVERSE PATIENT OUTCOMES

Boamah et al. (2018) included the adverse events of patient falls, medication errors, hospital-acquired infections, pressure ulcers, and patient and/or family complaints as perceived by nurses. Seeking to investigate the effect of TRFL on nurse-assessed adverse patient outcomes using the mediating mechanism of structural empowerment, Boamah et al. (2018) established a strong, positive correlation with TRFL and structural empowerment, which in turn has a direct negative relationship with adverse events.

MEDICATION SAFETY

Lappalainen, Harkanen, and Kvist (2020) evaluated medication safety using the Medication Safety Scale to determine the relationship with TRFL as determined

Creel, Pearson, Dame, House and Brooks

by the Transformational Leadership Scale among 161 nurses at three hospitals. The work of Lappalainen et al. (2020) demonstrated a moderate positive correlation between TRFL and medication safety with a notably weak correlation to TRFL in the subscale of knowledge of medicines.

Additionally, Vaismoradi et al. (2016) evaluated 100 articles to conclude that using the components of TRFL can prepare graduate nurses with the competencies necessary to be diligent about medication safety and the prevention of errors.

QUALITY OF CARE

Lavoie-Tremblay et al. (2016) aimed to evaluate the existence of a relationship between Transformational and abusive leadership practices by observing and predicting the quality of care by novice nurses. The qualities of abusive leadership practices are consistent with earlier defined parameters of TRAL. Quality of care was measured using a 4-item scale. The work of Lavoie-Tremblay et al. (2016) demonstrated that TRFL practices positively and significantly predicted quality of care scores while abusive leadership had the opposite relationship.

IDENTIFICATION AND DISCUSSION OF SOLUTIONS TO ADDRESS THE ISSUES

The complexities of mitigating safety and employee retention in the healthcare industry are critical concerns that potentially impact health care quality and delivery for generations to come. To best address, the issues and the related solutions, a discussion of organizational culture is in order. The employees of healthcare organizations are both internally and externally driven to provide quality patient care safely and efficiently. The components of TRAL will limit the quality of care and productivity while TRFL may serve to better inspire the healthcare worker to flourish and exceed operational goals.

MULTI-DIRECTIONAL ORGANIZATIONAL CULTURE

Leaders can improve employee commitment and motivation by transforming the culture of the organization. However, no culture is truly changed solely from the efforts of organizational leaders. The concept of a multi-directional cultural transformation is unique because it focuses on the goal of achieving buy-in across all levels of providers and leaders.

Achieving organizational buy-in is a difficult achievement often burdened by a fear of management. Providing a consistent message of the value, relevance, and applicability of TRFL can achieve the interdisciplinary synergy necessary to improve safety and employee retention metrics throughout healthcare organizations.

SAFETY-SPECIFIC TRANSFORMATIONAL LEADERSHIP

Molnar et al. (2019) defined Safety-Specific Leadership as an abstract separate from the spectrum of TRAL and TRFL. However, this observation assumed that Safety-Specific Leadership exists separately from TRFL; this is a detriment to the healthcare industry. Safety-Specific TRFL in the context of the healthcare industry is a widely applicable style of leadership. By combining the components of Safety-Specific Leadership and TRFL healthcare organizations can best mitigate the issues related to retaining quality employees while improving safety goals.

PROPOSAL IMPLEMENTATION PLAN

The implementation of a Safety-Specific TRFL culture should begin by establishing and defining the organizational goals. These goals should pertain to achieving community buy-in for organizational momentum with specific attention to patient and employee safety and employee retention. After defining the goals, the implementation should continue with the evaluation of the current leadership styles as described by a consistent metric, such as the Transformational Leadership Scale. Components should include 360-degree feedback of those in leadership positions and an evaluation of the organizational culture as it relates to TRFL. Further, an assessment of the organizational safety culture should include the evaluation of safety participation and safety compliance.

Following a review of the collected data, the implementation plan should continue with designing an interdisciplinary and collaborative team involving representatives of all ranks of employees. Of specific importance is the inclusion of a representative quantity of non-leadership personnel to better achieve buy-in among other non-leadership personnel. The collaborative team should establish a transitional timeline reasonable to the organizational capacity.

Implementing a culture of Safety-Specific TRFL is an ongoing process that requires consistent attention to organizational behaviors. As such, the end goal for this initiative is not concrete and subsequently worthy of ongoing evaluation. The collaborative committee should seek to implement mechanisms to regularly evaluate and redirect the organizational culture based on consistent internal feedback.

CONCLUSION

The leaders of healthcare organizations are charged with the humbling, yet monumental task of creating an organizational culture that ensures the retention of quality employees and the safety of all who encounter their presence in the ecosphere of healthcare. Idealized influence, intellectual stimulation, individualized consideration, and inspirational motivation are the components of

Creel, Pearson, Dame, House and Brooks

TRFL that will create a culture where quality employees are enabled by their leaders to achieve and exceed organizational goals. When combined with the components of Safety-Specific Leadership, TRFL is the key the leaders of healthcare organizations need to unlock the door to improving safety and employee retention.

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Creel, Pearson, Dame, House and Brooks

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POLITICAL ECONOMY OF THE PANDEMIC: AN ANALYSIS OF EPICENTER MANAGEMENT

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ABSTRACT

Undoubtedly, the COVID-19 pandemic has reimaged many of today's "taken-for-granted" systems and processes in every sphere of human life – from individual to national to global. In broader senses, these include individualistic lifestyle, public policies especially regarding economic activities, education processes and healthcare systems, and international coordination and cooperation. The United States – one of the most developed and industrialized countries of the world – has become the epicenter of the 2020 coronavirus outbreak. Till to-date, the country continues to top both in terms of the number of positive cases and deaths from COVID-19. At one point, New York City became the 'city of the dead' with more than 3,000 deaths per day. Based on secondary information, this paper aims to explore the causal effects of political economy factors in managing the COVID-19 pandemic in New York State. It also focuses on the 'trickle-down effects' of state-level policy decisions in a small, rather remote city within the New York State. This chosen city, located in Upstate New York, has not been battered by the pandemic like other parts of the State. Yet, the city has been maintaining and managing all the necessary rules and procedures suggested by the State authorities in line with the relevant federal and global agencies. Consequently, this paper highlights some best practices and lessons learned from the lens of political economy and socioeconomics for the others who are still struggling to manage the spread of the pandemic and restrain its adverse impacts as much as possible.

Key Words: Pandemic; COVID-19; Political economy; Socioeconomics; New York City.

INTRODUCTION

On 11 March 2020, the World Health Organization (WHO) declared that COVID-19 had the characteristics of a pandemic (WHO, 2000a). Throughout the history, humankind have been battered by pandemics from time-to-time. Some of the

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deadliest ones recorded include the Plague of Justinian (541-542), the Black Death (1346-1350), the Sixth cholera pandemic (1899-1923), Spanish flu (H1N1; 1918-1920), Asian flu (H2N2; 1957-1958), Hong Kong flu (1968-1969), Swine flu (H1N1; 2009-2010), and COVID-19 (2020-until today). **Among these**, experts consider the Spanish flu pandemic to be the most severe pandemic in human history. It claimed 100 million lives. Nonetheless, the COVID-19 pandemic probably has the most widespread impacts in terms of social, economic, political, health, and education – to name a few.

The ongoing COVID-19 pandemic has claimed 2.63 million lives as of March 21, 2021 (Centers for Disease Control and Prevention-CDC, www.cdc.gov). This disease set off at the fag-end of 2019 in China and has started to spread throughout the world until today. To contain the spread of this disease, governments around the world have adopted numerous defensive and preventive measures, including restrictions on movements (even lockdown), temporary closing of restaurants, markets, and places of entertainment, and encouraging working from home (except for essential services). Simultaneously, governments have been facilitating various fiscal and monetary supports so to help the populations hit hard by the loss of their livelihoods. This pandemic is still continuing. And it will be quite some time before one can fully assess the multidimensional but interconnected impacts of this pandemic. Meantime, it is worthwhile to highlight some best practices and lessons learned from the lens of political economy for the benefit of the others who are still struggling to manage the spread of the pandemic and restrain its adverse impacts as much as possible.

METHODOLOGY

Within the political economy framework, this paper applies an interdisciplinary lens to understand what has worked (and how) as well as what did not work (and why not). The political economy framework will help to draw upon economics, sociology, and political science in explaining how political institutions, the political environment, and the economic systems as well as smaller social groups and social networks have influenced and being influenced (Weingast and Wittman, 2008) by the COVID-19 pandemic. The reiteration of lessons learned, so far, from the spread and the management of the pandemic will help to better assess and address these varied underlying, interconnected forces. Consequently, this study employed a qualitative inquiry method to understand how race, gender, socioeconomic level, and other major components have impacted as well as being impacted by the ongoing pandemic. That is, the interdisciplinary qualitative inquiry lens has helped to assess how particular groups are represented in discourses, practices, and social systems amid the pandemic (Cannella and Lincoln, 2015).

The paper is mostly based on secondary sources. Secondary data analysis within a qualitative approach has been a matter of discourse for the concerns regarding potential methodological and ethical problems (Ruggiano & Perry, 2019; Szabo & Strang, 1997). The major concern with secondary data analysis is that such interpretation may not capture the social, cultural, and political realities that are evident at the time of subjective data collection (Mauthner, Parry, & Backett-Milburn, 1998). Still, some scholars (for example, Barnett-Page & Thomas, 2009; Hinds, Vogel, & Clarke-Steffen, 1997; Morrow, Boddy, & Lamb, 2014; Ruggiano & Perry, 2019) argue in favor of this approach on the ground of easy access, cost-effectiveness, reuse of the already collected data, and the possibility of having a different (extended or refined) focus from the original study.

Furthermore, secondary data analysis can be considered “trustworthy” if it uses broad review questions to guide the study, depends on reliable sources other than bibliographic databases, distinguishes between primary and secondary analyses, and applies well-practiced inductive and interpretive strategies (Barnett-Page & Thomas, 2009; Dixon-Woods et al., 2006; Morrow et al., 2014). Aligned with these views and methods, the personal experience of the researcher is also shared here to highlight how global and/or regional level policy decisions have “trickled down” and helped to limit the spread of the pandemic and its associated adversities.

CONCEPTUAL FRAMEWORK

The political economy framework helps to capture the political behavior in the economy that is shaped by three “I”s: (1) interests (of individuals and groups who can influence policy), (2) ideas (those influence policies), and (3) institutions (that shape and implement policies). Thus, from an interdisciplinary standpoint, political economy focuses on economics, sociology, and political science to understand how economic systems, political institutions, and the environment affect and influence each other; the dynamics within states/regional governance as well as within smaller social groups and social networks because these regimes influence and are influenced by the organization of both social and economic capital; and the relationships between individuals and society as well as between markets and the state. This study also applied the rationales of Nurkse’s (1953) ‘Model of Vicious Circle of Poverty and Economic Development’. Although Nurkse’s model opts to explain macro-level economic phenomena, it is applied here to grasp the interrelationships among different socioeconomic factors in a society.

Within this conceptual framework, this study opted to delve into what worked well (and why) to ‘flatten the curve’ of the number of infections and deaths in the

Jesmin

USA, in general, and in New City, in particular. Now, why selecting the United States? Despite income and wealth disparities, the United States is one of the top developed and industrialized countries in the world (Central Intelligence Agency-CIA, 2021; UN, 2020; UNDP, 2020). It accounts for approximately one-fourth of global gross domestic product (GDP) and is the world's largest economy by nominal GDP (CIA, 2021; UNDP, 2020). The country has maintained high socioeconomic performance over the years and ranked 17th in the Human Development Index in 2020 (UNDP, 2020). That said, only after a few weeks of the worldwide spread of the COVID-19 pandemic, the United States became and has continued to be at the top in terms of confirmed cases and deaths (Table 1).

Table 1: COVID-19 situation, updated as of 03/21/2021 from CDC and WHO.

Country	Confirmed cases	% of the total	Country	Deaths	% of the total
USA	29,594,892.00	25%	USA	538,006.00	20%
Brazil	11,950,459.00	10%	Brazil	292,752.00	11%
India	11,599,130.00	10%	Mexico	197,827.00	8%
Russia	4,456,869.00	4%	India	159,755.00	6%
UK	4,291,271.00	4%	UK	126,122.00	5%
Total World	118,819,904.00		Total World	2,633,079.00	

This paper has selected New York City (NYC) as a case study mainly on the basis of the rationales given by Schmitt-Grohé, Teoh, and Uribe (2020): First, NYC is the most populous city in the United States with an estimated 2019 population of 8,336,817 (U.S. Census Bureau, 2020). It also is one of the world's most populous mega cities (Lankevich 2012). Second, NYC is the most densely populated (28,317 people per square mile), most ethnically diverse, religiously, and culturally varied cities in the United States (Lankevich 2012; *www.usa.gov*). The City, for instance, has more Jews than Tel Aviv and more Irish than Dublin (Lankevich 2012)! Third, not only in the United States but also across the world, New York State remained the epicenter of the pandemic for months. Until today, it continues to be a topper among all the states and territories in the United States both in terms of confirmed cases and deaths (Table 2). Fourth, the residents across New York City

are subject to the same health policies and regulations - throughout the local, state, and federal levels. Fifth, income per capita in New York City displays significant variation across zip codes. Last, but not least, data across all zip codes in New York City is produced by the same statistical agencies, ensuring reliability and guaranteeing cross-sectional comparability.

Table 2: COVID-19 situation in the USA, updated as of 03/21/2021 from CDC and WHO.

States	Confirmed cases	% of the total	Deaths	% of the total
California	3,530,055.00	12%	55,372.00	10%
Texas	2,747,693.00	9%	46,478.00	9%
Florida	2,011,217.00	7%	33,408.00	6%
New York	1,787,677.00	6%	49,158.00	9%
Illinois	1,223,083.00	4%	23,379.00	4%
Total USA	29,594,892.00		538,006.00	

SITUATIONAL ANALYSIS

The virus that started causing infections in Wuhan, China at the end of 2019, did not take much longer to spread globally. At one stage, following the recommendations of the WHO, more than one-third of the world's population was placed under lockdown. Simultaneously, many countries - including the United States, the United Kingdom, Germany, India, Japan, and China - closed their borders for a certain period of time to contain the spread prompted by international travels. Perse, the COVID-19 pandemic has changed many social, political, economic, environmental, education, and healthcare determinants in almost all the countries and territories in the world.

Overview of the pandemic situation across the United States

As the COVID-19 pandemic swept across almost every corner of the world, it has affected the human population in unimaginable, unpredictable ways - from work patterns to commercial supply chains, to the modes of interaction in personal and professional lives. It heightened human suffering in terms of being a victim, a curer, a support service provider, or even a resource provider. That is, the ongoing

Jesmin

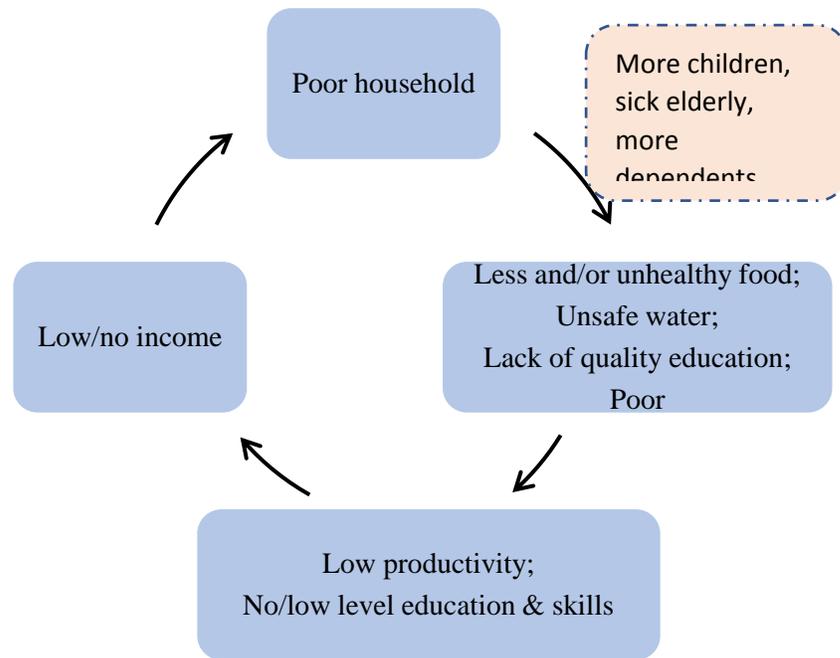
pandemic prompted unprecedented policy responses, unsettled major aspects of social organization, and economic fallouts. This paper focused on some of such socio-economic-politico aspects of the pandemic in the United States – from a macro perspective to micro as well as individualistic lens.

Soon after the spread of the COVID-19 pandemic, the U.S. has become the global epicenter of this pandemic (Coronavirus Resource Center, 2021). Research, so far, has asserted, particularly where data is available, that both the spread of COVID-19 and its impacts reflect inequalities, structural racism, and other injustices prevalent in societies (Bailey and Moon, 2020). In the United States, the COVID-19 related activities initially were marked by government gaslighting, inaction, politicization, and xenophobia – reflected in different public policies, particularly in the areas of the public health community and immigration (Adolph et al., 2020; Bailey and Moon, 2020; Tellis, Sood, and Sood, 2020). For example, the research found that, all else equal, states led by Republican governors had been slower to implement five social distancing policies during a critical window of early COVID-19 response (Adolph et al., 2020; Tellis, Sood and Sood, 2020). On the other hand, in many official communications, the then US president dubbed COVID-19 as “Chinese Virus”, labeled it as a “Democratic hoax” and “just the flu” (Franck, 2020; Lipton et al., 2020; Rogers, Jakes, and Swanson 2020; Viala-Gaudefroy, and Lindaman, 2020; Yamey and Gonsalves, 2020). These bigoted rhetoric, politicization, racialization, and other discriminatory dimensions of the COVID-19 pandemic have translated as disjointed responses into people’s lived realities.

The other significant issue that this pandemic’s spread and authorities’ responses unfold is the deep-seated structural inequities, to be precise, structural racism (Bailey and Moon, 2020; Chowkwanyun and Reed, 2020; Lipton et al. 2020; Tellis, Sood, and Sood 2020). The National Institute of Health (NIH) has also acknowledged this by stating that, “*Structural racism has resulted in persistent health disparities, poor health status, and premature mortality as demonstrated by the current disproportionate burden of morbidity and mortality from COVID-19*” (www.nih.gov). People of marginalized racial/ethnic groups are overrepresented in socially and economically segregated communities (Bailey and Moon, 2020; Bump, 2021). As such, they usually live in areas with substandard and crowded housing conditions and unsafe or limited water supply alongside inadequate various other civic benefits (Bailey and Moon, 2020). They are prone to chronic health conditions, such as diabetes, hypertension, and renal diseases due to the lack of resources accompanied by unhealthy food habits. On the other hand, many essential workers either belong to the marginalized group and/or live within the most frequent proximity to low-wage workers of color

(Bump, 2021). These communities are trapped into a vicious cycle, in many cases, of “generational poverty” (Payne, 2013) as shown in Figure 1.

Figure 1: The vicious cycle for the marginalized group



It is, therefore, challenging, if not impossible, for these communities to maintain even the basic preventive safety guidelines such as staying at home and/or self-isolation required against the spread of COVID-19 (Tsai and Wilson, 2020). Additionally, because of the already existent underlying health conditions, they are more vulnerable to COVID-19. All of these put the marginalized groups at a heightened risk of COVID-19 contamination and fatality. In brief, COVID-19 has not spread over a level playing field across the United States nor other parts of the world. Nonetheless, the inequities in both the spread and the impact of COVID-19 are more evident in societies with embedded structural racism - such as the United States (Bailey and Moon, 2020). Despite data inadequacy by race/ethnicity, research done so far show that Black, Latinx, and Brown Americans are overrepresented among COVID-19 hospitalizations and/or deaths (Dyer, 2020; Kaur, 2020; Laurencin and McClinton, 2020). The recent report of APM Research Lab (2021) revealed that African Americans in the US have died at a rate of 50.3 per 100,000 people, compared with 22.9 for Latinos and 22.7 for

Jesmin

Asian Americans, 20.7 for whites. This pattern also reconfirms the underpinned inequality in opportunity and access to education, healthcare, and wealth.

On the economic front, the COVID-19 pandemic has affected all businesses - from small saloons to multinational corporations (Thorbecke, 2020). The business entities, regardless of their size, have been forced to change their modus operandi amid a series of partial to full lockdown orders (Thorbecke, 2020). The travel industries, especially airlines and hotels, have faced massive losses leading to full or partial employee lay-offs. On the other hand, government-mandated social distancing measures followed by working from home have resulted in skyrocketing demand for video conferencing software such as Zoom (Thorbecke, 2020). On the other front, closure and/or restrictive opening of shops have boosted online shopping and home delivery services (Thorbecke, 2020). Nevertheless, the impact of the pandemic has also displayed a disproportionate economic burden on people of color (Parker, Igielnik, and Kochhar, 2021). This population has suffered from loss of employment, (or reduction in) income, and access to employer-sponsored health insurance and benefits as well as lack of safety net. Thus, the risks of economic disruption have disproportionately affected people in lower-paid jobs, particularly in the service sector, where many marginalized people are employed.

In a nutshell, the toll of COVID-19 within the United States has been regressive - the poor and marginalized people suffering disproportionately more than the rich and the privileged. Earlier the Human Development Report 2020 anticipated that Black, African American, Hispanic, and Latino people in the USA to be nearly three times as likely to test positive for Covid-19 and five times as likely to be hospitalized as White people (UNDP, 2020). The recent findings, mentioned throughout this paper, are almost in line with this anticipation.

The political economy of COVID-19 in the New York State and New York City

New York State had its first case of novel coronavirus on March 1, 2020 (Hasan and Narasimhan, 2020). The second confirmed case was on March 2 and was thought to be the first caused by community spread (Hasan and Narasimhan, 2020). As of March 19, 2020, New York City had 2,469 confirmed cases, and the state had 4,152 (Hasan and Narasimhan, 2020). At the close of March 2020, New York City became the epicenter of the pandemic within the United States as well as in the entire world (Coronavirus Resource Center, 2021; Mckinley, 2020). No sooner, the once-lively streets of New York City became empty, while hospitals

started vibrating with the swooshes, beeps, and footsteps of patients and health workers.

New York City is one of the places in the United States that has a highly diverse population of 8.3 million people spread across five boroughs (Wadhwa et al., 2020; U.S. Census Bureau, 2020). In this context, racial/ethnic minorities, non-citizens, and those without health insurance have been at increased risk as they are unable to and/or discouraged to avail themselves appropriate medical care (Brondolo et al., 2008; Derose et al., 2007). Additionally, low-income households with high rent burdens cannot afford to be out of work for long and are, thus, forced to leave their homes for sheer earning and survival purposes. This, in turn, puts them at greater risk of infection. Thus, communities with particular demographic and socioeconomic characteristics, unintentionally and being left with no choice, may put both individuals and neighborhoods at greater health risks during this pandemic.

Earlier research has found inequality between wealthy and poor neighborhoods in New York City in terms of mortality from HIV/AIDS, diabetes, and liver disease as well as wide disparities in infant mortality and increased risk of low birth-weight infants (Freeman et al., 2011; Grandy and Ramirez, 2008; Haile, Padilla and Parker, 2011; Karpati et al., 2006; Sohler et al., 2003). The discussion below reaffirms this larger narrative regarding socio-economic inequalities and health in New York City.

Research during the COVID-19 pandemic has indicated that wealthier, whiter neighborhoods have disproportionately greater access to testing per capita (Borjas, 2020; Buchanan et al., 2020; Cordes and Castro, 2020; Hicks, 2020; Schmitt-Grohé, Teoh, and Uribe, 2020; Thompson et al., 2020). In contrast, low-income communities of color, particularly in western Queens and the South Bronx, bear heavier impacts of the pandemic (Afridi and Block 2020; Borjas, 2020; Cordes and Castro, 2020; Schmitt-Grohé, Teoh, and Uribe, 2020; Thompson et al., 2020). These areas are marked by food-insecure, rent-burdened, crowded households (Institute for Children 2017; Schmitt-Grohé, Teoh, and Uribe, 2020). Also, the concentration of service workers and low-waged workers is higher in these localities.

A study by Arthur et al. (2017) showed that places that are near one another may experience similar calamities or challenges because of the proximity as well as probable enhanced social and cultural ties/interactions. This pandemic has exhibited such clustering patterns (Cordes and Castro, 2020). Given the primary

Jesmin

transmission of coronavirus by respiratory droplets (CDC, 2020), people relying on public transportation (such as subways and buses) to commute found to be at increased risk compared to people using their own transportation (Cordes and Castro, 2020). Additionally, Thompson et al. (2020) found out that, hospitalization rate and death rate, by borough, had been consistently highest in the Bronx and lowest in Manhattan.

The nexus of economic disadvantage with racial inequalities, therefore, have contributed to the increasing vulnerability of the marginalized populations in New York City in the face of this pandemic. Black/African Americans, for instance, have been found to have higher COVID-19 infection and mortality rates that can be underpinned by higher housing density, a higher use of public transportation, higher burden of co-morbidities, and lack of the option to be out of work and/or able to social distance (Cordes and Castro, 2020; Yancy, 2020).

The researcher's experience about this pandemic while living in a small, remote city in Upstate New York supports the fact that conformity of policies throughout different tiers of political entities can help to tackle a disease outbreak rather effectively. During the surge of the COVID-19 outbreak in March 2020, this city followed the State's guidelines: all the educational institutions very quickly adopted to online mechanism instead of in-person modality (some came back to hybrid mode depending on the situation), readjustment in the academic calendar, people started working from home, except for the essential workers, all the places of entertainments were closed, focus on public awareness on testing, strictly maintaining health and hygiene guidelines (e.g., use of mask and social distancing), regular contact tracing in collaboration with the county health department, maintaining travel restrictions in/outside the county, and so on.

DISCUSSION

The above situation analyses reiterate that a pandemic has significant economic impacts in terms of employment and income loss as well as of loss in productivity due to mental health challenges experienced during this difficult time. Also, a pandemic can intensify pressure on healthcare systems by raising the demand for certain treatments requiring certain expertise and resources. People with acute COVID-19 symptoms, for instance, are in need of ventilators and beds in intensive care. This may result in a short supply of resources for others who need this equipment. There may also be resource deviation. Companies such as General Motors and Ford Motor Co., for example, undertook a historic redeployment of their factories and workers and started producing ventilators to fight against the USA's ventilator shortage (Albergotti and Siddiqui, 2020). Organizations, big or small, have adopted changed practices (e.g., wearing masks, hand sanitization,

and reduced hours to allow for deep-cleanings of the stores) in their everyday businesses to navigate the 'new normal' (Thorbecke, 2020). All these have cost implications.

Furthermore, research done so far has highlighted the 'ism'matic (e.g., racialism, classism, ageism, and sexism) aspects of this pandemic. So far, data from different sources showed that the highest rates of cases – infected, hospitalized, and deaths - were concentrated in communities of color, low-paid workers, high-poverty areas, and among persons aged ≥ 75 years or with underlying conditions (Bailey et al., 2020; Bialek et al., 2020; Wadhera et al., 2020; Webb Hooper, Nápoles, and Pérez-Stable, 2020). Alike many places, this is evident in New York City (see, for example, Afridi and Block 2020; Bialek et al., 2020; Borjas, 2020; Cordes and Castro, 2020; Schmitt-Grohé, Teoh, and Uribe, 2020; Thompson et al., 2020; Wadhera et al., 2020). For instance, the Bronx, which has the highest proportion of racial/ethnic minorities, the most persons living in poverty, and the lowest levels of educational attainment had higher rates of COVID-19 related hospitalization and death than the other 4 boroughs. These trends indicate that long-term policies, practices, attitudes, and cultural messages fall short in alleviating inequities, eliminating racism, and establishing social justice.

Simultaneously, the sufferings and/or loss of lives coupled with a loss of employment and income have taken a toll on peoples' mental health (Jones, 2021; Parker, Igielnik, and Kochhar, 2021). In many cases, one or both parents are strained from juggling between work and childcare (including remote learning) during the pandemic (Jones, 2021). The symptoms of anxiety and depression, thoughts of suicide, and substance use have spiked over the year (Jones, 2021).

Based on the above discussion, some lessons learned are as follow:

- Politicization of the pandemic led to gaslighting and inaction at the federal level and leaving the State to emphasize preventive measures. In the absence of fast containment and lack of testing, surveillance, and protective measures (e.g., personal protective equipment -PPE - especially for health and other essential workers) the authorities had to emphasize mitigation measures of physical distancing (e.g., stay-at-home and work-from-home) and personal preventive measures (e.g., using of masks and handwashing).
- Racial aspect of the pandemic made policymakers revisit the existing policy recipes. The research found out that clusters with less testing and low proportion positive tests had higher income, education, and white population, whereas clusters with high testing rates and high proportion positive tests were disproportionately black and those without health insurance.
- Economic impact has been disproportionate between the small businesses and big corporations, between the service sector and manufacturing. So, there should be plans, for example, for the inevitable loss of employees

Jesmin

because of exposures and closures of entities, for childcare-related support systems, and for stock and supply losses because of the closure of factories.

- Collaboration between public health and health care systems as well as other private sector businesses is vital. For example, in the closed NYC public schools, the city opened enrichment centers where the children of first responders could go during the day, so their parents would still be able to do their jobs.
- In the face of a pandemic, the global network matters. In the same way, clinicians in NYC have learned from experiences in China, Italy, and Seattle.

The pandemic, therefore, has exposed and compounded structural inequalities at local to macro levels. Simultaneously, emergency situations must be the main priority while addressing public health issues. This pandemic has once again unfolded the differences in health outcomes among racial and ethnic groups. This is due to long-term, deep-seated structural racism which exists from centuries of discriminatory policies and practices across institutions and prevents communities of color from accessing crucial resources (e.g., health care and housing) and opportunities (e.g., education and employment). To better address this situation, it requires to have considerations for exploring both the ruptures and continuities in economic and political realms. In the future, the focus should be on both reviving and reimagining the socio-economic-politico structures and systems.

CONCLUDING THOUGHTS

The risks from the COVID-19 pandemic still are high as the recent mutations of the virus could pose additional challenges. Prompt and, in many cases, extensive state intervention is required to tackle this health emergency and the associated economic fallout. The post-corona world, thus, offers a window of opportunity to revisit some of the precepts and to reshape the policies that have been left on autopilot in a manner that reconstructs economic life around more sustainable and equitable principles – establishing social justice.

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A MEDICAL LABORATORY RESPONSE TO THE COVID-19 PANDEMIC

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ABSTRACT

The SARS-CoV-2 pandemic has presented many challenges to medical laboratories and related organizations. The spread of the infection was sudden and rapid. Medical laboratories were called upon to process more tests and report results more rapidly. At the same time, they were operating with reduced staff due to self-quarantine and stay at home orders, and laboratory operations were impeded by social distancing. Emergency regulations and legislation changes complicated the operations. These issues, and recommendations for addressing them, will be discussed.

Key words: pandemic, COVID, CLIA, CAP, laboratory, efficiency

INTRODUCTION

The medical laboratory has been a significant player in healthcare's response to the SARS-CoV-2 pandemic. High quality laboratory services are critical for rapidly identifying infected people in order to initiate isolation or treatment, conduct contact tracing, and obtain accurate data for incidence and prevalence calculations. To ensure high quality in the medical laboratory, Congress passed the Clinical Laboratory Improvements Amendments of 1988 (CLIA), as an amendment to the Public Health Services Act. These regulations establish who is allowed to perform testing, define the levels of complexity of tests, and stipulate where testing may be performed. CLIA designates testing as either waived, moderate, or high complexity. Waived testing requires the operator to undergo special training and has minimal regulatory constraints; moderate and

high complexity testing have more rigorous education and training requirements. CLIA also sets regulations regarding instrument validation standards, quality control, etc. All laboratory testing performed on humans in the United States are bound by these regulations.

Our organization operated two clinical laboratories in different states and the labs performed a majority of CLIA waived testing and some moderate testing at providers' offices. With the SARS-CoV-2 pandemic, the organization shifted resources and operations in response to the increased demand for detection of the virus. The organization was able to develop a SARS-CoV-2 serology assay, supported by a machine learning algorithm, that ran on their proprietary testing platform. Emergency Use Authorization (EUA) was granted for the organization's serology assay. The assay was further developed and improved after being granted EUA status by the FDA, and the test was given Laboratory Developed Test (LDT) status. The FDA defines a Laboratory Developed Test (LDT) as "an in vitro diagnostic test that is manufactured by and used within a single laboratory (i.e., a laboratory with a single CLIA certificate.)" (CLIA Overview, 2013). During 2020, the organization focused exclusively on in-house LDT SARS-CoV-2 testing.

The Centers for Medicare & Medicaid Services require clinical laboratories that test human specimens to obtain accreditation through approved organizations. The most widely recognized is the College of American Pathologists (CAP). CAP requires medical laboratories to undergo regular inspections and proficiency testing based on the CLIA regulations. If a laboratory is deficient, CAP could refer the laboratory to CMS for non-compliance. CMS has the authority to close non-compliant laboratories. Ideally, medical laboratories should remain in compliance with CAP/CLIA guidelines continuously, however, the pandemic has introduced many challenges. Among these were new guidelines from the Centers for Medicare & Medicaid Services ("Clinical Laboratory Improvement Amendments (CLIA) Laboratory Guidance During COVID-19 Public Health Emergency") and the implementation of virtual/remote CAP inspections during the pandemic ("Virtual CAP inspections: Two laboratories' shared perspectives", Good et al. (2021)). In 2021, our organization was due for the College of American Pathologists inspection.

To maintain a successful medical laboratory while navigating the challenging landscape brought on by the pandemic, two questions should be considered: what improvements are needed in the organization and/or operation of the lab in order to meet and maintain the standards required for accreditation under CAP/CLIA, and what necessary updates should be made to CLIA to better support laboratories that operate with newer technology? Answering these two questions

could provide a strong strategy for laboratories to operate under unprecedented conditions.

The organization we will discuss is a privately owned, in vitro diagnostic, research facility. The organization has operated for over ten years. The vision of the organization is to innovate the medical laboratory by bringing laboratory testing to the provider's office allowing same-visit diagnostic testing and results reporting. This is achieved by the use of proprietary immunoassay platforms and third-party point-of-care instruments.

Prior to the SARS-CoV-2 pandemic, the organization had a history of high turn-over at all levels: associate, management, and leadership. Personnel turnover was both involuntary (organization-wide layoffs) and voluntary. Additional layoffs occurred during the pandemic, possibly due to self-isolation or because of the increased workload brought on by the pandemic. With the high turnover, morale in most departments was at a low ebb. The high turnover left the organization vulnerable to failing its next inspection. These challenges, and their solutions, will be discussed in this paper.

LITERATURE REVIEW

Productivity, morale, and communication

The layoffs and the stress of the pandemic caused declines in employee morale and motivation, which could have been addressed with several specific strategies. Techniques such as "manage by wandering around" and frequent employee surveys could be leveraged to better understand the employee's concerns (Fried, Fottlier, 2015). Managing by wandering around is a technique where the manager walks around the workplace while others are working. This gives the manager a view of the working conditions, productivity, employee satisfaction or dissatisfaction, etc. It provides the manager with an opportunity to observe and identify challenges in their natural context, thereby gaining a better understanding of the workplace and its employees. The manager would also have the opportunity to talk with employees, listening to complaints and suggestions. If the manager is more aware of the issues affecting their employees, the manager would be better positioned to offer support to them. The manager would also be able to identify champions within the workplace. There is valuable information to be gained by bridging the communication gap between the upper levels of the organization and lower levels. According to Malesza's research, workers have shown increased motivation and productivity if they feel protected by their employer (Malesza, 2021).

An additional technique used by organizations to motivate workers and increase productivity is Objective Key Results (OKR). This allows employees to focus on an objective that supports the whole company and will ultimately lead to increased productivity. Evaluating their progress against standardized metrics provides a method to gauge their accomplishments. OKRs are not intended to be completed easily. Most are balanced between easily obtainable and difficult to obtain, so that if the employee comes close to achieving the metrics it is a notable success for the employee and the organization. In general, OKRs are an effective tool to align goals throughout the organization while motivating the employee (Panchadsaram & Prince, n.d.).

Frequent layoffs and resignations also affect morale and the reasons for these should be identified. One possible cause is a disconnect between the skills of the person being hired and the requirements for the position to which they are assigned. To ensure that there is a correct fit between the position and the individual who is hired it is necessary to create accurate job descriptions. Fried and Fottlier encourage accuracy in job listings (Fried, Fottlier, 2015). The job description should accurately, and clearly, describe the position and the qualifications necessary to fill it. If the correct people are hired for the correct positions and are strategically assigned to the correct teams layoffs and resignations should diminish.

It is also important to establish effective and efficient lines of communication among the departments within an organization. This will facilitate interdepartmental collaboration and mutual support which is essential for the organization to meet the needs of the community for high quality products and services especially during the pandemic, as suggested by Jackson & Genzen (Jackson & Genzen, 2021).

Operations during the pandemic

Operating under emergency SARS-CoV-2 precautions (self-quarantine, work from home, social distancing) poses a significant challenge for laboratory operations. General surgical pathology and cytopathology require in-person work. Laboratories are largely unequipped to conduct such operations remotely. However, there have been attempts to bring remote review into common practice. Arriola et al. (2020) describe efforts to take specific laboratory work remote while maintaining high quality production in “Leveraging Existing Institutional Resources to Maintain Quality Assurance Practices in Anatomic Pathology in the Era of Social Distancing.” This article describes remote review of surgical pathology and cytopathology specimens outside of the medical laboratory. This

provides a solution for the medical laboratory while practicing SARS-CoV-2 precautions.

With the regulatory exceptions made during the SARS-CoV-2 pandemic that affect the medical laboratory it is apparent that CLIA 88 does not support modern technology. The medical laboratory could be better positioned to bring high quality services during unexpected events if given the opportunity through updated regulations. Relevant literature describing the necessity for changes in regulations regarding the medical laboratory and healthcare in general is found in Genzen, R. J. (2019), "Regulation of laboratory developed tests: A clinical laboratory perspective", in Greene et al. (2021), "Interoperability: COVID as an Impetus for Change", and in the Institute of Medicine (US) (2001), Committee on Quality of Health Care in America, "Crossing the Quality Chasm: A New Health System for the 21st Century". These articles evaluate the necessity for regulatory changes and updates to promote the use of current technology under CLIA 88 while maintaining or exceeding quality expectations.

IMPLEMENTED SOLUTIONS AND IMPROVEMENT OPPORTUNITIES

During the pandemic, organizational changes were made in our organization and new management roles were created. This created smaller teams with a manager more aware of the team's difficulties and successes. When management is able to meet with their teams more frequently more productive communication is possible. Weekly one-on-one meetings could be conducted to address the concerns of employees or manager. These meetings encourage productivity and establish a sense of mutual support. The result of these meetings could potentially increase productivity and increase the employee's job satisfaction.

An additional technique implemented by leadership was the frequent recognition of operational champions. Outstanding employees were acknowledged at a company-wide meeting and presented with a certificate and award for their performance. Research suggests that healthcare workers in the laboratory are motivated to work if they feel protected by their employer (Malesza, 2021). Acknowledging employees allowed them to feel protected.

It is not uncommon for employees to be assigned additional duties or to have their duties changed in order to meet new demands. Employees' titles and job descriptions should be evaluated and reviewed, periodically, to verify that their qualifications are appropriate for their duties (Fred and Fottler, 2015). For employees in our organization who were not expertly qualified for their duties,

positions were created to distribute work appropriately. An example was the hiring of a Director of Clinical Quality. Prior to this, the Clinical department had been required to handle all quality concerns in addition to conducting laboratory operations. This human resource change improved morale within the Clinical department and also placed more appropriate employees in positions to resolve complicated quality issues.

With multiple personnel changes, operational changes necessitated by COVID requirements for testing, and other constraints, focusing on our company-wide goals has been difficult. The goals of the organization are centered around providing quick and effective diagnostic testing for healthcare providers. To achieve this goal, it is necessary for departments to communicate and support each other (Jackson & Genzen, 2021). For example, different departments come under different regulating agencies. The Research and Development department mostly adheres to regulations set by the FDA as their projects are related to medical instrument production. The Clinical department is mostly concerned with CLIA as interpreted by CAP. There is a challenge to identifying and complying with the overlapping needs of both departments. Clinical requires multiple forms of documentation to evaluate R&D's product under CLIA. R&D had not made these documents readily available. Productivity suffered because time was wasted tracking down the required documentation. Techniques to overcome these barriers and encourage interdepartmental communication included workshops, team building exercises, frequent interdepartmental meetings, and weekly interdepartmental huddles.

After issues concerning human resources and management had been resolved, focus shifted directly to clinical operations and the CAP inspection. The pandemic has posed many constraints on clinical laboratory operations: work from home, social distancing, supply chain interruption, and increased demand for the SARS-CoV-2 IVD (in vitro diagnostic) test. Referring to the article "Impact of COVID-19 Pandemic on Laboratory Utilization," we could assume that there would be an increase in demand for SARS-CoV-2, and an overall decrease in demand for services from other departments (e.g., surgical pathology) during the pandemic (Durant et al., 2020).

As anticipated, the organization experienced a large increase in SARS-CoV-2 test orders. Managing testing operations along with preparation for the CAP inspection presented a potential challenge. A number of laboratory personnel were required to physically be in the laboratory to operate analyzers, test specimens, and perform other operational duties. Other laboratory personnel were allowed to work from home. These employees were responsible for reviewing quality control and

patient testing runs on the analyzers. Meetings were conducted through Google Meet and document collaboration was performed through other Google Suite products. Considering the infrastructure that the organization provided to support remote work, the pandemic precautions such as self-quarantine proved not to be as challenging as had been anticipated.

CAP regulations require medical laboratories to establish a quality committee. The appropriate staff were placed on the committee. These employees had the most familiarity with laboratory operations and experience with quality related initiatives. With the Director of Clinical Quality leading the committee CAP regulations were reviewed. CAP had provided a list of the relevant guidelines that could be evaluated during the inspection of the laboratory. After this list had been acquired, the committee conducted an audit of the regulations in relation to the Clinical Laboratory. The audit allowed the organization to determine shortcomings of the laboratory and to determine how to best resolve them. Most of the issues to be resolved were documentation related. For example, CAP/CLIA requirements dictate the need for Standard Operating Procedures (SOPs) and quality control tools for the SARS-CoV2 assay that the organization performs. SOPs were reviewed and missing SOPs were assigned to be written by the most appropriate employees.

Monthly Quality Committee meetings continue to be held. Appropriate stakeholders (Head of Quality, Director of Quality, Executive Leadership Team, Clinical Managers, and Clinical Laboratory Specialists) are expected to attend. In these meetings the committee discusses quality concerns, quality events, and metrics to follow. Leaders and managers provide support for these efforts. These meetings are important to the organization's quality improvement efforts (discussed below).

An additional item necessary to meet CAP and CLIA inspection guidelines is to establish and implement a successful quality improvement program. Establishing a quality improvement program requires close coordination between the Clinical Operations and Quality committees. The quality improvement program establishes the procedures for investigating adverse events, non-compliance events, and other issues regarding quality in the medical laboratory, and recommends steps to resolve the issues. It also includes methods for validating or verifying test platforms and assays. The program should be easy to implement, maintain, and comply with. It should also respond quickly to new or changed regulations mandated in response to the pandemic. Multiple models for quality improvement exist. Two models that will be evaluated and potentially adopted by the organization are the EPIDEM (Zhou, 2018) and the models described in

Davis, Posteraro, Leighton, Redman and Stuart

“COVID-19: patient safety and quality improvement skills to deploy during the surge” (Staines et al., 2020).

The EPIDEM model provides an easy to remember method for encouraging and implementing quality improvement. EPIDEM: **E**xplore relevant issues and contextual factors, **P**romote to the right people, **I**mplement timely solutions, **D**ocument steps, **E**valuate with meaningful measures, and **M**ake modifications to improve interventions further (Zhou, 2018). Adopting the EPIDEM model to the organization’s laboratory would look similar to the following;

Exploring relevant issues: Issues in the laboratory include adhering to CAP/CLIA guidelines and maintaining a high quality product through challenging times. A culture of patient safety, quality, innovation, and value should be maintained.

Promotion of the appropriate teams: The stakeholders are the patients, executive leaders, and employees of the organization. Key leaders are managers and the executive leadership team.

Implementation: Implementation requires a plan to insure that laboratory operations are conducted in such a way as to prevent erroneous results from being released. The optimal timing of an intervention would be prior to the release of results to patients or, in the case of an adverse event, as soon as the event is detected.

Documentation: Review of documents and data where problems exist. Involve the correct players to support their resolution (e.g., Director of Quality, Director of Clinical Operations, Medical Director, etc.). Document results.

Evaluation: Do the results indicate success/failure? Establish metrics to measure success or a change from baseline.

Modification: Are there any unresolved issues? If so, what could be modified to remedy them?

Another method for evaluating quality improvement during the pandemic provides effective guidelines that could be adopted for the clinical lab: “strengthen the system and environment,” “improve clinical care”, etc. (Staines, et al., 2020). An example of its adoption in the clinical laboratory follows:

1. “Strengthen the system by assessing readiness, gathering evidence, setting up training” (Staines, et al., 2020): The organization’s laboratory would first audit their current operations, review SOPs and policies, and schedule training and other interventions to establish readiness.

2. Engage with stakeholders (Staines, et al., 2020): This mostly refers to management, executive leadership, and other leadership roles. This would insure that the correct figures in the organization are aware of the quality status of the laboratory and could provide support as necessary.

3. Work to improve operations (Staines, et al., 2020): The organization would work to resolve quality related shortcomings in the laboratory.

4. Reduce adverse events proactively (Staines, et al., 2020): This would require the laboratory to establish policies and procedures to prevent adverse events and “near misses”.

5. “Boost and expand the learning system and capture improvement opportunities, adjust very rapidly and develop resilience” (Staines, et al., 2020): Establish opportunities for continuing education to prevent errors and anticipate needs of the department.

Both of the previous methods could be implemented together with adjustments to satisfy CAP regulations and improve and maintain quality in the laboratory. In the short term, the organization should determine how to best shift resources to maintain testing productivity while preparing for inspection and maintaining compliance with CAP/CLIA.

During the pandemic CAP had revised their inspection models. Therefore, it would be necessary to train the relevant staff in the clinical lab on the new inspection model (Good et al., 2021). Additionally, the Centers for Medicare & Medicaid Services had implemented emergency guidelines for medical laboratory operations (Centers for Medicare & Medicaid Services, 2020). All appropriate personnel involved with the quality improvement efforts were assigned training courses covering CAP inspection and emergency guidelines.

Working with minimal staff on-site while most work from home is challenging. CLIA regulations limit work from home activities for most testing personnel. Under typical conditions, CLIA will allow a pathologist to review cases at their home office but lab professionals, such as medical laboratory scientists, are

not allowed to work remotely on patient cases unless they possess a CLIA number under the lab they are employed by. These regulations have been in force since their implementation in 1988. However, during the pandemic medical laboratory associations were able to successfully encourage passage of emergency legislation for all laboratory professionals to work from home (Centers for Medicare & Medicaid Services, 2020). While this is a step forward for the medical laboratory it should not have taken a pandemic to push this legislation. The organization's laboratory was able to leverage this regulation to optimally spread the workload and increase productivity. Additionally, the quality of patient reports was improved due to the efficient use of time by each laboratory employee who was working remotely.

CLIA regulations that should be reevaluated include the requirements for laboratory developed tests (LDTs). By CLIA 88 regulations, LDTs are automatically high complexity tests and are subject to strict regulations. The CLIA regulations specify that certified personnel may run high complexity assays if they are being used for patient testing. CLIA regulations also limit where LDTs may be performed. High complexity tests may only be performed in a laboratory that has been granted a CLIA license for high complexity testing. These two CLIA regulations for LDTs limit where a potentially life-saving diagnostic assay may be performed. While this is the safest option for all patients, this regulation prevents innovation that could lead to novel therapies and improved patient outcomes. Considering that current technology has been developed far beyond what was available in 1988, the ability to validate, verify, and deploy LDTs may be less risky today than in 1988. The Centers for Medicare & Medicaid Services should revisit CLIA 88 to determine a more effective regulation for using LDTs. FDA guidelines influence CAP and CLIA regulations for LDTs. Without careful legislation/regulation around LDTs further roadblocks could be imposed by regulatory bodies that will stunt research that could lead to IVD breakthrough developments (Genzen, 2019). In the case of the organization's SARS-CoV-2 LDT, the patient population which it serves could benefit greatly from a readily available and portable serology assay, but with CLIA regulations the LDT's deployment opportunities are significantly narrow.

CLIA largely remains in its original form. In the case of our organization, this presented significant challenges in validating the SARS-CoV-2 assay because it relies on photonic ring resonance technology and machine learning algorithms to determine a patient's SARS-CoV-2 status. CLIA does not have regulations specific to this type of assay. The best the organization might be able to do is adapt the CLIA regulations for a traditional detection method. This presents difficulty as there is potential that the assay validation might not meet compliance under those

regulations. This also poses an issue for the necessary time it will take to validate/verify/qualify a modern-day medical laboratory assay. It might be possible that, with today's technology, validation methods could be streamlined but could be limited by regulations created before computers were widely available. If given the ability to leverage new technology to their advantage medical laboratories and research organizations could produce very powerful instruments quickly.

These regulations present challenges to innovation and opportunities to better support improved patient outcomes. The importance of innovation and interoperability discussed in Greene, et al., "Interoperability: COVID-19 as an Impetus for Change" is notable. This article provides a case for necessary information technology infrastructure to support improved patient outcomes in the in vitro diagnostic setting (Greene, et al., 2021). According to the authors, if health information technology were able to work across platforms, improved patient outcomes would result. Changes in regulations and legislation could encourage the use of more current technology in healthcare settings in general and incorporating current technology into CLIA guidelines would allow for more effective and streamlined laboratory operations.

Overall, the quality improvement initiatives undertaken by the organization were successful. The metrics are consistently reporting no adverse quality events and improved clinical operations overall. The organization's medical laboratory has improved in all aspects throughout this project. While the laboratory was able to mobilize effectively to respond to the SARS-CoV-2 pandemic, the organization could further benefit from establishing guidelines on how to respond to other unforeseen events. A contingency plan and infrastructure to support the lab during unforeseen events could strategically benefit the organization.

FURTHER SOLUTIONS REQUIRED

The long-term implication of our experience is the need for updated CLIA regulations. CLIA 88 has only been marginally updated in the past decades. "Crossing the Quality Chasm: A New Health System for the 21st Century" identified the need for change to improve quality across all professions in healthcare. "Change is also required in the structures and processes of the environment in which those organizations and professionals function. Such change includes setting national priorities for improvement, creating better methods for disseminating and applying knowledge to practice, fostering the use of information technology in clinical care, creating payment policies that encourage innovation and reward improvement in performance, and enhancing educational programs to

Davis, Posteraro, Leighton, Redman and Stuart

strengthen the health care workforce” (Institute of Medicine (US) Committee on Quality of Health Care in America, 2001).

RECOMMENDATIONS

In order to respond effectively to a pandemic or other emergency situation, the laboratory organization needs to be flexible and proactive. Modifications to achieve these ends fall into two broad categories: human resources and management, and clinical operations and CAP inspections.

As described above, issues related to human resources and management can be addressed more efficiently by creating smaller teams, meeting with management more frequently, verifying that employees’ qualifications are appropriate for their duties, establishing efficient communication links between departments, and improving morale by recognizing employees for their contributions. Issues related to clinical operations and CAP inspections can be addressed by developing a contingency plan to mobilize resources effectively, establishing a quality committee if one does not already exist, and creating a quality improvement program to meet any changes in CAP requirements and CLIA inspection guidelines necessitated by a pandemic or other unforeseen event. All personnel involved with the quality improvement efforts should attend training courses covering CAP inspection and emergency regulations. Personnel who support the laboratory operations should be educated in emergency regulations to maintain compliance.

These changes should be made with the support of management and leadership across one’s organization. Without their support, the proposed solutions would not be approved. A meeting to discuss the challenges and potential solutions should be scheduled. An agenda should be written and sent out to the attendees in advance. The schedule should invite attendees to contribute. Meeting minutes should be taken and sent out to the attendees after the meeting concludes.

Meetings at the department level should be scheduled to discuss the challenges, the proposed solutions, and to allow an opportunity for departmental employees to express their concerns. Managers could schedule periodic one-on-one meetings with employees. Organization-wide surveys could be sent quarterly. Anonymous submission would allow useful responses to be collected. From there, management and leadership would be able to respond to issues affecting the employees.

To address morale and motivation issues caused by frequent employee turnover/layoffs, frequent review of employees’ duties and how well they match

their current job descriptions should be performed. If a discrepancy exists between the job description and the employee's duties, the duties should be changed or reassigned to other employees in order to utilize the employees' skill sets more effectively. This practice could potentially reduce employee turnover. An additional method to improve morale among employees is the public acknowledgement of employee successes.

PREPARATION FOR CAP INSPECTION

To address the CAP accreditation inspection, all medical laboratory employees should be trained to emergency inspection guidelines established by CAP and CMS during the time they are in use. Since CAP inspection windows are scheduled for every two years, it would be beneficial for all medical laboratory employees to be trained in normal condition CAP inspection guidelines every year.

To maintain quality during and after CAP inspections, the organization should establish a quality improvement program that meets the regulatory requirements of CAP/CLIA. This could be achieved by establishing an organization-wide program that is easy to recall and implement. An example is the EPIDEM model. For departments requiring a more specific or thorough quality improvement program, changes or additions could be made to the EPIDEM model to satisfy the department's requirements. To measure the success of the quality improvement program, a laboratory should identify and measure relevant metrics for their organization. Examples of these metrics could be turnaround time, adverse events, noncompliance events, complaints, etc.

CONCLUSION

Managing a privately owned SARS-CoV-2 medical laboratory during the pandemic presents many challenges. This is further complicated when the medical laboratory is due for accreditation inspection under CAP/CLIA. Navigating the healthcare landscape requires strategic planning. Specifically, the organization should encourage a motivated workforce, support knowledgeable and specialized employees in appropriate positions, mobilize quickly and effectively to adjust to emergent conditions, and leverage technology strategically. In the context of the organization discussed in this project, their medical laboratory benefited greatly from improvements in human resources. Maintaining engaged, motivated, employees during conditions such as self-quarantine, work from home, and social distancing is challenging. However, with the appropriate techniques such as regular check-ins between managers and employees, recognition of champions within operations, and conducting periodic performance appraisals, it is possible to motivate employees effectively. It is also important to employ the correct

Davis, Posteraro, Leighton, Redman and Stuart

personnel for the job. They should specialize in, or be competent in, the field that matches their duties.

It is important to establish a strong quality improvement program that translates across departments and is supported by stakeholders of the organization. This includes education of the appropriate staff to allow them to contribute to quality improvement efforts, work conditions that promote quality work (e.g., reasonable workload per employee), regularly scheduled quality meetings to identify opportunities for improvement, and implementing metrics measuring quality improvement.

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EXPLORING THE AWARENESS OF THE BRAND NAME: “THE GOP”

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ABSTRACT

This paper attempts to begin to address possible brand name conflict related to the Republican Party’s use of the acronym, “The GOP,” as a second brand name. The use of multiple brand names for the same product or service may lead to weaker overall brand awareness and brand identity. The use of the brand names, “The Republican Party” and “The GOP,” within promotional and news items may result in content being attributed to the incorrect political party by the American electorate. Current news items often include the brand name, “The GOP,” and often interchange the brand name, “the GOP,” with the brand name, “The Republican Party/Republicans.” This paper provides a review of the origin of the brand name, “The GOP,” followed by a review of related branding issues. The results of a related survey exploring the recognition of the brand name, “The GOP,” among college students is presented followed by various implications, limitations, and recommendations.

Key Words: Republican Party, GOP, Brand Names, Political Parties

INTRODUCTION

Although brand name awareness is a major concern for any product or service, brand name awareness for the political parties in the United States rises to a higher level of concern due to the relationship of political party affiliation and the votes of the American electorate. The ability of the American electorate to accurately attribute communicated political actions to the correct political party is inherent within the basic tenets of democracy in the United States. This paper attempts to explore the awareness of the brand name: “The GOP.” Current news items often interchange the two brand names, “The GOP” and “The Republican Party/Republicans.”

In a recent *Washington Post* article (Wang and Miroff, 2021), the lead line was, “GOP governors implored their residents on Sunday to get vaccinated against the coronavirus, as polling shows that vaccine hesitancy has been driven by Republicans and as the virus’s new, more contagious delta variant has caused recent upticks in covid-19 cases in areas with low vaccination rates.” Other current news items include only the brand name, “The GOP.” In a recent *The Texas Tribune* article (Ura, 2021), the headline was, “Texans with disabilities fear voting will get harder for them as special session on GOP restrictions near.” This paper

attempts to verify the assumption that the current use of these two brand names does not damage the communication process due to a lack of awareness of the brand name, “The GOP.”

POLITICAL PARTIES

The first political factions in the United States were the Federalists who supported the Constitution and the Anti-Federalists who opposed the Constitution. After the Constitution was ratified in 1787, Alexander Hamilton led the Federalist Party, which supported a strong executive branch, commerce, and manufacturing. The Federalist Party supported wealthy well-educated citizens for government positions. Those opposed to the Federalist Party became known as the Democratic Republicans, lead by Thomas Jefferson. By the 1820s, the Democratic Party became a separate party from the Republican Party. The Democratic Party was described as more sympathetic to the “common man,” such as farmers, debtors, frontiersmen, and slaveholders. The Republican Party, opposing slavery, was described as a coalition of bankers, businesspersons, and northern planters. Abraham Lincoln was elected as the first Republican President, and from 1860 to 1932, the Republican Party was the majority party in the United States. The Great Depression of the 1930s resulted in majority support for the Democratic Party (Miller, 2002). In 1932 the Democratic Party elected Franklin Roosevelt based largely on support from small farmers, southerners, organized labor, and women. Roosevelt’s New Deal economic and social welfare programs attracted African Americans and other minorities to the Democratic Party (McClenaghan, 2007). Over the following decades and to the present time, the majority of support has shifted back and forth between the Democratic Party and the Republican Party. Minor parties do also exist in the United States, but play a comparatively smaller political role (Miller (2002). Although the brands have changed overtime, in very general terms, currently the Democratic Party is associated with support for improving the status of minorities, government regulation of businesses, and social welfare programs. The Republican Party, in very general terms, is currently associated with support for private market forces and less support for social welfare programs provided by the Federal Government (McClenaghan, 2007). The Republican Party is also known as “The GOP.”

ORIGIN OF THE BRAND NAME: “THE GOP”

“The GOP,” which stands for “Grand Old Party,” originally “Gallant Old Party,” can be traced back to Lincoln eventually evolving to the Republican Party of the 1870s. The first publication of the Republicans’ GOP acronym occurred in 1884 when a typesetter for the *Cincinnati Gazette* had too many words in an article about a Republican presidential nominee and abbreviated “Achievements of the Grand Old Party” to “Achievements of the GOP.” The brand name, “The Grand Old Party,” has been actually been associated with both the Democratic Party and the

Republican Party. In 1859, the Kentucky Democratic Governor delivered his inaugural address and referred to the “Grand Old Party” as the Democratic Party. In 1860, a newspaper in Connecticut also referred to the “Grand Old Party” as the Democratic Party. However, in the 1870s through today, the Republican Party has adopted the brand name, “The GOP” (Klein, 2020). Currently, many news items often use both brand names, “The Republican Party” and “The GOP,” within the same article. The use of both brand names, “The Republican Party” and “The GOP,” assumes that the American electorate recognizes the brand name, “The GOP” as the Republican Party. Many years ago, *The Wall Street Journal* voiced concern that their readers may not know what the acronym, GOP, refers to. Due to this concern, *The Wall Street Journal* reporters and editors were asked to provide an explanation of the acronym when used (Grace, 2002). The use of the brand name, “The GOP,” is also largely absent within American Government courses. A review of various American Government textbooks used in secondary and post-secondary American government courses published over time do not include the brand name, “The GOP” (Magruder, 1934); (Wood and Sansone, 2000). Two American Government textbooks Miller (2002) and McClenaghan (2007)) reviewed did list the brand name “GOP,” within their index, but both referred readers to “see Republican Party.”

BRANDING ISSUES

Brands refer to “the name, term, design, symbol, or any other features that identify one seller’s goods or service as distinct from other sellers” (Grewal and Levy, 2016). These different features are referred to as brand elements. For the Democratic Party, besides the brand name, the brand elements include the Blue Donkey logo. For the Republican Party, besides the brand name, the brand elements include the Red elephant logo and a second brand name, “The GOP.” This second brand name may violate a number of branding principles and recommendations. For example, tactics recommended related to brand elements include brand simplicity. Brand simplicity reduces the effort required of a consumer when comprehending and processing a brand name. Using two brand names may decrease brand simplicity. Further tactics recommended related to brand elements include the use of distinctive brand names in order to increase the consumers’ ability to discriminate between other brands. Using two brand names may decrease brand distinctiveness. The entire set of brand elements makes up what is referred to as the brand identity. The cohesiveness of brand’s identity depends upon the degree to which the brand elements are consistent. Specifically, the consistency of brand associations is critical to maintaining brand identify strength, (Keller and Swaminathan, 2020). Using two brand names may weaken brand identity. The conflict from the use of two brand names may lead to decreased brand simplicity, brand distinctiveness, and brand identity.

METHODOLOGY

Brand awareness refers to whether a brand name is evoked when thinking about a particular product category. A relatively superficial level of brand awareness is referred to as brand recognition or aided recall (Shimp and Andrews, 2013). Survey methodology was employed to provide a preliminary activity, brand exploratory research, directed to measure the recognition of the brand name, “The GOP.” The survey was administered through the email option within the on line learning system provided by a large regional university in Texas. The survey was emailed to students enrolled in various junior and senior collegiate-level business administration courses taken in the Summer and Fall of 2020 and in the Spring and Summer of 2021. This survey attempted to measure the recognition of the brand name, “The GOP,” through the use of an aided recall multiple-choice close-ended question:

“Without googling or asking others, which of the choices below do you think best describes: `The GOP`?”

- A. The Congress
- B. The Democratic Party
- C. The Republican Party
- D. Both The Democratic and The Republican Party
- E. None of the above

In order to improve the quality of data produced by the survey, a contingency question was also included. According to Babbie (1990), a contingency question refers to second survey question, which is contingent upon the response to the first question. For this study a contingency question was included which asked the respondents to rate their level of certainty in the answer they selected in the first question from one (not sure) to five (very sure).

SURVEY RESULTS

Responses were received from 301 students. 77%, 232 of the respondents, did select the correct multiple-choice response, “C. The Republican Party” and 23%, 69 respondents, did not. Of those 69 respondents not selecting the correct response, 45 respondents selected, “D. Both The Democratic and The Republican Party,” 18 respondents selected, “A. The Congress,” six respondents selected, “E. None of the above, and no respondents selected, “B. The Democratic Party.”

Of those 232 respondents selecting correct multiple-choice response, “C. The Republican Party,” 36%, 84 respondents, rated their level of certainty, from one (not sure) to five (very sure), as a five. 27%, 64 respondents rated their level of certainty as “4.” 27%, 63 respondents, rated their level of certainty as “3,” 9%, 21 respondents, rated their level of certainty as “2.” No respondents rated their level of certainty as “1.” Of those 232 respondents selecting the correct multiple-choice

Lovett

response, “C. The Republican Party,” the weighted average of the level of their certainty from one (not sure) to five (very sure) was 3.91. Overall, 72%, 217 of the 301 respondents voiced either an incorrect response or uncertainty when asked to recognize the brand name, “The GOP.” Only 27%, 84 of the 301 respondents, voiced the correct response with certainty.

IMPLICATIONS, LIMITATIONS, AND RECOMMENDATIONS

Although the majority of the survey respondents, 77%, did correctly recognize the brand name, “The GOP,” a significant portion of the survey respondents, 23% did not. Furthermore, 64% of those respondents who correctly recognized the brand name, “The GOP,” voiced some level of uncertainty related to their response. Nearly one of every four respondents correctly recognized the brand name, “The GOP,” with certainty. Nearly three of every four respondents either did not recognize the brand name, “The GOP,” correctly, or did so with uncertainty. Therefore, for this population, a significant portion may attribute communications received related to the “GOP,” to the incorrect political party. Others may disregard such communications due to the lack of certainty related to the brand name, “The GOP.”

Limitations of this study include the use of a convenience-based survey administered to a population made up of college students from a large regional university in Texas. In addition, the survey was administered through the email option within the on-line learning system provided by the university, lacking further controls. For example, some respondents may have searched for the correct response in order to be accurate and/or to avoid embarrassment. In a more controlled survey environment, the results may vary.

Further survey and other research are recommended in order to determine the strength of brand name recognition for the brand name, “The GOP,” for other populations based on further demographic, geographic, psychographic, etc., segmentation. However, this initial exploratory investigation may indicate a need for action. A brand audit and brand exploratory, for example, provides a comprehensive examination of various aspects of a brand. Based on the brand audit and brand exploratory findings, a number of options may emerge including expanding brand awareness, repositioning the brand, changing or retiring brand elements, etc. (Keller and Swaminathan, 2020).

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THE RISING NEED FOR NON-EMERGENT EMERGENCY ROOM (ER) CENTERS

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ABSTRACT

Construction of stand-alone UC's may not be possible for some healthcare organizations, leaving standing ERs as the choice for many patients. The shortage of primary care physicians partly fuels growth in Emergency Room (ER) utilization. Strategies such as triaging patients based on the severity of illness with proper triage systems, Point-of-Care (POC) testing, and the Fast-Track (FT) process can reduce wait times and improve patient satisfaction scores. Other innovative approaches include product, process, marketing, and organizational innovations that can strategically shift non-emergent patients from level 1 ERs to secondary type facilities such as level 3 and 4 ER's or UC clinics. Results will show that utilizing these strategies can effectively provide effective, safe, and efficient healthcare in the ER setting. There is a need for non-emergency center facilities to shift non-emergent visits from overcrowded ERs while developing strategies to reduce non-emergency utilization when secondary facilities are not an option. More Urgent Care (UC) facilities are needed to address the increased consumption of healthcare needs.

Keywords: emergency center, point-of-care testing, fast-track, innovations, urgent care

INTRODUCTION

Triage is an essential step in prioritizing patients so that high urgency patients receive swift treatment while reducing the risk of morbidity or mortality. The United States (US) triage system is the Emergency Severity Index Triage Algorithm (ESI). It looks to categorize patients based on the severity of their injuries and place them into a 5-level system, with one being the most severe and five the least (O'Rourke, & Yancy, 2021). An effective triage service can assist in streaming patients with non-emergent issues, thus freeing up physicians to spend more time with critically ill ones. ESI triage considers the number of services and

severity of illness at presentation to the ER. The more resources required, the higher the level of ESI triage. ESI is a simple but effective tool utilized by ER staff to assess patient needs. ESI is now in its fourth version and is the most used triage system in the US. Several studies published in Academic Emergency Medicine (AEM) have shown that versions 2 (Eitel et al., 2003) and 3 (Adams et al., 2004) were reliable and valid amongst many ERs across the country, with version 4 showing similar positive results in the pediatric population (Attia et al., 2012).

Other triage systems have a 5-level tier hierarchy that can be compared to ESI and includes the Canadian Triage and Acuity Scale (CTAS) and Manchester Triage System (MTS), whose wait times vary widely based on a patient's severity of illness (Mackway-Jones, 2019). This study showed valuable data in providing insight to evaluate and improve triage systems by assessing performance in their ability to distinguish between high and low urgency patients accurately. This data assists in the overall improvements of Length of Stay (LOS) and other measures associated with patient safety and overall satisfaction. Patients still have to wait long hours in the ER waiting room before care is rendered, sometimes with devastating consequences even with a well-established triage system.

POINT-OF-CARE TESTING (POC)

POC testing has seen a remarkable evolution in the last ten years. With the rise of data connectivity and significant technological advances, classifying the usefulness of different devices is necessary. Medicine is poised for a dramatic shift in the way healthcare is delivered based on POC testing devices, so much so that healthcare providers will see disruption and change from current testing platforms moved to a more accessible POC diagnostic one (Blumenfield, Laksanasopin, Nayak, & Sia, 2017). A POC testing device can provide diagnostic results while the provider is with the patient in a resource-limited setting (Konwar & Borse, 2020). The POC ecosystem has many platforms, with each vendor offering similar products with proprietary value. Combining consumer electronics with traditional scientific advances in testing is the pathway to fully realizing a POC system that functions to aid both the patient and healthcare organization.

POC testing can play a vital role in the emergency care setting by providing timely test results that can assist in the triage of patients to higher echelons of care. Study simulations in the ER have shown that triage nurses changed patient priority for one in three cases, where POC testing results were abnormal, and one in five where results were typical (Buchanan et al., 2017). Additional study evaluation using real-life scenarios instead of simulations is needed to validate further the usefulness of this protocol in a clinical setting. From a provider's perspective, other studies indicate an overwhelming agreement that POC testing can and is helpful in the rapid assessment and treatment of patients that present to the ER.

Providers believe that POC testing can be a valuable tool in the early diagnosis of patients presenting to the ER with potentially life-threatening illnesses. Simulation models show that ER LOS went from 2.77 hours when a test is performed in 120 minutes to 2.17 hours if the test on a POC device is completed within 10 minutes (Franks, Guarner, & Jenkins, 2018). There was a concern when POC test utilization increased, contributing to a rise in the number of mislabeled specimens, leading to reduced confidence by providers in the results. Factors such as the time it took to assess staff competency, the tediousness of quality control on specific devices before testing, and all the regulatory requirements associated with running these devices lead to overall provider and staff dissatisfaction.

FAST TRACK (FT)

Fast Track (FT) is a patient management process in the ER where lower acuity illnesses or injuries are treated more efficiently and effectively. Although the FT system began over 30 years ago, it is interesting to note how it has evolved over the last three decades. For the most part, FT systems have looked and acted the same, minus technological advances and the intention to reduce LOS in ER's. Several studies show that hospitals utilizing an FT system have decreased LOS, better outcomes for the elderly, and increased patient satisfaction scores related to their ER visit (Karpel, & Williams, 1988).

Length of stay is a measure highly scrutinized and evaluated when looking at an ER. Depending on the severity of illness/injury, patients can sit for many hours just waiting to be seen or admitted. Emergency centers that have implemented an FT system have shown decreases in their patient population's LOS. A two-year study in France, January 2015 to January 2017, showed that the median LOS before FT implementation was 215 minutes and 186 minutes after implementation (Chusciel et al., 2018). Similar studies can be seen here in the US, showing that this is not only a US problem but one of global proportion.

There is a need to have an FT system for large volume ERs in the US to care for the elderly population. A study done from 2014-2017 in the US showed that 20% of all visits in the US were adults aged 60 and older, and from 2007-2017, the number of elderly adults increased from 52 million to 71 million (Ashman, Santo, & Schappert, 2020). The study highlights that over 30% of ER visits were made by patients 60 years and over, with nearly one-quarter of those visits resulting in hospital admission. With such increases in the elderly population in the US with the need for quick, reliable emergency services, there is conclusive evidence that FT systems are needed in large volume ER's.

Multiple chronic conditions are more prevalent among the elderly. With the aging of the US population, the demand for healthcare services is expected to rise in the

coming years, with an increase in demand for emergency care. Studies show increased LOS in ER's are detrimental to the overall survival rates and mental statuses of the elderly. One such study showed that stays in an ER longer than 10 hours were associated with increased likelihood of delirium (Bellelli et al., 2016). This delirium causes severe issues for both patient and provider since there is little to no communication with the ailing patient. Furthermore, delirium can increase the cost of care and causes distress to the patient and caregiver (Bellelli et al., 2016). Researchers report that cost of care for delirium in the US exceeded \$164 billion (Leslie et al., 2008). There is a need to assess elderly patients early in the ER and triage them quickly and efficiently with the FT in one of the potential avenues for savings in healthcare costs.

INNOVATIONS

Healthcare organizations are often slow at adopting innovations. The paper-based system utilized by the healthcare industry did not provide real-time delivery of vital information to providers, often leading to delays in diagnosis and treatment. The reduction of paperwork is one of the significant contributions of an Electronic Health Record (EHR). Data once stored in paper format is now stored digitally. EHR has the potential to improve healthcare quality, efficiency, and safety. It can do this by expanding the capacity to produce new knowledge, help with the dissemination of this knowledge, integrate multiple data sets with EHR, and directly deliver patient information via patient portals that empower patients to take a direct role in their healthcare (Detsky, & Murdoch, 2013).

The Affordable Care Act of 2009, which included the HITECH Act, altered the landscape of how healthcare organizations stored and utilize Electronic Health Records (EHR). HITECH was born from three previous bills, the Wired for Health Care Quality Act (S 1693), Protecting Records, Optimizing Treatment, and Easing Communication through Healthcare Technology Act (HR 6357), and the Health-e Information Technology Act (HR 6898). It consisted of 5 ways to assist the adoption in the use of health Information Technology (IT): 1) Empowerment of the Office of the National Coordinator for Health IT (ONCHIT), 2) establishment of unified standards and certification, 3) building the infrastructure for health IT, 4) protection of privacy and security of health IT, 5) provision of incentives through Medicare and Medicaid (Stark, 2010).

According to HealthIT.gov., ONCHIT is charged with the nationwide effort to implement and use the most advanced health information technology and electronic health information exchange to improve healthcare (HealthIT.gov., 2021). Granting more power to this office allowed federal incentivization to healthcare organizations to adopt an EHR. Only certain groups of hospitals were funding during the initial implementation of HITECH. Short-term acute care

facilities could adopt an EHR with federal funds, but not long-term care, psychiatric, or rehabilitation facilities. One study sought to see how the adoption of an EHR, among those eligible for federal funds, compared to those that did not receive funding. Results showed that those hospitals receiving federal funds had an average increase of 14.2% adoption rate, compared to only 3.3% for those not receiving funds (Adler-Milstein, & Jha, 2017). This study suggests that HITECH can be a model for those healthcare organizations seeking to increase the adoption of an EHR to promote the use of technology in the healthcare arena. Adopting a fully functional EHR addresses both product and process innovations by providing healthcare organizations with enhanced internal production processes and increased revenues.

MARKETING IN HEALTHCARE

Expanding on innovations in healthcare and the need to look at the marketing aspects of healthcare is a must. To grasp the Four P's fully; Product, Price, Place, and Promotion, what consumers want, the products offered, the environment, and the services provided, an "outsider perspective should be pursued (Elrod & Fortenberry, 2018). Marketing in healthcare must provide a more personalized approach for one that seeks to build a sustainable relationship rather than a single transaction. Recommendations from publicly available independent authorities, like Press-Ganey surveys and the Center for Medicare and Medicaid Services (CMS) Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS), are valuable tools in promoting a healthcare organization's ability to provide exceptional healthcare. Patient satisfaction is at the forefront of what any healthcare organization must aspire to gain the trust of healthcare consumers.

The healthcare industry is often accused of lack of transparency. Public reporting of healthcare quality data is one of the methods to improve transparency in the delivery of care. CMS has a patient satisfaction survey known as HCAHPS that seeks patient feedback on the quality of care, which allows for meaningful hospital comparisons, creates new incentives for hospitals to improve their services. CMS publicly reports the findings of the HCAHPS survey with the goal of increasing the transparency of the quality of hospital care (CMS.gov, 2021). Such surveys have the potential to improve healthcare quality by holding healthcare organizations accountable for the care they deliver. The survey consists of questions about patients' recent hospital stay, with core questions focusing on critical aspects of their experience.

CMS also has a survey is known as the Emergency Department Consumer Assessment of Healthcare Providers and Systems (ED CAHPS) that focuses explicitly on patients' visits to the ER and includes questions that focus on communication and coordination from arrival to discharge (CMS.gov, 2021). It

consists of several modes of delivery, mail-telephone, web-telephone, and web-mail-telephone, to ensure max participation from patients discharged from the ER. Like the hospital survey, this survey allows collecting information on patients' experiences about their care and ways to improve them. Multiple field tests of the survey showed that communication with the staff was critical in perceiving a patient's ER care (Parast, 2020). This survey is voluntary and not required by CMS but can be a vital tool for ERs to improve overall care and bring more patients to their organization. The Press-Ganey patient experience survey is one that many healthcare organizations across the US utilize. This information provides feedback for healthcare organization departments to help target areas that need process improvements.

As previously discussed, the need for FT systems at large volume hospitals is a must. A study of an academic ER, pre and post FT implementation, showed significant increases in seven dimensions of Press-Ganey patient satisfaction metrics that included wait time, nurse courtesy, doctor courtesy, delays, staff caring, pain control, and likelihood to recommend (Hwang, Lipman, & Kane, 2015).

One study, however, showed that there were vast differences in satisfaction scores, institutional version versus Press-Ganey, and recommended the use of multiple survey techniques and distribution methods to best capture patient responses to their ER encounter (Chen et al., 2019). Either way, utilizing Press-Ganey, ED CAHPS, or institutional versions of patient satisfaction are valuable tools in evaluating and implementing changes that improve the patient experience. The one significant benefit of utilizing Press-Ganey is that it is a nationally recognized organization that many hospitals utilize and has peer comparison data that use metrics from hospital organizations of similar size. Utilizing ED CAHPS or Press-Ganey surveys assist healthcare organizations in pinpointing issues, marketing strategies and assists the communities they wish to serve.

ORGANIZATIONAL INNOVATION

Outstanding leadership can foster a culture of innovation. There are eight theories and concepts that address organizational innovation all related to leadership and include: creating a psychological climate for innovation, leader-member exchange, social capital, leadership clarity, supporting team reflectivity, the corporate culture that supports innovation, employee mindset, and style of senior leadership (Mckee, & Weintraub, 2019). Four will be discussed and include creating a psychological climate for innovation, leadership clarity, employee mindset, and senior leadership style.

A positive psychological climate in a healthcare organization is one in which creativity and innovative behavior are encouraged and embraced. Looking at industries in a manufacturing environment is one way to see how products are produced and distributed to their customers. Healthcare is an industry where the product, healthcare, is distributed to the healthcare organization's customers, patients. Industrial and Systems Engineering (ISyE) tools can help guide the healthcare delivery system on a path that looks at local healthcare optimization and beyond. One study sought to provide an ISyE approach to find a new system, patient-centered and engineered, essentially utilizing mathematical models to discover innovative processes for healthcare delivery (Brennan, Ramly, & Valdez, 2010). This study showed that new ISyE tools could show a broader focus on suggestions for better system optimization that change a system grounded in current realities. The development of new ISyE tools will be needed to facilitate the movement from these current realities to one that works like an ideal healthcare delivery system.

Clarity of an organization's goals from leadership has a positive effect on team members' innovative behavior. A lack of transparency from leadership about plans can make the team feel uncertain and less engaged in teamwork and decision-making. Leadership styles may differ based on the structure of the groups. Self-managed teams may require less leadership, whereas some groups may require tighter oversight. Leadership constellations are useful when shared leadership activities are understood by all. Distributed leadership can pool resources and knowledge by getting different views and opinions before decision making (Chreim et al., 2010). All leaders must have the same vision and clarity of their organization's goals, so that team members do not get ambiguous information.

Hiring the right individuals with the same mindset as the organization and its leaders can positively impact the organization at all levels. According to Carol Dweck's mindset theory, there are two types of mindsets--- fixed and growth. Fixed mindsets are individuals who want to prove themselves, and any failure directly reflects their competence and self-worth. Growth mindsets describe individuals willing to learn from their mistakes and accept criticism, allowing them to thrive during the most challenging times (Dweck, 1988). Healthcare organizations should seek a mix of these mindsets with a heavy lean towards those individuals with growth mindsets.

Senior healthcare leaders are successful by being good planners while trying to keep stakeholders as happy as possible. Leadership style amongst these individuals must be innovative in a value-based healthcare world. Innovative approaches that include facility expansion, revenue cycle analysis, and supply chain are needed to support the ever-changing clinical side of the organization. Transformational

leadership can break down leadership theory into four sub-dimensions that leaders can use to influence their followers: idealized influence, inspirational motivation, intellectual stimulation, and individualized consideration (Boer et al., 2015).

Leaders exhibit idealized influence and set the example for their employees. They are role models by showing ethical principles and moral standards that employees trust and respect. Idealized influence comes in two forms, attributes and behaviors. Leaders receive trust and respect and exhibit behaviors of sacrificing their own needs to improve the objectives of the workgroup (Moss, & Ritossa, 2007). Leaders who clearly state the organization's vision and encourage employees to commit to it demonstrate inspirational motivation. Inspirational motivation also challenges employees to see the meaning of their efforts in whatever job they have within the organization. Idealized influence and inspirational motivation are characteristics seen in charismatic leaders and are the two charismatic aspects of transformational leadership (Bass & Avolio, 1994).

Intellectual stimulation leaders seek the opinions and views of their employees, who are motivated and encouraged to provide innovative and creative ideas. Outdated organizational problems can be looked at by employees when the leader motivates them to offer new perspectives. Studies have shown that intellectual stimulation is positively associated with organizational performance. Employees given decision-making authority feel empowered and have a sense of value for the organization and will repay the trust given to them by buying into organizational goals (Adam, Choi, Goh, & Tan, 2016). Individualized consideration occurs when the leader takes an active role in the mentoring process of their employees. Fulfilling the needs of their employees shows that the leader is interested in their growth within the organization. Growth within an organization offers opportunities for advancement via career ladders and education. Communication via One-On-One (O3) meetings also encourages employees to focus on achieving personal and organizational goals. Leaders who get to know their employees can promote the organization's culture and foster independent problem-solving skills.

URGENT CARE CENTERS

Urgent Care (UC) centers are growing across the US. The need for these healthcare facilities that offer services outside of primary care office hours and include extended hours with weekend and holiday access is evident with the number of hours patients must wait in ER's. According to Harris Williams & Co., the UC industry is a \$14.5 billion business and is predicted to grow by 5.8% (Harris Williams & Co., 2013). The ACA opened a new market for patients to acquire private health insurance. This influx of newly insured patients have options for their healthcare needs, including urgent medical care outside the demand for ER services. Hospitals have had to develop strategies to reduce overcrowding while

meeting the needs of their patients in providing coordinated care. UCs have become an ever-increasing business model to help ER's divert non-life-threatening patients to their facilities.

The payer mix and payer models for the UC have transitioned, with the commercial payer market being the dominant payer group. A study in 2019 showed that most UC visits, 55%, were paid from commercially insured patients and 22% from Medicare and Medicaid (Elfein, 2019). Patients now have a choice in their coordination of care outside their primary care visits, so the need to provide exceptional care that is fast and easily accessible is evident. UC's serve as a vital business model that promotes their role by providing lower healthcare costs to patients that may not have a Primary Care Provider (PCP). UC also serves as the first point of contact for healthcare providers to direct patients to PCPs within their healthcare organization.

Ownership of UC's has historically been by physician groups and corporations. In 2008, 54% of UC's were physician-owned, with hospitals only holding 25% of the market, but by 2014, physician ownership declined to 40%, with hospital ownership increased to 37% (Newman & Stoimenoff, 2018). The increase of insured people has shown that large healthcare organizations can profit from building UC's within their communities to attract patients. Patients already a part of a healthcare organization with free-standing UC's, are assured that their PCP will have access to their UC visits because they share the same Electronic Medical Record (EMR). This continuity of care model is vital to both the patient and PCP and can potentially prevent more costly visits to the ER in the future.

UC's can offer a wide range of services such as immediate care, diagnostic services, laboratory, and X-ray. These onsite services can aid in the diagnosis and treatment of patients with non-life-threatening injuries or illnesses while sending patients to higher echelons of care based on the diagnostic tests performed. Having these services available onsite also contributes to patient satisfaction. Healthcare organizations that utilize and track patient satisfaction scores can post them for the public to view, further propels their brand name as a healthcare provider of choice. Providing a facility that offers exceptional customer service leads to word-of-mouth advertising and repeat patients to these facilities. A 2016 report published by a medical practice improvement consultancy found that 96% of complaints were due to customer service, not the quality of care (Vanguard Communications, 2016). Providing exceptional customer/patient care through customer service and quality healthcare cements a healthcare organization as the provider of choice in a community.

CONCLUSION

The use of ERs as a patient's healthcare provider may lead to excessive healthcare spending, unnecessary testing and treatment, and unintended consequences. The need to improve upon existing patient model processes in the ER is a must when patients that do not have other avenues for healthcare present for treatment. Improvements in technologies, testing platforms, and increased UC centers' openings help relieve the pressure from overcrowding in ERs and allow these types of facilities to focus on critically ill or injured patients. As the landscape of healthcare changes, the need for more UC facilities is evident. Being able to triage patients to lower echelons of care in a UC setting creates better encounters for patients and helps to increase patient satisfaction scores for the level of care received. As healthcare organizations begin to identify the value of UCs, specialty UCs to provide care to include pediatric, geriatric, and other patient populations is a possibility. Patients now have more options, with their acquisition of insurance through the passing of the ACA, to pick and choose where they want to receive their healthcare. A healthcare organization that can provide effective and efficient healthcare in facilities that meet their needs is an organization that will generate revenues from various payer mixes to include commercial insurance, which reimburses the best.

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LET THE GOOD TIRES ROLL

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ABSTRACT

Small businesses make up 99.9% of all businesses in the United States (SBA, 2019). COVID 19 restrictions and reactions have devastated thousands of small businesses. Lockdowns have many times prevented them from serving their customer base. Yelp reports that 60% of the businesses that reported closure due to the COVID 19 virus and its ramifications will not reopen (CNBC, 2020). According to Anjali Sundaram, as of December 2020, this represents 97,966 businesses that report that their closings are permanent (2020).

In this paper, we analyze franchise fees, royalty fees, advertising fees, purchase prices, expected monthly revenues, and potential bottom line profits in the tire industry, Big O Tires, Tuffy Tire & Auto Service and RNR Tire Express. In the auto aftermarket category, 15 companies were listed and only three tire-centric franchise programs made the list which included these three franchises.

Key words: tire franchise, entrepreneur, small business

INTRODUCTION

Lean, economic times driven by an economy crippled by COVID 19 pandemic cause consumers to reconsider their essential purchases. Prior to the economic down turn, people were more likely to purchase luxury items or services that make their lives easier. The rise of unemployment and the uncertainty of the future have caused many to become much more conservative with their spending. This downturn of spending places a burden on entrepreneurs to find creative ways to provide essential services to their customer base.

The government has offered loans through the Paycheck Protection Program (PPP) to provide capital to struggling businesses. This assistance does little to help a small business that is located in an area that is denied the ability to open due to state or local government restrictions (Pofeldt, 2020). When there are not opportunities to reengage their customer base, many businesses have become creative and innovative in order to survive. They found different ways to meet the needs of their clients. Some began home delivery, while others provided curbside

service. One restaurant, in addition to serving food to go, added a market where customers could purchase dry goods and paper products while picking up their meal order.

Other businesses took the opportunity to reimagine the investment into a service business that is sustainable and essential. A business that can provide a product or service that is essential, reputable, and reproducible can be effective during uncertain and economically lean times. Yelp's vice president of data science, Justin Norman, reported that small businesses that provide automotive or professional services have been particularly positioned to maintain profitability during the pandemic (Sardana, 2020). The tire business is particularly attractive because it serves the need to have reliable transportation. Reliable transportation is needed to get goods to market. It is also necessary for workers to get to and from their places of employment. Automobile tires are a very expendable commodity. Edmunds report on car maintenance explains that tires need replacing every 3 or 4 year intervals or at forty to fifty thousand miles (Montoya, 2018). The need for good tires for reliable transportation makes the tire business both essential and sustainable.

Rising cost in raw materials and transportation has caused an increase in price among tire manufactures. Martinez (2021) reported driver shortages are causing major delays in delivery. Bridgestone Americas Inc. increased their tire manufacturing cost by 8% all because of rising material costs. Antich (2020) pointed out the price of commodities needed to manufacture tires such as oil, rubber, and steel have been unpredictable due to the pandemic.

In a report from Smithers (2021), most of the tire industry was shut down substantially in 2020 due to Covid-19. The tire industry contributes significantly to the global economy with 2.3 billion units produced in 2020 with an approximate value of \$150 billion. Due to Covid-19, the numbers were 7% lower in 2019. The United States experienced a 25.5% total reduction in tire production in 2020. During March, April, and May, the U.S. tire production came to a halt.

The economic impact of the Covid-19 pandemic on major tire manufactures is notable. According to the Smithers Market Report (2021), the impact was substantial causing companies to review all of their operations.

On the other hand, Chad Christensen, a consultant at Element Fleet Management, pointed out that no change in tire pricing occurred due to Covid-19 for replacement tires. Overall replacement tire cost remained flat during the pandemic due to lower prices for the commodities needed to manufacture tires. Part of this is because fleet vehicles were being driven less, which extended the life of the tire. Chris Foster, manager for ARI, stated tire costs remained consistent in 2020.

Sullivan

Tire businesses can gain recognition in the community it serves one of two ways. They can do business reliably and dependably for many years. This method attracts the attention of consumers. They will support the retailer because of the recognition of being in the community and supportive for many years. This trust sometimes takes decades to establish. An alternative method is beginning a franchise that specializes in tire repair and replacement. The name recognition provides a confidence to the automobile owner that the work will be priced fairly and the repair or installation will be completed proficiently.

There are many benefits that a tire business owner receives when choosing to operate under the umbrella of a franchise name. In addition to a proprietary name is the trust the business owner will benefit from nationwide trademark recognition. The tires and necessary inventory can be purchased at a price that has been negotiated corporately by the franchise. The franchisee will benefit by investing in state of the art equipment that has been tested and found reliable. They will have the assurance that the equipment will perform as intended and with a process that has been perfected. Training for the business owner and their staff is also a tremendous benefit of teaming up with a franchise. Safety, efficiency, and profitability are key pieces that make up the fabric of what a tire franchise offers to its constituents.

In addition to selling tires to the automobile owner or fleet manager, the tire business can sell services of repair and maintenance. Selling road hazard plans is a great way to invite future business beyond the initial sell of the tires. A road hazard warranty would allow the recipient to have their tires inspected or repaired for free. Fixing failing tires provides the opportunity for the franchisee to examine the wear on the tires and recommend replacement or repair when warranted.

Every community regardless of size needs a tire business to keep commerce traveling to needed destinations and employees to their jobs. An entire economy rides on the proficiency of transportation. Transportation requires maintained tires to stay on the road and stay affective at delivering workers and goods to their respective locations of business.

According to Tire Business (2020), Big O Tires, Tuffy Tire & Auto Service, and RNR Tire Express were named in the Entrepreneur Franchise 500 in 2020. In the auto aftermarket category, 15 companies were listed and only three tire-centric franchise programs made the list. Big O Tires was listed number 92 overall, Tuffy Tire & Auto Service was listed 222, and RNR Tire Express was listed 265.

Table 1 lists key researched financial data for Big O Tires, Tuffy Tire & Auto Service, and RNR Tire Express. This table will identify (1) monthly fees: royalty fees and advertising fees, and (2) purchasing expenses: purchase price, liquid capital, franchise fee, projected annual revenues, and lease agreement terms.

TABLE I BASE-LINE FEES & EXPENSES			
	Big O Tires	Tuffy Tire & Auto Service	RNR Tire Express
Monthly Fees			
Royalty % Fee	2% of sales (monthly gross)	5% of sales	5%
Advertising Fee (Marketing)	0.9% of sales (monthly gross)	5% of sales	4%
Purchasing Expenses			
Purchase Price	Between \$311,000 and \$1.1 M (varies)	Between \$224,00 – \$413,500 (varies)	Between \$500,000 - \$1,000,000
Liquid Capital Required	\$100,000	\$150,000	\$500,000
Franchise Fee	\$10K – \$35K	\$30K	\$35K
Projected Annual (Revenues)	\$126.86 million	\$998,240	\$2.253 million
Lease Agreement Term	10 years	15 years (initial) with 5 years renewal	10 years

Table I represents a summary of top three tire franchise opportunities. This table presents different monthly fees and purchasing expenses. In order to review bottom line profits, the fees and expenses are used in this comparison analysis. In this paper, local mom and pop tire shops were not considered. Researched data will be used on the three selected tire franchises (Table I) to define generic profit and loss (P&L) statements which allow projected bottom line profits.

BIG O TIRES -- TRADITIONAL FRANCHISE-FEES & MONTHLY BOTTOM LINE

Big O Tires was founded in 1962 and became a franchisee in 1982. Big O Tires is now one of the largest independent retail tire franchisors in North America and currently has 450 independently-owned and operated locations in 25 states. Big O Tires provides full service of tire and wheel repair and its slogan is known as “The Team You Trust” (Business View Magazine June 18, 2015). Big O Tires became a part of the TBC Corporation—a marketer and distributor of tires for the automotive replacement market in 1996. Big O Tires franchise also offers opportunities for veteran and first responder discounts as well as conversion opportunities for existing tire businesses.

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The total estimated initial investment of Big O Tires varies from \$311,000 - \$1,138,300 according to their website. The initial franchise fee is a low of \$10,000 to a high of \$35,000 for a 10 year legally binding franchise agreement. In addition to the purchase cost and franchise fee, Big O Tire franchise must also pay ongoing monthly fees. A monthly royalty fee of 2% of the monthly sales/revenues for that particular store is required. In addition, an ongoing advertising/marketing fee of 0.9% of monthly sales/revenues per store is due to corporate Big O Tires. This money is used for signs and grand opening advertising for Big O Tires. The average annual revenue for Big O Tires is \$126,86 million as reported by Big O Tires. Table I outlines the expenses and fees for Big O Tires. These fees, expenses, and revenues is used to predict monthly bottom line profits. This analysis shows the monthly profits an entrepreneur could possible make if they decide to franchise.

Big O Tires in La Mesa, CA experienced a decrease in new tire purchases due to a global tire shortage post pandemic. Joshua McGuire, Manager in La Mesa, noticed a drop off in tire supply as soon as the pandemic was reported. He stated it could take months and even years before the tire industry is back to normal. Now, people are wanting to travel and finding it difficult to purchase new tires.

TUFFY TIRE & AUTO SERVICE -- TRADITIONAL FRANCHISE-FEES & MONTHLY BOTTOM LINE

Charles Amy founded Tuffy Tire & Auto Service in Detroit, Michigan in 1970. Originally known as Tuffy Muffler shop, Tuffy Tire & Auto Service became a franchise one year later in 1971.

According to Tuffy Tire & Auto Service website, the mission is “To Provide the Best Automotive Repair Service in the Industry Through a Continuous Commitment to Quality and Customer Service.” Tuffy Tire & Auto Service’s slogan “Done Right. Period” came from the philosophy of doing things the old-fashioned way—the right way.

Using the same approach that was used in analyzing Big O Tires, Tuffy Tire & Auto Service reviews the fees and expenses of franchising a traditional tire service (Table I). The total estimated initial investment of Tuffy Tire & Auto Service varies from 224,000 – 418,500 according to their website. The initial franchise fee is \$30,000 for a 15 year legally binding franchise agreement. In addition to the purchase cost and franchise fee, Tuffy Tire & Auto Service franchise must also pay ongoing monthly fees. A monthly royalty fee of 5% of the monthly sales/revenues for the particular store is required. In addition, an ongoing advertising/marketing fee of 5% of monthly sales/revenues per store is due to corporate Tuffy Tire & Auto Service. The average annual revenue is \$998,240 as reported by Tuffy Tire & Auto Service. Table I outlines the expenses and fees for Tuffy Tire & Auto Service. These fees, expenses, and revenues is used to predict

monthly bottom line profits. This analysis shows the monthly profits an entrepreneur could possibly make if they decide to franchise.

Tuffy Tire & Auto Service (located in Lorain, OH) was able to survive the pandemic and is currently open and experiencing increased business, according to the Morning Journal. The Tuffy website posted that the automotive franchises did not see significant drops in revenue. Further, the website stated, “Whatever the reasons, automotive franchises demonstrated that not only are they nearly fully recession-proof, they also appear to largely be pandemic-proof”. In their view, the automotive franchise opportunities are better now than before.

RNR TIRE EXPRESS -- FEES & MONTHLY BOTTOM LINE

RNR Tire Express was established in 2000 as Rent-n-Roll and has grown to over 100 locations in 23 states. RNR Tire Express is a national franchise that was established by Larry Sutton in Tampa, Florida. RNR also offers rent-to-own payment options to attract customers which will increase profit for franchisees. According to Franchise Direct (2020), RNR Tire Express was ranked the #1 category leader for Tires in Entrepreneur magazine’s 2016, 2017, and 2018 Franchise 500.

Using the same approach as Big O Tires and Tuffy Tire & Auto Service reviews the fees and expenses of franchising a traditional tire service (Table I). The total estimated initial investment of RNR Tire Express varies from 500,000 - \$1,000,000 according to their website. The initial franchise fee is \$35,000 for a 10 year legally binding franchise agreement. In addition to the purchase cost and franchise fee, RNR Tire Express franchise must also pay ongoing monthly fees. A monthly royalty fee of 5% of the monthly sales/revenues for the particular store is required. In addition, an ongoing advertising/marketing fee of 4% of monthly sales/revenues per store is due to corporate RNR Tire Express. The average annual revenue is \$2,253,000 as reported by RNR Tire Express. Table I outlines the expenses and fees for RNR Tire Express. These fees, expenses, and revenues is used to predict monthly bottom line profits. This analysis shows the monthly profits an entrepreneur could possibly make if they decide to franchise.

RNR Tire Express’ sales did not appear to slow down during the Pandemic. In 2020 they reported a “banner year” and expected more in 2021. Sutton stated on the website, “The economic shock of COVID-19 has helped accelerate acceptance of the lease-purchase model. Repeat customers made up more than 40% of RNR Tire Express franchisees’ sales last year.”

SUMMARY AND CONCLUSIONS

The tire industry will always be in demand regardless of a pandemic. As tires wear down, they will need to be repaired or replaced. A tire franchise is an excellent opportunity for entrepreneurs who want to take advantage of a business that will continue to grow. According to Pilon (2020), the United States tire industry is worth \$35 billion and United States drivers spend approximately \$3 billion each year from on tires due to damage from potholes alone.

Franchise tire dealerships provide opportunities to serve a continuous need for communities to move goods and position the work force. The commerce and efficiency of a community rest on its ability to have reliable transportation. Owning a franchise in a community to serve this need has distinct challenges of location and training a workforce. A mortgage must be maintained and high visibility location procured. When a proper location is obtained it must have high visibility for signage. This allows the community to be drawn to services the franchise provides. The personnel must be hired trained and maintained in order to have a successful tire dealership. Owning a franchise simplifies the processes and creates an environment for the business to have a direct and positive impact on the community it serves.

Franchisees can benefit from a national recognition when prompting their business in a community. To provide the necessary services the equipment, inventory, and manpower must be in place and prepared to meet the needs of the customer. The benefit of the franchise is access to inventory, training for the workforce, equipment for repair and installation, as well as national advertising campaign. These services all support the successful launch and upkeep of a new tire business.

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ETHICS COURSES TAUGHT WITH BIBLICAL PRINCIPLES: SOME IDEAS FROM THE BOOK OF JAMES

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ABSTRACT: The purpose of this research is to present examples from the Book of James related to using Biblical principles to teach the students Ethics. Many professors use ethical theories such as utilitarianism in their Ethics courses while this research will give specific Bible verses for interesting examples.

Key Words: Biblical principles, Education Ethics

INTRODUCTION

While many Ethics courses simply describe ethical theories such as utilitarianism in the course content, the Bible has some excellent suggestions of important principles for the students to learn. The purpose of this research is to describe some of these Biblical principles, taken just from the Book of James. This book of the Bible is often called an exhortation for ethical conduct so many of the scriptures are helpful in teaching the students important Ethical concepts that have been used throughout the many years that the Bible has been used by both Americans and Christians all over the world.

LITERATURE REVIEW

Studies most related to teaching students about Biblical principles are found in the literature. Lee (1997) described how Rabbi Burton L. Visotzky, a professor of Midrash at the Jewish Theological Seminary, led a monthly study group on the Bible attended by about 20 supremos from the Manhattan business community. Visotzky came to realize that the Bible was loaded with moral dilemmas and situations that could spark discussions and bring the ancient work to life for modern people. In search of different views, Visotzky started a study group with business people. These business leaders focus on the business bottom line and often provide a provocative perspective on the Bible. This idea blossomed and over a million people signed up for a Bible study group. This research conducted by Toledano-Nuria (2020) proposed a teaching alternative that can encourage the ethical reflective sensibility among students of social entrepreneurship by exploring the possibility of using religious parables as narratives that can be analyzed. This method provokes and encourages ethical discussions. An example is the use of a parable from the New Testament as an example of a religious

narrative that can be used to prompt discussions about ethical dilemmas. Ohman (2001) compared the values of college freshman based on their secondary educational background. It was conducted at a private liberal arts college whose freshman class consisted predominantly of graduates from public, private Christian, and home schools. Findings indicated that the business ethics values of home school graduates were significantly higher than those of graduates from private Christian schools or the public school system. The study found that the continual impact of parents and the values of the home have facilitated strong ethical values in the children. These values should aid these individuals as they become active in the workplace.

Another line of ethics research involves the relationship between the Biblical principles and business management. Low (1999) encouraged readers to remember basic guiding principles found in the Bible that are still applicable in today's society. Although some of these Biblical principles are in some people's minds, many managers concentrate on complicated modern management concepts, so much so that in the Holy Bible is conveniently overlooked. The author suggested that modern management concepts should be synthesized with these Biblical principles to attain managerial efficacy. Wagner-tsukamoto (2008) asserted that behavioral ethics still contribute to raising moral standards in interactions amongst the members (stakeholders) of a single firm, and the stakeholders of different firms. The premise of the Brown (2000) research was that the lack of connecting church financial management principles to a Biblical foundation is a primary cause for the lack of clergy and church leaders following effective financial management practices within a church setting. This research explored this hypothesis by teaching two church financial courses, one with a heavy emphasis on the Biblical foundation for financial and administrative management, and one that is secular in approach. This study compared the experiences of teaching each course with the premise that the scripturally-based course will have a positive impact on the students' attitude toward church financial management over and beyond the secular course. The primary research outcome was to provide an avenue of how to effectively teach ministerial education in the areas of finance and administration. A research study by Ellzey (2008) studied the impact of membership on CEOs who participate in a Christian accountability group. CEOs need balance in their lives and Christian CEOs also struggle to apply Biblical principles to their work. The goals of the C12 Group are to encourage and equip Christian business owners and CEOs to build successful lives, both personally and in business. This study validated the success of CEO accountability groups. The study found that Christian CEOs who participated in accountability groups showed high levels of success, including business profitability, revenue growth, culture within the organization, leadership development, learning and application of new skills and technologies, personal spiritual growth, spiritual growth of the organization, personal happiness,

Sullivan

family, and better decision-making. Cincala and Baumgartner (2019) provided a living example of ethical leadership. David Maraga, a Seventh-day Adventist Christian and Chief Justice of Kenya's Supreme Court, made national news when he ruled that Kenya's reelection of President Uhuru Kenyatta had been corrupted by "irregularities and illegalities." Because of the tainted election and the subsequent overturning of the results, the Supreme Court ordered a new election within 60 days. This ethical leader credited his childhood experience and the influence of his mother for his open, honest persona and asserts that it is this way that he gains the trust of those around him.

Several articles in the literature also describe how scripture affects society as a whole. Beed and Beed (2005) maintained that Christian Scripture, specifically the social teaching of the Roman Catholic Church and other Christian theological systems, contain normative principles intended for application to contemporary socioeconomic life. Welch (2002) presented the need for greater awareness of Biblical law in connection with the study of American legal history and the underlying fabric of the common law. This article showed that the study of Biblical law has much to offer to anyone interested not only in the history of American law but also in its future. Pava (2002) described three stages of moral development in organizations: ethical improvisation, ethical institutionalization and ethical revival. The research argued that the developmental perspective is inherent in the structure of biblical narrative, especially in the stories of Genesis and Exodus. Beed and Beed (2015) studied the debate that has reignited among Christians on whether capitalism is compatible with Christianity. In the US, the majority of conservative evangelicals accept capitalism as it is while a minority of Christians favor socialism. Another position is that neither capitalism nor socialism is compatible with Christianity. Clements (2010) discussed how ethics oversight can be summarized as applying the timeless standards to the actions of the enterprise and ethics can never be assumed. Bloomberg (2012) discussed how various economists lamented that, while they tried to be very cautious in weighing in on religious or theological topics about which they knew comparatively little, it seemed to them that biblical scholars and theologians did not reciprocate, making confident but simplistic pronouncements on complex economic issues that deserved much more careful study. Pava (1998) examined important Biblical, Talmudic, and post-Talmudic texts which deal with business ethics that are both legalistic and aspirational in nature. The theme of this study is that Jewish business ethics texts provide rules of behavior, but more importantly, the texts reveal a vision encouraging us to incorporate the highest human and spiritual ideals into the common world of business. Cunningham (1998) asserted that The Golden Rule is often used in business to determine whether a proposed action is good or not. The idea behind the Golden Rule has been a guide to right conduct, in some sense, ever since humans began to sort out the good from the bad. More recently, there

has developed among some academics the conviction that the Golden Rule is not an adequate benchmark for ethical decision-making. The Golden Rule and alternative ideas are discussed.

ETHICAL TOPICS BASED ON BIBLICAL PRINCIPLES FOUND IN THE BIBLE'S BOOK OF JAMES: SOME IDEAS

Burkett (1998) provided a large variety of Biblical verses to be used in the conduct of business. The approach was to present ideas from both a leader/owner point of view as well as an employee's perspective. This research will extend his activities by selecting Bible verses from just the Book of James and making suggestions about how they can be used to teach students important ethics lessons. All of the verses were found in Senior et al (1991) and Meyer (2019) books, but ultimately from the Bible itself. There are three different ethical themes presented to show how the Biblical principles can be used to teach the students these important ethical lessons.

Wisdom

James 1:5 ... But if any of you lacks wisdom, you should ask God who gives to all generously and ungrudgingly, and he will be given it.

While most the goal of most college courses involve knowledge transfer, Ethics courses usually have the transformation of students' minds with wisdom imparted as the primary goal. This verse serves as the theme of this Ethics course goal. It is also interesting to note that a person does not have to have all of the wisdom when confronting challenging situations. Before dealing with situations where lots of wisdom is needed, the suggestion is to ask God for help. God will answer that wisdom request with generosity and the students will be given wisdom necessary to proceed or perhaps endure the situation with perseverance.

James 3:13-14 ... Who among you is wise and intelligent? Let him by his good conduct show his deeds with gentleness and humility of true wisdom. But if you have bitter jealousy and selfish ambitions in your own hearts, do not be arrogant, and be in defiance of the truth.

These Biblical principles imply that not everyone is wise and intelligent. Signs of wisdom and intelligence is not found in words, but in deeds conducted with gentleness and humility. There is also an examination of conscience aspect of these verses, whereby warnings about envy, ambition, and pride are mentioned. Finally, the truth is important at all times so an exhortation related to having the wisdom to speak the truth ends these verses.

Sullivan

James 3:15-18 ... But the wisdom from above is first of all pure, then peaceable, gentle, compliant, full of mercy and good fruits, without inconstancy and insincerity. And the fruit of righteousness is sown in peace for those who cultivate peace.

These Bible verses assert that there are good fruits that result from wisdom as well as both inconsistency and insincerity are avoided when wisdom is used. Stability and credibility are traits that wisdom bears that are antonyms of the traits that are avoided with wisdom. Finally, peace and gentleness are two of the nine famous “Fruits of the Spirit” so wisdom is part of both righteousness and these fruits.

Treatment of People

James 1:27 Pure and unblemished religion in the sight of our God is this: to visit and look after the widows and orphans in their distress, and to keep oneself uncontaminated by the secular world.

The last part of this Bible verse is most important for students because innermost purity usually results in better decisions and ethical actions. However, service to others in terms of treating both widows and orphans even better than others is important to note because our society has so many single parents taking care of children in recent years. These types of families are at a disadvantage as compared to traditional two-parent families. Most recently, the unaccompanied minors with the border crisis has been highlighted and those orphans need special help from others despite what political positions the students may take on immigration issues.

James 2:1-4 Show no partiality as you adhere to the faith in our Lord Jesus Christ. For if a man with fine rings on his fingers and in fine clothes comes into your assembly and a poor person in shabby clothes also comes in, and you pay attention to the one wearing the fine clothes and say “Sit here please” while you say to the poor one, “Stand there” or “Sit at my feet” have you not made distinctions among yourselves and become judges with evil designs?

These Bible verses are quite important in terms of making sure that students do not judge people by their outer appearances like fine jewelry and fine clothes. There have been many large-scale business scandals and well-dressed business leaders have actually been the major problems with these scandals. Giving special treatment and judging people by their possessions instead of their performance can lead to serious business problems, especially in auditing. The Biblical principle of treating everyone with dignity and respect is the theme of these verses.

James 2:14- 17 What good is it if someone says that he has faith but does not have works? Can that faith save him? If a brother or sister has nothing to wear and has no food for the day, and one of you says to them, “Go in peace, keep warm, and

eat well”, but you do not give them the necessities of the body, what good is it? So also faith and of itself, if it does not have works, is dead.

The Biblical principle found in these verses is basically that actions are as important as faith itself. An ethical person needs to have good works and sins of omission are as important as sins of commission. The idea of ignoring the primary needs of others (food and clothes) is very problematic when a person is trying to live their ethics or faith. Also, words (even encouraging words like “Go in peace”) are not appropriate when interacting with people who do not even have the basic necessities of the body. Helping people instead of simply talking with them or praying for them is the Biblical theme in these verses.

Compromising Your Integrity

James 2:10-13 ... For whoever keeps the whole Law but stumbles in one point, he has become guilty of breaking all of it. For He who said, “Do not commit adultery” also said, “Do not murder”. Now, if you do not commit adultery, but you murder, you have become guilty of transgressing the Law. Speak and act as people who are going to be judged by the law of liberty. For judgment will be merciless to one who has shown no mercy; but mercy triumphs over judgment.

Perhaps this is a controversial Biblical principle, but many people believe that it stopped much of the rationalization and relativism taking place in business. Many people may not murder or commit adultery, but they may ruin other people’s or businesses’ reputation with gossip or detraction. The point of this first sentence keeps people from rationalizing their own unethical behavior while constantly focusing on the shortcomings of other people. Please also not the God is actually the judge so our words and actions will ultimately be judged with an eternal perspective that may be very different from our human judgments. The “Golden Rule” is the theme of the last sentence and mercy for others is encouraged.

James 3:1 ... Not many should become teachers, my brothers and sisters, for you know that we will be judged by a higher standard.

While the previous verse seems to imply no partiality in terms of transgressions, this Bible verse diverts from that theme a bit with an exception for teachers. A higher standard is used for teachers and this essentially includes leaders because business leaders are in the position of teaching others instead of doing all of the work themselves. Another point associated with this Biblical principle is that a teacher’s example to others is very important so people should think twice before accepting that responsibility. It is one thing to make mistakes or purposely take unethical actions with one person, but the problem multiplies or often expands in an exponential fashion when a teacher is involved. This theme cautions people

Sullivan

from being teachers if negative influence to others results because of the higher standard expectation. Society benefits greatly when this ethical principle is used.

James 5:1-5 Come now, you rich, weep and wail over your impending miseries. Your wealth has rotted away, your clothes have become moth-eaten, your gold and silver have corroded, and that corrosion will be a testimony against you; it will devour your flesh like a fire. You have stored up treasure for the last days. Behold, the wages you have withheld from the workers who harvested your fields are crying aloud, and the cries of the harvesters have reach the ears of the Lord. You have lived on earth in luxury and pleasures; you have fattened your hearts for the day of slaughter.

These Bible verses help students focus on service to others instead of focusing on simply making money, collecting temporary possessions of this world, and often oppressing others in the process. While there are many ethical rich people, complaints from minority groups (both racial and gender) recently reflect the problem that some business leaders are not paying attention to the ethical themes found in these verses. Families of prominent business leaders have been in the news recently, with much misery involved. Financial reversals can often happen as well as the simple fact that money cannot buy the most important things in life, especially love. With tragedies from COVID-19 deaths, very unusual weather (often referred to as “climate change”), and social unrest from political activities, the Biblical principles found in these verses seem more important than ever even though the writings took place long ago. Everyone will die one day and the last verse teaches students to think about how the way that they lived on earth may be judged one day.

CONCLUDING REMARKS

The suggestions found in this study enhances typical Ethics education. This research study builds on the literature related to how Biblical concepts affect society as a whole as well as examples of educational programs related to the Bible affected both leaders and students. The Book of James is used to suggested Bible verses to be used to teach important ethical lessons to students.

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REPORT ON A CONTINUOUS IMPROVEMENT PROJECT WITH A VA SURGICAL SERVICE LINE

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This paper is a report on a process developed to bring continuous improvement to the Surgical Service Line in a local VA hospital. Engagement must be sustained through a sound design that stresses learning and involving the good will and strong work ethic of service providers. Short term testing was able to achieve both goals and positively affect the work culture of the organization.

Key words: continuous improvement, surgical service line, Veterans Choice Act

INTRODUCTION

The purpose of this paper is to report on a continuous improvement demonstration project within the surgical department of a regional Veterans Administration (VA) Hospital. The project is, in part, a response to a series of independent reports critical of the VA's health care service delivery. Our intention is to show what might be accomplished in the short term to improve logistical delivery of care at a VA location. It is assumed that what is learned from these demonstration projects can be applied in hospital settings other than that of the VA.

The challenge to the VA had come from a set of public reports targeting the need for innovation and change. *The Joint Commission Summary Report of Special Focused Surveys of Veterans Health Facilities* conducted from October 2014 to September 2015 noted improprieties related to timely access to care. The Veterans Choice Act, 2014, mandated a review of staffing and productivity. *The Final Report on the Commission of Care*, 2016 confirmed that the overall goals of the VA include to improve veteran access to needed health care. These reports offer workable pathways to addressing issues of access, quality, and satisfaction that are detailed in the VA Mission Act, 2018. Our project attempts to address the concerns of these studies by enhancing access to VA services by demonstrating the improvement of workflow without sacrificing quality on any level. It was done through short-term testing and personal engagement with service providers.

PROJECT APPROACH

The success of the demonstration project hinged on two variables. The first was an intervention design that clearly stated its goals and tested the viability of those

goals in the short-term. This test of feasibility of logistics would give the institution confidence to continue its improvement path. The second was to engage the behaviors of professional providers in the activities with the hope that value is recognized for both the institution and the participating medical personnel.

Project Design

The Institute for Healthcare Improvement advises its healthcare constituents that an organization can best develop innovative change through a design process that includes a ninety-day test cycle that enables leaders to test processes more thoroughly and gain deeper knowledge of what does and does not work. It is acknowledged that larger innovation initiatives can be costly and can take providers away from valuable time with patients. Short-term testing provides guidance as to what, if any, resources are needed to move a project forward. Numerous health care organizations have espoused the value in pilot testing as a learning tool. (Van Telijilingen and Huntley; Krisin and Silverstein; Beebe; Drummon; Kong and Kong).

The overall approach to program design included the following factors:

- Select opportunities that have the greatest potential access benefit to veterans
- Emphasize the benefit to veterans/patients from process improvement
- Identify opportunities where process failure results in frustration, low morale, unplanned overtime, and other unpleasant outcomes. Capitalize on people's self-interest to be supportive of change.
- Design and execute limited-scope trials for 90 days followed by assessment and adaption where appropriate.
- Design trials with limited risk and carefully controlled conditions to maximize the success potential. The trials were in fact highly controlled, idealized conditions conducive to success.
- Repeat the cycle each year, over time building a track record of success, organizational confidence, and competence, and gradually assimilating continuous improvement into the culture.

Engaging the Behaviors of Professional Providers

Studies have begun to analyze the health care system considering lessons learned from behavioral economics (Loewenstein; Volpp; Andrews). The goals of these efforts range from preventing medical errors to improving the patient experience. Given the assumption that project participants have full information and can fully leverage that information to make a rational choice, behavioral economics may play a significant role in forming health care decisions. We believe that physicians choose the right course of treatment subject to information and facilities to which they have access. Therefore, engaging participating physicians gained buy-in to our testing because they had a hand in the design and rewards in project success. Their involvement, start to finish, was key to project design.

Staff at the VA test site has had in place over a decade various forms of quality training including Lean and Six Sigma programs. Over that period, key positions

McCall and Militello

have changed; many new and untrained employees have appeared; a lot has been forgotten. It has been difficult to create staying power in any program initiative despite an intrinsic desire to be involved in quality. The creation and subsequent loss of institutional knowledge was a challenge. The cultural persistence of previous programs subsided early as leadership priorities changed and disciplines faded from lack of use. A long-term effective continuous improvement initiative needed to take hold irrespective of changes to leadership or staffing and can only do so when it becomes embedded in the culture.

IMPLEMENTING CONTINUOUS IMPROVEMENT TESTING

An analysis of all surgical procedures over a three-year period was conducted. Over 23,000 procedures were evaluated covering 1754 CPT codes, the top 32 accounting for 57% of total number of procedures and 53% of total OR time. High volume procedures were preferred targets as they represented the greatest potential impact on patient access. Those procedures were then compared to a list of procedures with the lowest mean procedure time and lowest coefficient of variance (COV). COV is important as a measure of the level of certainty to a specific procedure time, providing some confidence that scheduling multiple procedures in a day would only infrequently encounter complications that might cause significant overtime.

Procedure	SPECIALTY	No. of Procedures	Average Procedure Time	Standard Deviation	COV
TOTAL KNEE ARTHROPLASTY	ORTHOPEDICS	879	2.40	0.47	19.8%
CATARACT SURG W/IOL 1 STAGE	OPHTHAMOLOGY	3002	0.48	0.20	42.5%

Chart 1 – Coefficient of Variation

Two candidates rose above the rest: total knee arthroplasty and cataract surgery. Over an 11- quarter period:

Procedure	Total Procedures	% of Total	Total Op Time	% of Total
Cataract replace	3000	13.1	1427	2.6
Knee arthroplasty	879	3.8	2109	3.9

Chart – 2 Candidate Procedures

Historically, the Service Line had performed anywhere from 3-5 cataract replacement surgeries per day and 1 total knee replacement. In both cases, there

were exceptions where demand or urgency provided the impetus, but in those cases significant overtime was required. Given an analysis of best practices over this same period, there appeared to be justification for setting a goal of 8 cataract surgeries and 2 knee replacements per day shift. The day shift constraints were to begin at the normal start time, allow adequate time for uniform changes, turnovers, and breaks, and have the patient depart the OR with 30 minutes left in the shift to clean and prep the OR for the next day and change clothes.

The next step was to address the composition of the surgical teams. Data analysis had indicated a disparity in time performance across the spectrum of surgeons, residents, scrub nurses, and circulating nurses. Those who performed most consistently were placed on a candidate list. Attending surgeons were invited to express interest, and two came forward quickly. The OR Nurse Manager and Director, CRNA assigned team members from the list with concurrence of the participants. Team formation was accomplished.

The next step was to meet with each supporting department not in the Service Line and discuss the trial design to garner their operational support. This included representatives from sterile processing, housekeeping, and radiology. All agreed to place a priority on the execution of the trials.

For each of the two procedure trials, the target timeline for the hypothetical successful day shift was mapped out minute by minute using a project planning software application that broke down the day into minute increments. The design team, which included the surgeon and nursing staff, were key participants and there was ample discussion of various activities that were on the critical path during the day. Arrangements were made as well as adjustments to assure that all critical path tasks were executed on time. Small improvements, such as providing spare inventories in the event of contamination and advance communications to housekeeping and radiology to assure tasks were done as soon as possible, helped keep the trial days on schedule. Also, the surgeons and their coordinators attempted to filter out prospective surgery candidates that posed some risk of complications, such as special anesthesia requirements or other health conditions, in order to create the ideal trial conditions that would provide the best chance of success.

A third trial was added to the roster to evaluate the workability and benefits of reserving one OR each day for urgent procedures. The level of urgent and emergency procedures has been 7.3%, roughly 1 in every 14. That is typically 2 per day with a high level of variation and a broad definition of urgency where some cases require surgery in the next day or two, some in the next week. The thought behind the third trial, the wild card OR, was to test if reserving 1 out of 11 OR's would insulate the other 10 from last minute disruptions.

TRIAL RESULTS

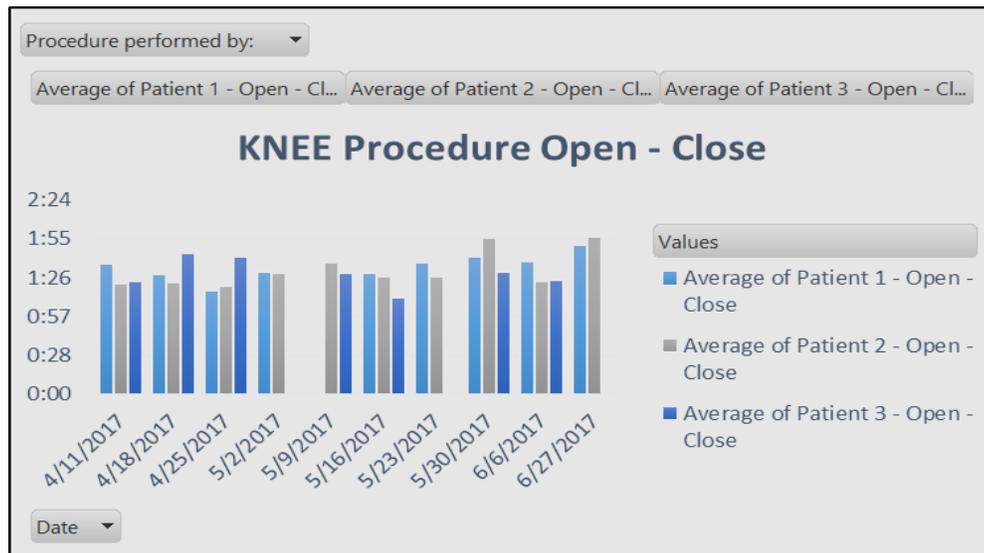
The trials ran from April through June. The time period was selected for a number of reasons. That time of the year is representative of demand. The resident staff is

well along in their training and there are no new residents coming on board. With the holiday season behind it and the vacation season ahead of it, there would be no staffing issues. It also allowed the assessment to take place during the summer months when there are staffing issues and new residents arriving. After assessment, implementation occurs in the fall when things have returned to normal and the program shifts to the next cycle of design and trial for the following year. All trials kept minute by minute logs of each surgery day.

Knee Arthroplasty Trial

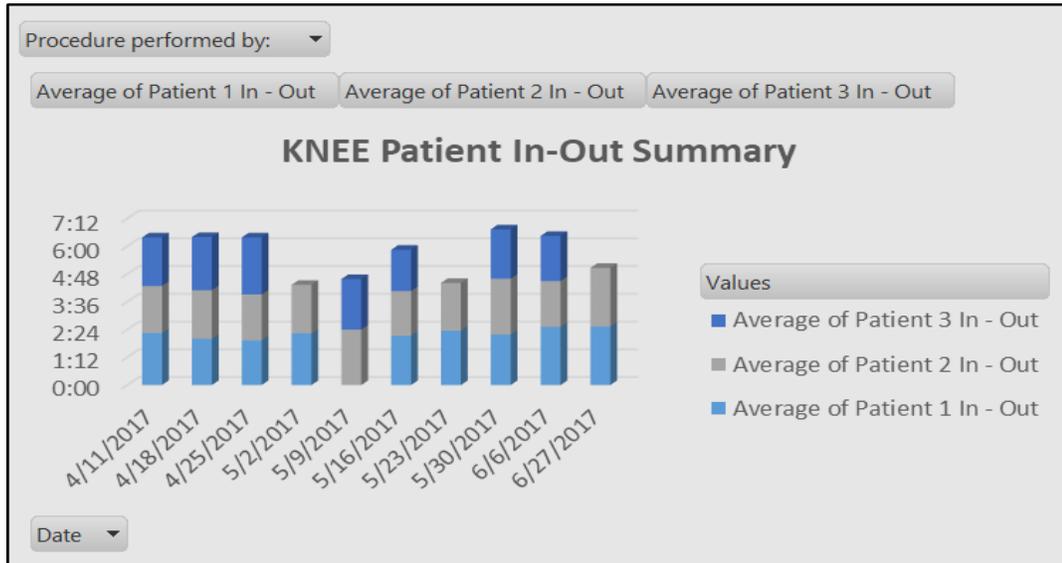
The goal in this trial was to complete the procedure in 90 minutes or less, with the patient in and out of the OR in less than 2 hours, 30 minutes, a total of 7.5 hours. This allowed 30 minutes at the beginning of the day to start up and at the end of the day, the target completion point.

The team consistently performed the procedure in approximately 90 minutes and the patient turnaround was accomplished in less than 2.5 hours on all but four days of the trial. On those days, only two procedures were performed either because there were only two scheduled or in two cases, there were complications that precluded starting a third procedure. The latter point reaffirmed that despite efforts to bring only simple cases into the trial, that ability is limited, and complications will arise from time to time.



Graph 1 – KNEE

The trial was successful in demonstrating, under ideal conditions, the ability to normally schedule three procedures in a normal day shift and that was implemented in the fall.



Graph 2 – KNEE

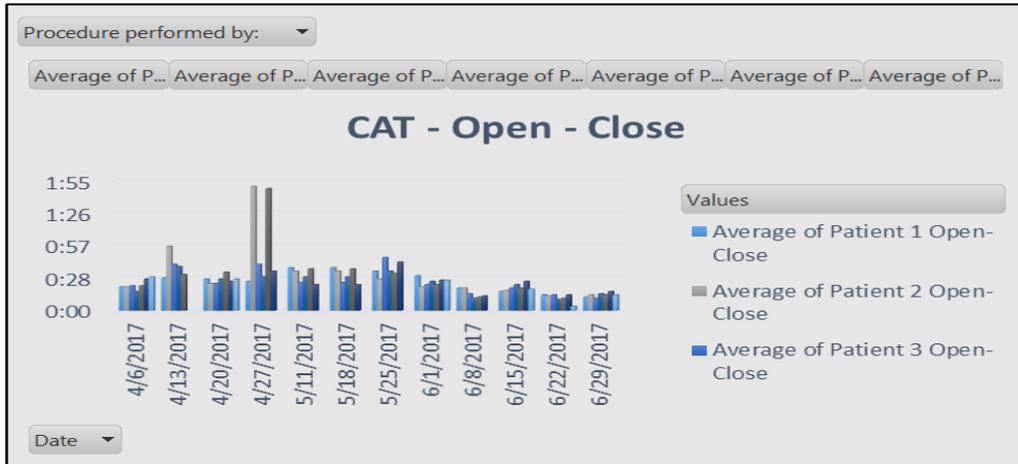
Cataract Trial

The target for the cataract trial was to perform 8 cataract surgeries in a normal day shift. As in the knee trial, the target was to finish the day by 3PM to allow sufficient time to clean and restore the OR and to change clothing. The target for procedure time was 25 minutes and patient turnover in less than 50 minutes, allowing 10 minutes on either side of the procedure for patient transport, anesthesia, and room turnover.

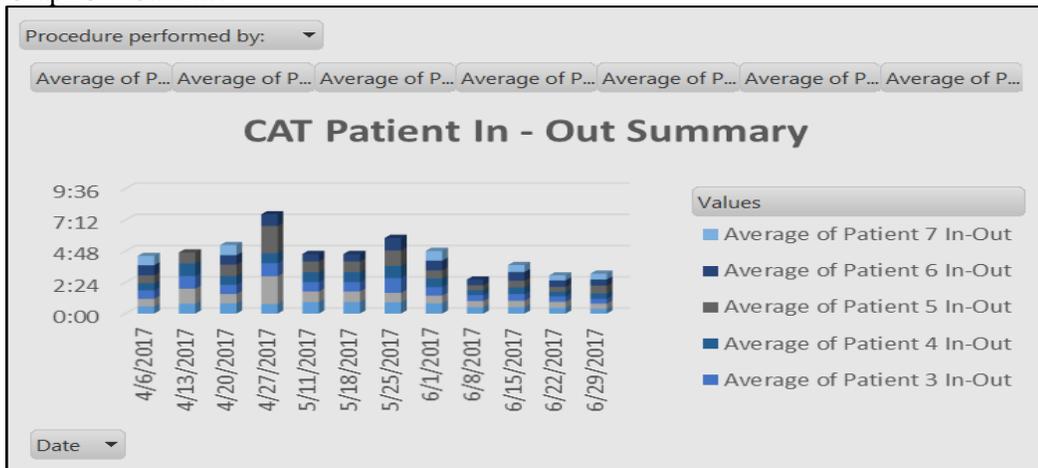
The trial began with scheduling 7 procedures in order to build up to 8 over the course of the trial.

The trial successfully demonstrated the feasibility of performing 7 procedures but not without having encountered complications on two days. The trial confirmed that the ability to predict complications for this procedure was limited and provisions need to be made for that possibility in terms of scheduling. On most trial days, the scheduled procedures were completed well in advance of the target, making 8 feasible.

McCall and Militello



Graph 3 – Cataract



Graph 4 – Cataract

OR Wild Card Trial

This trial had mixed results. On a majority of days, it was not required and subsequently used for late elective procedure additions. When needed, it was effective in insulating the other ORs from disruptive schedule changes. The conclusion was to continue testing it to see how it worked over the longer term. However, it may well wind up being more of a scheduling improvement than a resource utilization benefit.

CONCLUSIONS

The trials were determined to be successful, and the process and scheduling improvements were implemented. Success in this instance is multi-dimensional. Technically, the trial proved that the institution could improve productivity in these two areas by employing better coordination of services, more timely communications, and better adherence to the timetable. The patients involved in the trial were blind participants and were surveyed using the normal patient satisfaction tool and found to have the same relative perceptions of their experience as non-trial patients, confirming that there were no major negatives to the trial atmosphere or pace.

On a cultural level, the trial was successful in bringing together effective teams and creating enthusiasm for a shared goal. It also brought to light the value of collaboration across different functions. Most important, however, it revealed the opportunities to improve by working smarter, reinforced the group's confidence in their ability to orchestrate change, and changed the perception of change in a more positive way.

As the Service Line continues with the next round of improvement projects, the goal is to make this a normal part of the annual cycle and, hopefully, people will embrace it as part of the culture of continuous improvement.

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DARN TOOT'N ENVIRONMENTAL IMPACT: METHANE AND CLIMATE CHANGE

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Abstract: “The rest of the story...” adage always provides an unexpected twist in the meaning of words and how words, in turn, inform our imagination and, then, how we view the world of nature. As this story is told, two cosmopolitans, academic types, were dining out in a rather “pedestrian, but adequate” restaurant and during a pause in their conversation overhead from a table nearby “bits and pieces” of a conversation engaged in by four rather stately dressed, quite articulate, men and women. They snickered to themselves then laughed openly when they returned to their cars and recounted that the table on which they had eavesdropped said with certain accountability that in the 1800s. the United States experienced significant air pollution due to the gaseous substances emitted by buffalo herds, especially those that numbered in the tens of thousands in the West. In a kind of “Hee Haw” joviality, they mentioned the incident to an environmentalist who told them about the proposed “cow tax” dealing with methane and how a rancher, Timothy Plano, was coming to grips with the proposed governmental regulation. In the final analysis, what seemed to be implausible to the uninformed “city-slickers,” was indeed a concern by those who had more than a fleeting understanding of both science and history. Thus the moral of the story: “Laughter based on ignorance produces an embarrassing commentary”

Keywords: Climate Change; Greenhouse Gas; Solid Waste Refuse; Sustainability; Environmental Management; Recycling; Landfill Policies; and Organization Trust

Recommended Courses: Sustainability; Case Studies in Management; Public Administration / Public Policy Analysis; Strategic Management; Environmental Management; Business Ethics

Introduction

On a recent trip, several professorial types travelled Route 66 and, in route, listened to many songs about the famous trail. Many who are unsuspecting of racial, ethnic, religious and other biases, often romanticize the important` legacy of Route 66 as a passage to the expansive Western United States, especially during the Dust Bowl and Great Depression days and up to the passage of the Civil Rights Act, 1964. As they drove from city to city, they talked about the sentimentalities that whites give to the legendary route and noted that it was different from what the black motorist encountered. Indeed, in 44of the 89 counties through which the route crossed the U.S., they were “sundown towns”—towns that were exclusively all white communities that required blacks to leave by sundown.

In the heart of Route 66, Tulsa, Oklahoma, their discussion turned to the oil and gas booms of the past and the future of the fossil fuel industry in the Fourth Industrial Revolution. And it is at a Lebanese restaurant in Tulsa, that they overheard from an adjacent table, four stately, articulate, and well-dressed seniors discuss the air pollution caused by Buffalo emitting methane gas. Of course, they laughed at the “inanity” of it all and joked about how some people just don’t get the sources and many ramifications of polluting the air correctly. And, then, upon returning to their respective universities, they mentioned to a scientist what they had heard in Tulsa and the environmental specialist addressed their lack of knowledge about methane gas—and they felt so sheepishly *naïve* themselves.

The unfolding narrative and the incident is brought to life

Uncle Timothy Plano, as he is affectionately called by his nieces and nephews, has ranched in Elk County, Kansas, for the past 50 years. As such, he often recounts the “worst to the best years” in his run at making a living off the “fat of the land.” His 4,000-acre ranch has been in his family for several generations, and he hopes it will someday become a legacy farm as defined by state law.

As a child, he grew up on the ranch helping out where he could, and then, as he grew older, eventually upon the death of his father, took over the family brand—Barr Double Zero Ranch. Tim, as an agricultural aficionado, often waxes eloquently to those in his presence, about the cattle business. All those who have patiently endured his long, and folksy tales, come away

with realization that ranching is an uncertain and sometimes tumultuous life! In a typical encounter, Tim talks about the work beginning at the break of dawn, and arduously, coming to a close as the moon begins to rise in the East. Tim reminisces about how his brothers and sisters endured many hardships growing up on the isolated ranch, knowing, and begrudgingly accepting the fact that there would be good times and bad times—but not fully comprehending how the number of bad times would eclipse the good times, especially with the financial problems associated with the occurrence of drought after drought. In the narrative that Tim painted, the unforeseeable and unchangeable environmental factors played a role in the agricultural success for farmers and ranchers of the Great Plains.

A Little Knowledge of Government Regulation and Science is Helpful

Now, Tim is all too ready to recount his concerns about the over regulation and monitoring by state government agencies of his cow-calf business, but mostly about what he terms the “intrusive laws and regulations” emanating from the federal level of government. And this is how he tells the story:

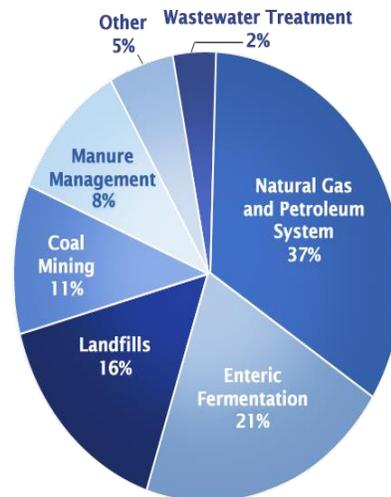
The U.S. Department of the Interior (USDOI), Bureau of Land Management (USBLM) was established to protect the long-term health and productivity of the rangelands. Cattle grazing, everyone realized, can cause damage to soil, plants, streams, springs, and wildlife. The BLM required that all cattle ranchers obtain a grazing permit for land use. As such, they must then uphold the stipulations and guidelines in their contract, established by federal statutory law. A grazing fee is required per head of cattle calculated by a formula set by Congress in the Public Rangelands Improvement Act of 1978 (PRIA, 1978). On top of that, cattle operators must adhere to the mandates of the Taylor Grazing Act of 1934 (TGA, 1934), that established grazing districts, the National Environmental Policy Act of 1969 (NEPA, 1969), Federal Land Policy and Management Act of 1976 (FLPMA, 1976), and the Endangered Species Act of 1973 (ESA, 1973). These environmental protective stipulations require pricey construction. For example, fences, cattle guards, facilities and structures are mandated to be constructed. Grants are available; however, and most of the cattle operators are held responsible for 100 percent of all labor and construction costs. Tim Plano soon realized he had little say in how to manage the land he inherited, the land he grew up on and worked his entire

Meyer, Greets, Noe and Hutchison

life! As he often has stated, “The land belongs to me but is controlled by the feds.”

Tim Plano has researched the environmental standards and knows about some of the empirical studies pertaining to environmental impact statements. In the past, the United States Environmental Protection Agency (USEPA) introduced methane as one of the main greenhouse gases (GHG) to be regulated. Second only to carbon dioxide (85 percent), methane (CH₄) accounts for 10 percent of GHG emissions in the atmosphere that is emitted by human related activities. According to Tim, the EPA data show that cattle emit methane from a digestive process called enteric fermentation—a process that occurs in the multi-chambered stomachs or digestive systems of ruminant animals, such as cattle, buffalo, camels, and sheep.

Figure 1. U.S. Methane Emissions by Source



Source: All emission estimates from the *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2010*

As the microbial enzymes are produced in their digestive system and course food (grass, hay, silage, etc.) is broken down, methane is released outside their body as a by-product. This potent, atmospheric damaging gas is either exhaled or belched from the mouth, or well, expelled as flatulence, as shown in Figure 1.

The EPA acknowledged, according to Tim, that the cow-calf sector of the industry is the main culprit. Beef cows are responsible for the most emissions because they are large animals; their diets, consist mainly of forages of varying quality, and they are generally poorer than in the dairy or feedlot sectors; the level of management is typically not as good; and mainly because of the sheer number of cow-calf medium sized farms in the Midwest. The EPA estimates that methane emissions from beef and dairy cattle in the U.S. are distributed accordingly: feedlots and stockers, 19 percent; dairy, 23 percent; and cow-calf operations, 58 percent. Tim knows his laws and regulations and indicates that since the Clean Air Act of 1970; 1990 (CAA, 1970; 1990), the EPA has established Greenhouse Gas Regulations and reporting processes for large corporations. Businesses with over 29,300 head of cattle are required to report. This applies to large feedlots; yes, they are only responsible for 19 percent of total emissions. Nevertheless, with methane emissions from livestock rising 11 percent in recent years, agricultural emissions (includes rice paddies) remain the "... largest source of methane from all human activities." (https://www.washingtonpost.com/news/energy-environment/wp/2017/09/29/scientists-find-that-belching-cows-could-solve-a-key-mystery-about-the-atmosphere/?noredirect=on&utm_term=.fd726a2cb736).

Community Engagement: Where The Rubber Meets the Road

At a local Grange meeting, Tim learned that the EPA and environmental lobbyists were advocating stronger reporting standards, with accompanying taxes on methane emissions. As he was told, on average, each rancher would have to pay \$175 per cow if legislation passed muster. The tax commonly referred to as the "cow tax" angered Tim and others at the meeting – especially Western ranchers. Although the EPA issued a public statement denouncing the accuracy of the official tax proposal, ranchers were worried about the future, especially if the desire to curb greenhouse gases gained interest in more "liberal" national administration. In support of the livestock producers, not surprisingly, a U.S. senator from a Midwestern state that is a major crop, dairy, pork and beef producer, weighed into the discussion. He said, "If the...(president) tries to include farmers in some kind of livestock

Meyer, Greets, Noe and Hutchison

assessment based on greenhouse-gas emissions, I want my (constituents) to know that I'm going to stand beside the producers and fight." Shortly thereafter, in a moment of bi-partisan support, the "cow tax" was removed from the law making agenda.

In response to the methane emission pollution problem, little attention was given to those interventions that might reduce the level of emission per cow, such as ways to increase more beef or milk per capita, thereby reducing overall pollution levels; or adding a supplement to the feeding formula that would reduce burping and the expulsion of gas; or focusing on grain fed cattle (grain is a more concentrated growth nutrient, with less waste production in the gut), rather than pasture (grass) grazing, which would produce less methane (Land learn NSW).

Figure 1. Methane Pack for Holstein Milk Cow



Alternatively, but impractically, another farmer suggested the genetic modification of livestock to produce less methane, producing smaller, rather than larger cattle which, comparatively, require more feed or simply, reducing the huge waste of agricultural food products that human waste and end up in landfills. Why not replicate what is done in Argentina where

scientists have developed flatulence “methane” collecting packs which can collect up to 300 liters of methane, per cow, each day? The audience laughed, but the dairy farmer forced his point by adding that “...300 liters of methane, converted into energy, could run a car for 24 hours.” And then he held up a picture of a methane capturing device for his neighbors to see, as shown in Figure. 1.

On top of all the taxes, regulations, and bureaus that are mandated, Timothy Plano wonders if he will have any discretion on how he will manage his privately-owned cattle business in the future. He now has added a new line to his cowboy story: “The cow tax will make it hard to stay in business and taxing his cow’s flatulence is “just root’n toot’n” ridiculous!

Questions and Instructions:

1. Timothy Plano considers himself a steward of the land. He is sensitive and supportive of the many management practices that can improve a livestock operation’s production efficiency and reduce greenhouse gas emissions. Some of the most effective practices he knows of include: Improving grazing management; soil testing, followed by the addition of proper supplements and fertilizers; supplementation of cattle diets with needed nutrients; development of a preventive herd health program; provision of appropriate water sources and protecting water quality; and improvement of genetics and reproductive efficiency. Do these suggestions have any remedial affects, or are they just “untested” environmental impact suggestions? Please elaborate and be specific. The two following sources should be of help in addressing this question:
<http://www.blm.gov/wo/st/en/prog/grazing.html>; and,
<http://www.epa.gov/outreach/rlep/faq.html>
2. Timothy Plano enjoyed reading in his youth, Aldo Leopold’s *A Sand County Almanac*. He embraced the ideas of Leopold and often cites this wise adage: “That land is a community is the basic concept of ecology, but that land is to be loved and respected is an extension of ethics.” Do you think Tim’s concern about excessive government

Meyer, Greets, Noe and Hutchison

intrusion in his business life is consistent with Leopold's dictum as stated here? Please present a cogent defense for your opinion.

3. In your opinion, should the EPA, in an effort to decrease pollution, use the Clean Air Act to establish a tax on methane emissions for cow-calf businesses? Please explain.
4. Please consult either the department of agriculture or natural resources in your state and get their reactions to the Granges "hypothetical of an impending cow tax." What if any kinds of government programs could be established to decrease the amount of methane produced by cow-calf industries? Please elaborate.
5. Would it be fair to offer incentives or a tax credit to farming operations who agree to replant their pastures, modify their cow's diets, or alter genetics? If yes, why? If not, why not
6. During the last twenty years or so, there has been a robust discussion about greenhouse gases and how they are or are not connected to climate change and the associated issues of rising sea levels, coral reef bleaching, uncontrollable wildfires, coastal housing values, changing (worldwide) migration patterns, severe storms, prolonged draught, hurricanes, and warming trends in Alaska to the Midwest, and the impact which humans, in general, have on their environment. Given your own understanding of methane emissions from the various sources as presented in Figure 1, how might these emissions be reduced without severely hurting economic growth and development in the United States? Please explain. Useful reference for addressing this question is found in the 4th National Climate Assessment (see sources).
7. Much has changed over the last decade in the development of plant-based "meat" alternatives in the laboratories of nutritionists and food scientists. The meat alternatives are now amply available in grocery stores, food markets, and several international chain

restaurants and touted as being environmentally safe since they are comprised of plant products or from animal cells grown in a laboratory. Please research the meat alternative movement and its estimated impact on food production in the United States and especially the economic and political pros and cons to this movement. Please be specific.

Case Title: Darn Toot'n Environmental Impact: Methane and Climate Change

Name:

Case Log and Administrative Journal Entry

This case analysis and learning assessment may be submitted for either instructor or peer assessment

Case Analysis:

Major case concepts and theories identified:

What is the relevance of the concepts, theories, ideas and techniques presented in the case to that of public or private management?

Facts: What do we know *for sure* about the case? Please list.

Who is involved in the case (people, departments, agencies, units, etc.)? Were the problems of an intra/interagency nature? Be specific.

Meyer, Greets, Noe and Hutchison

Are there any rules, laws, regulations or standard operating procedures identified in the case study that might limit decision-making? If so, what are they?

Are there any clues presented in the case as to the major actor's interests, needs, motivations and personalities? If so, please list them.

Learning Assessment:

What do the administrative theories present in this case mean to you as an administrator or manager?

How can this learning be put to use outside the classroom? Are there any problems you envision during the implementation phase?

Several possible courses of action were identified during the class discussion. Which action was most practical by the group? Which was deemed most feasible? Based on your personal experience, did the group reach a conclusion that was desirable, feasible, and practical? Please explain why or why not.

Did the group reach a decision that would solve the problem on a short-term or long-term basis? Please explain.

What could you have done to receive more learning value from this case?

Source: Case Log and Administrative Journal Entry reprinted with permission, Millennium HRM Press, Inc.

SELECTED RESOURCES

<https://www.nytimes.com/2019/12/03/well/eat/fake-meat-vs-real-meat.html>

<https://www2.epa.gov/laws-regulations/summary-clean-air-act>

<https://www.taxpolicycenter.org/briefing-book/key-elements/environment/what-is.cfm>

<https://www.aldoleopold.org/>

<https://www.wsj.com/articles/SB122913405823603643>

<https://news.sciencemag.org/chemistry/2015/07/antiburp-compound-could-reduce-methane-emissions-cows>

https://www.iowadnr.gov/portals/idnr/uploads/air/insidednr/ghgemissions/2012_ghg_tsd.pdf

<https://www.landlearnsw.org.au/sustainability/climate-change/research/research-reducing-methane-emissions>

https://www.washingtonpost.com/news/energy-environment/wp/2017/09/29/scientists-find-that-belching-cows-could-solve-a-key-mystery-about-the-atmosphere/?noredirect=on&utm_term=.fd726a2cb736

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In *Impacts, Risks, and Adaptation in the United States: Fourth National Climate Assessment, Volume II* [Reidmiller, D.R., C.W. Avery, D.R. Easterling, K.E. Kunkel, K.L.M. Lewis, T.K. Maycock, and B.C. Stewart (eds.)]. U.S. Global Change Research Program, Washington, DC, USA, pp. 33–71. doi: 10.7930/NCA4.2018.CH1

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WHY THE SPLIT? WHY SIMILAR ONLINE ACCESSIBILITY CASES WERE DECIDED VERY DIFFERENTLY

Christopher Thompson

Laura Sullivan

Hope Knight

Sam Houston State University

ABSTRACT

In 2016, two online accessibility suits of particular importance were filed under Title III of the Americans with Disabilities Act. The differences in the way the two were decided at the federal appellate level highlights the ongoing split in the circuits and brings home the need for clear accessibility guidelines for the benefit of all stakeholders.

Key Words: American with Disabilities Act, disabilities accommodations, website accommodations, screen readers, Department of Justice, Web Accessibility in Mind

INTRODUCTION

In California, a blind individual named Guillermo Robles sued Domino's Pizza LLC (Domino's Pizza) under the Americans with Disabilities Act for failing to design its website and mobile app to be compatible with the screen-reading software Robles uses to access the internet. Prior to filing his suit Robles made several attempts to order pizza via Domino's Pizza online and app-based ordering systems. However, neither the app nor the online system was compatible with Robles' screen reader and his attempts proved unsuccessful.

Robles' suit was filed in the United States District Court for the Central District of California. Subsequently, Domino's Pizza filed a motion to dismiss which was granted by the Court and Robles appealed to the United States Court of Appeals for the 9th Circuit.

The 9th Circuit overturned the lower court's decision and ruled in Robles' favor reinstating his lawsuit against Domino's Pizza. Domino's Pizza then

Thompson, Sullivan and Knight

filed a petition for certiorari with the United States Supreme Court setting the stage for one of the more important Supreme Court “accessibility” cases in recent times.

That stage would remain empty. For reasons that will never be wholly understood, given the significance of the issue, the Court denied certiorari on October 7, 2019. Now, instead of a concrete answer, businesses are left to speculate to what extent the ADA applies to their internet and application-based endeavors. This is because the Court’s denial carries zero precedential value. It is merely a manifestation of the “at-will” nature of the Court’s jurisdiction. What follows will surely be years of waiting as Robles’ suit meanders its way through the court system while businesses are now left in the wilderness to discern what the ADA requires of their websites and mobile applications. However, the 9th Circuit’s opinion is starkly contrasted against a later decision by the 11th Circuit in *Gil v. Winn-Dixie Stores, Inc.*

Juan Carlos Gil who had filed suit against Winn-Dixie, Inc. (Winn-Dixie) in U.S. District Court for the Southern District of Florida earlier in 2016 alleging the chain’s website and its lack of accessibility for blind people like him violated the ADA had to wait a bit longer for his case to be heard by the 11th Circuit on an appeal by Winn-Dixie.

Following a bench trial before the district court the court issued a decision finding that Winn-Dixie’s website integrated with its physical locations to such a degree and connects customers with those locations to such a degree that its inability to interface with common screen readers used by Mr. Gil and other visually impaired people violated Title III.

THE AMERICANS WITH DISABILITIES ACT

The Americans with Disabilities Act (ADA), enacted in 1990, acts as a continuing force for inclusion and a mechanism for eradicating “discrimination against individuals with disabilities”. The ADA requires business and governmental entities to make accommodations rendering their facilities accessible to those with disabilities. However, the manner in which the ADA applies to technologies that did not exist in their present form in the late 1980’s when the ADA was drafted is a continuing legal issue with an immeasurable impact on business and entrepreneurship. This is further complicated by the role the United States Department of Justice (DOJ)

occupies as the body charged with issuing any and all regulations necessary to fully implement the ADA.

There should be little doubt that the DOJ was handed a tough assignment by the ADA when it made the Attorney General responsible for promulgating any regulations necessary to wholly implement the ADA. The ADA also charged the DOJ with assisting those required to comply with the act and enforcing Title III. However burdensome it might be, those responsibilities belong to the DOJ and its total failure to adopt and publish web accessibility regulations has left businesses and other places of public accommodation left to their own devices.

The DOJ's failure to act regarding potential internet discrimination is rather puzzling for many reasons but foremost among them has to be that over a decade ago, in 2010, it recognized the need to act and adopt regulations establishing online accessibility standards. What followed was years of inaction before the proposed rulemaking notice was withdrawn altogether in 2017. What is even more puzzling is that this years-long span of inaction covered parts of two different presidential administrations and spanned four different attorneys general.

In the absence of clear rules and standards, the only avenue available to provide any guidance to businesses and consumers are consumer lawsuits challenging the level of accessibility of a business's internet endeavors. As one can easily imagine this is a very costly method of learning. In 2019, over 2,200 of these lawsuits were filed in Federal courts nationwide. These lawsuits are made possible as a practical matter because the ADA has a several features which, for better or worse, can encourage litigation.

First, the ADA does not require any type of demand or notice be given to the alleged violator prior to a plaintiff filing suit. It is not uncommon for an ADA defendant to only learn of their alleged failure to comply with the act when a suit has been brought against them.

Second, the ADA provides for successful plaintiffs to be possibly awarded attorney's fees. Critics allege that this encourages attorneys to bring cases on behalf of clients over even the most minor deviations or shortcomings under the act.

Third, an ADA compliance suit only requires a plaintiff to prove one instance of non-compliance to prevail. Further, because the nature of a violation is

often a tangible measurable thing non-compliance can be simple to prove. In an online accessibility suit the lack of any tangible measure or standard for a business to comply with and to be able to offer proof of compliance as evidence in its defense is equally problematic.

WEBSITES AND THE ADA

For over two decades the DOJ has maintained the position that the ADA applies to the websites of public accommodations. What it has not done is adopt any standard of compliance or promulgate any rules an accommodation could look to when designing its web-based elements.

Advocates for the disabled maintain website accessibility is a continuing issue faced by visually impaired people as they attempt to use the internet and internet-based applications. At least one survey of websites seems to bear that out. Web Accessibility in Mind (WebAim), an organization devoted to increasing web accessibility for the disabled, began an annual accessibility analysis of the top 1 million home pages on the internet in 2019. The premise of these studies is to compare the aforementioned 1 million pages along with a sampling of some interior pages of the same sites with the World Wide Web Consortium's (W3C) Web Content Accessibility Guidelines 2.0 Level AA Success Criteria better known as WCAG 2.0. WCAG 2.0 is often put forth as a potential standard for web accessibility under the ADA and was for a time was the actual standard proposed under the DOJ's Notice of Proposed Rulemaking prior to its withdrawal in 2017.

The results of the two annual surveys were eye opening because the sites sampled were, on the whole, riddled with "errors" under WCAG 2.0 standards. In 2019, the first year the survey was completed 97.8 % of the sampled home pages had "errors" running afoul of WACG 2.0. Perhaps more disturbing to those fighting for web accessibility should be that the next year that percentage had increased to 98.1 %. Equally disturbing should be that on average each page had more than sixty errors.

In 2010, the DOJ recognized a need for clear guidelines regarding websites accessibility and began the rule-making process. It went as far as releasing a proposed rulemaking notice, indicating that the rules it ultimately adopted would be based on the World Wide Web Consortium's (W3C) Web Content Accessibility Guidelines 2.0 Level AA Success Criteria, better known as WCAG 2.0. However, after seven fruitless years, the DOJ withdrew its

proposed rulemaking notice altogether, announcing its intent to evaluate whether web accessibility regulations were even necessary.

The immediate result of the DOJ's failure to act was a rash of ADA accessibility suits claiming websites were not accessible to disabled persons. Since its withdrawal of its proposed rulemaking notice, the DOJ has faced repeated calls from members of both the House of Representatives and the Senate to reconsider and get to work delineating website standards which would allow businesses to comply with the ADA. These calls have been echoed by business groups such as the Credit Union National Association as well as a group consisting of eighteen state attorneys general joined by the Attorney General of Washington, D.C.

In response to the House of Representatives letter, the DOJ responded with a two-page letter of its own in September of 2018. This short letter is rather remarkable in its own right despite its brevity for several reasons. First, the DOJ states that the ADA applies to the websites of public accommodations while pointing out that it had made that decision "over 20 years ago." Second, the letter goes on to state that the absence of any specific standard for website accessibility does not excuse a public accommodation's failure to comply with the ADA. Third, the DOJ dropped a bombshell by stating that compliance with a voluntary technical standard (obviously speaking of WCAG 2.0) "does not necessarily indicate compliance with the ADA." Finally, the letter tosses the ball back to Congress by pointing out the legislative branch's ability to clarify all of the issues surrounding website accessibility simply by-passing legislation. Congress accepted the challenge and in 2020, *The Online Accessibility Act* was introduced in Congress but it did not pass during the 116th session. In the next session the bill was reintroduced on February 18, 2021 but it has not been passed as of yet.

This lack of a clear standard has predictably resulted in a split among federal courts. The split is primarily over whether a public accommodation's site must have a nexus to a physical location in order to run afoul of Title III.

In California, where Mr. Robles filed suit against Domino's Pizza, the requirement of a physical nexus between a website and a physical location is firmly entrenched in local 9th Circuit precedent. In direct contrast, the 1st Circuit and the 7th Circuit have held that the ADA applies to non-physical locations, regardless of the existence any connection to a physical location.

However, the largest divide among the circuits came on April 7, 2021, and was created by the 11th Circuit's opinion in *Gil v. Winn Dixie*.

DRIVE BY SUITS MORPH INTO SURF BY SUITS

“Drive-by lawsuits” wherein a disabled person or their attorney literally drive around looking for businesses to file suit against have existed for years. These hit and run lawsuits under the ADA are nothing new, they have existed for decades; however, they have morphed into what are now known as “surf-by suits.” In these new “surf-by suits,” no one even has to leave their home to find a defendant. Instead, all a potential plaintiff must do is go online and begin visiting websites and using apps until he or she finds a possible accessibility shortcoming that will support a Title III claim. The circuit split and lack of regulatory or legislative action has only encouraged the filing of these suits.

The crux of most website and app accessibility suits can be found in Title III of the ADA containing the general rule that:

No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.

Title III goes on to give specific definitions of discrimination, including what is known as the “auxiliary aids and services” section. This title makes any failure to ensure that no disabled person is excluded or treated differently from other people “because of the absence of auxiliary aids and services” by a place of public accommodation an act of discrimination under the ADA. Courts have held that this provision requires owners and operators of places of public accommodation to actually provide any auxiliary aid or device necessary for persons with disabilities to access the services of a place of public accommodation. The DOJ has explained this duty further in its regulations implementing Title III by stating that public accommodations are obligated to “communicate effectively with customers who have disabilities concerning hearing, vision, or speech.” Title III further defines what a “public accommodation” is by giving a list of various places such as restaurants, bars, theaters, grocery stores, law offices, banks, among others

which are public accommodations for ADA purposes. The list essentially covers any *place* a person might go as they carry on their day to day activities.

ROBLES V. DOMINOS

Round 1: U.S. District Court

Against this backdrop, on September 1, 2016, Guillermo Robles filed suit against Domino's Pizza in the U.S. District Court for the Central District of California, alleging he had made several unsuccessful attempts to place orders via Domino's Pizza's website as well as its app. He contends that these attempts were unsuccessful because neither the website nor the app were accessible to him as a blind person in violation of Title III's "auxiliary aids and services" provisions.

Robles' complaint alleges that Domino's Pizza's website was inaccessible because it was not compatible with the screen reader he uses for websites. Likewise he complained that Domino's Pizza's app was inaccessible to him because it was not compatible with the "Voice Over" program on his iPhone he normally uses when using apps. In support of his allegations, Robles pointed out that neither Domino's Pizza's website nor app were WCAG 2.0 compliant when he unsuccessfully attempted to use them to order food.

Eventually, Domino's Pizza moved for summary judgment asserting several theories; the most notable of which are 1) that its website and app were not public accommodations, and 2) that even if its website and app are public accommodations and had fallen short of Title III's requirements, holding the company responsible would violate due process in light of the DOJ's total failure to promulgate the long-awaited accessibility standards.

The Court made short work of Domino's Pizza's challenge to the applicability of the ADA to apps and websites by reiterating the jurisdiction's stance that the ADA is concerned with the "services of a place of public accommodation," not services rendered "in a place of public accommodation." Further, the Court pointed to its clear precedent that a website serving to connect consumers to the goods or services of the physical location of a public accommodation are subject to Title III. The Court also noted the incongruity of Domino's Pizza's position in the face of the plain language of the ADA. The Court pointed out that the company's stance would lead to the conclusion that public accommodation could freely discriminate against the disabled as long as they did not do it on their physical premises.

Additionally, the Court pointed out the DOJ's decades-long stance that the websites of public accommodations must be ADA compliant.

Domino's Pizza's due process claim found considerably more traction with the Court and was ultimately found meritorious. The Court cited the earlier 9th Circuit opinion from *United States v. AMC Entertainment, Inc.* as support for its decision.

AMC involved a suit brought by the DOJ against the movie theater company over "lines of sight" for customers using wheelchairs. *AMC* successfully pointed out that holding it liable for failing to meet a standard regarding "lines of sight" for patrons in wheelchairs when the DOJ had never actually articulated a standard, violated the company's due process rights. The Court quoted a sister court in pointing out "[t]hose regulated by an administrative agency are entitled to know the rules by which the game will be played."

In ruling on Dominos' Pizza's motion for summary judgment, the trial court interpreted Robles' claims as hinging on his complaint which, in part, sought a ruling stating that all sites and apps belonging to public accommodations must be WCAG 2.0 compliant. The Court found this request flagrantly in violation of due process in light of the 9th Circuit's precedents from *AMC* and the DOJ's failure to offer "meaningful guidance on this topic." The Court proceeded to dismiss all of Robles' causes of action in the suit. However, in doing so it utilized the *primary jurisdiction doctrine*, which allowed the dismissals to issue without prejudice while awaiting the DOJ to complete its rulemaking process which, at least in theory, would provide the Court with the tools necessary to resolve the case in the future. The Court's order granting Domino's Pizza's motion for summary judgment concluded with a plea to Congress, the DOJ, and Attorney General to finally adopt minimum standards for accessibility for the benefit of all stakeholders.

Round 2: 9th Circuit

Mr. Robles appealed the district court's order granting Domino's Pizza's motion for summary judgment to the 9th Circuit where the Court subjected it to a full de novo review based on three questions. First, does the ADA does in fact apply to Domino's Pizza's website and app? Second, provided that the ADA does cover the site and app, would it violate Domino's Pizza's right to due process in light of the DOJ's failure to adopt accessibility rules or standards? Finally, whether a federal court's invocation of the primary jurisdiction doctrine is appropriate under the facts of this case in light of the

DOJ's failure to promulgate any guidance on how public accommodations can make their sites and apps ADA compliant.

The Court resolved its first question with relative ease, and in doing so, echoed the trial court's holding that the ADA applies to websites and apps which facilitate connecting customers with goods and services offered at any public accommodations.

In contrast, the Court answered its second question entirely differently from the lower court. It began its due process analysis by pointedly stating, "we hold Domino's Pizza has received fair notice that its website and app must comply with the ADA." The Court went on to say that only a statute that is so vague that it fails to give fair notice of what compliance forbids or necessitates violates due process. Further, the Court characterized the ADA as a business or commercial statute subject to a lesser vagueness standard than a standard touching on fundamental rights. As a result the Court asserted the ADA could only run afoul of due process for vagueness if it wholly failed to articulate a comprehensible standard for those subject to it to follow.

Having established the standard it would use, the Court determined Title III's "auxiliary aids" section is not vague at all and accordingly Domino's Pizza was on notice of its obligation to communicate with its customers effectively. The Court went on to find that the heart of the lower court's logic regarding Domino's Pizza was flawed. In the Court's view, Domino's Pizza's due process claim was rooted in its summary judgment argument that "Robles seeks to impose liability based on Domino's Pizza's failure to comply with WCAG 2.0." The Court did not find that argument compelling. In its view, Robles' causes of action stated a complaint for violating Title III and merely offered an injunction requiring Domino's Pizza to require WCAG 2.0 compliance as a potential remedy for the alleged violation(s). Next, the Court distinguished the instant case from *AMC Theaters*.

The key difference in the Court's view between the facts in *AMC* and the case before it was that *AMC Theaters* could prove that its theaters had been built years prior to the ADA's passage and the adoption of the rule at issue in the case and would require retrofitting or remodeling its theaters to comply, while Domino's Pizza's website and app came after both the adoption of the ADA and the DOJ articulating that the ADA applied to the internet. The Court also noted that *AMC* involved a statute ambiguous enough that different circuit courts had examined it and reached different conclusions. In contrast, in the

Thompson, Sullivan and Knight

Court's belief, Title III is flexible in the manner an accommodation might go about complying with it, but it is not ambiguous. The Court concluded its examination of the due process issue by stating:

[w]hile we understand why Domino's *wants* DOJ to issue specific guidelines for website and app accessibility, the Constitution only requires Domino's receive fair notice of its legal duties, not a blueprint for compliance with its statutory obligations.

The Court also noted its belief that its precedents accurately reflect the law in its jurisdiction that as a threshold matter, a lack of specific regulations or rules does not relieve a party of their obligations under any statute.

Finally, the 9th Circuit ruled that the lower court erred in invoking the primary jurisdiction doctrine. In doing so, the Court pointed out that the controlling factor for consideration before invoking the doctrine is efficiency. The Court further noted that the doctrine does not exist purely to allow a court to receive advice from an agency any time the court is presented with an issue related to an administrative agency's rule making responsibility. In any event, the Court held that efficiency would be in no way served by sending Robles home to wait for the DOJ to issue guidance which it might very well never do. Further, the Court held that there was no need for guidance from the DOJ in the first place because the trial court is perfectly capable of deciding the merits of the case as "properly framed" by the Court's opinion.

At the end of the 9th Circuit's examination, the case was remanded to the trial court to "resolve whether Domino's Pizza's website and app provide the blind with auxiliary aids and services for effective communication and full and equal enjoyment of its products and services."

Supreme Court

Domino's Pizza filed a Petition for Certiorari with the Supreme Court seeking relief from the 9th Circuit's opinion.

Domino's Pizza's specific complaint brought via its Petition was against the 9th Circuit's position that a virtual "place," such as an app or website, automatically becomes a public accommodation if it is connected to the goods or services offered by a physical location. The Petition goes on to point out what Domino's Pizza asserts is an insurmountable contradiction:

[t]he Ninth Circuit's decision below rests on contradictory logic. Standalone websites cannot qualify as public accommodations, because public accommodations are physical locations. Yet websites maintained by enterprises with brick-and-mortar locations are, in effect, standalone public accommodations. By maintaining a physical presence, companies somehow transform their websites into standalone public accommodations that must meet Title III accessibility requirements. That reasoning cannot be squared with the statutory text and produces illogical results.

Domino's Pizza's petition received great support from various trade and business groups, many of whom filed Amicus Briefs in support of the Court granting certiorari. However, they would prove to be of no avail.

In October of 2019, three years after Mr. Robles filed suit against Domino's Pizza, the Supreme Court declined certiorari. The Court's decision was released unaccompanied by dissent and devoid of comments by the Justices. Accordingly, the case has been returned to district court for trial.

GIL V. WINN-DIXIE

Round I: District Court

Following a bench trial before the district court, the trial stage of *Winn-Dixie* was resolved in a very similar manner as *Robles v. Domino's Pizza* was by the 9th Circuit. This should not be surprising because the district court for the Southern District of Florida cited several California accessibility cases in its holding.

In an interesting procedural move, Mr. Gill and Winn-Dixie presented the court with a joint pretrial stipulation of evidence. This stipulation resolved a couple of issues for the court on the front-end. First, Winn-Dixie agreed with the plaintiff that his visual impairment was a qualified disability under the ADA. Second, Winn-Dixie agreed that its physical locations were clearly public accommodations under the ADA. This left the court with only a couple of issues to resolve.

The threshold question that the trial court had to decide was whether Mr. Gil had standing to bring his suit against the grocery store chain. The court answered this initial question in the affirmative, citing the 11th Circuit's opinion in *Stevens v. Premier Cruises, Inc.* in support of its decision that the mere allegation by a plaintiff that they intend to visit the location of a public accommodation in the future is sufficient to establish standing under the ADA.

A less straightforward question for the Court was whether Winn-Dixie's website was a public accommodation. The court essentially punted on the issue of whether the website itself was a public accommodation. Instead, it applied 9th Circuit logic to reach its conclusion that it was irrelevant whether the website itself was a public accommodation because it acted as an access portal between the public and the goods and services offered at the chain's physical locations. Further, the Court ruled that Winn-Dixie had run afoul of Title III by denying the visually impaired equal enjoyment of services offered by the chain's physical locations such as its online pharmacy, the ability to access electronic coupons, to load said electronic coupons onto their customer rewards cards, and to use the online store locator.

Following the trial court's decision, Winn-Dixie appealed to the 11th Circuit Court of Appeals for relief.

Round II: 11th Circuit

What followed were years of waiting for the Court to render an opinion in the case. In the interim, *Robles* was decided by the 9th Circuit and further review denied when the Supreme Court declined to grant Domino's Pizza's request for certiorari. When the 11th Circuit's decision finally came down in April of 2021, it departed significantly from the *Robles* opinion to the consternation of accessibility advocates.

At the outset, it is important to note that the 11th Circuit in no way presented a wholly united front in deciding the issues raised by Winn-Dixie. One of the three judges who decided the case, Judge Jill A. Pryor, filed a nearly forty-page dissenting opinion. However, methodology-wise, the majority confronted the issues before them as the statutory construction questions that they truly were. Regardless

of whether one is satisfied with the ultimate decisions reached by the Court, whether Winn-Dixie's website is a public accommodation is truly a question of purely statutory construction. In its appeal, Winn-Dixie raised the issue of Gil's standing and whether its website was a public accommodation.

The majority began its opinion by affirming the lower court's determination that Mr. Gil did in fact have standing to bring his complaints against Winn-Dixie. This determination was as easy for the court to answer as it was for the district court. Winn-Dixie's complaint was that Gil was not a proper plaintiff because he had suffered no injury in fact prior to filing suit. Its position was that because Gil had used its physical locations for several years before he even learned their website existed, he suffered no injury by any shortcomings that the website may or not have. Gil's position was that the difficulties he encountered while attempting to use the chain's website interfered with his ability to enjoy the goods and services offered in Winn-Dixie's physical locations. The Court agreed with Gil that the difficulties he encountered while trying to utilize the website were sufficient "concrete and particularized" injuries to provide him standing to prosecute his suit against Winn-Dixie.

The majority then took on the meat of Winn-Dixie's appeal: whether the website was a public accommodation standing alone or, if it is not, then does it violate the Title III of the ADA in some other fashion?

In answering the first question, the majority went straight to the text of Title III itself and engaged in a basic statutory construction review. They noted that each of the more than two dozen examples provided by Title III are physical locations. Further, the majority noted "[t]he list covers most physical locations in which individuals will find themselves in their daily lives." They also pointed out the very glaring omission of websites from the very exhaustive list. From there the majority engaged Title III with the rules of statutory construction, stating:

[o]ur analysis is straightforward. In interpreting a statute, a court should always turn first to one cardinal canon before all others. We have stated time and again that courts must presume that a legislature says in a statute what it means and

means in a statute what it says there. When the words of a statute are unambiguous.... [our] judicial inquiry is complete.

The majority's examination of Title III resulted in its decision that the statute was not vague or ambiguous in any manner. All twelve of the types of locations qualifying as public accommodations under the Act and listed in Title III are "tangible, physical places." Further, there are no intangible places or spaces listed, described or alluded to by the text of the statute. As a result, the majority ruled that websites are not public accommodations under the ADA and accordingly, any issues that Mr. Gil had accessing it or using it were not violations of the Act.

Next, the majority moved on to the issue of whether the website's inaccessibility constituted an intangible barrier to Gil's ability to fully enjoy the goods and services offered by Winn-Dixie's stores.

In a previous case, *Rendon v. Valleycrest Productions*, the 11th Circuit pointed out that an intangible barrier could deprive a disabled person of the ability to enjoy the goods and services of a public accommodation just as surely as any wall, steps, or any other physical barrier. Mr. Gil relied heavily on *Rendon* to support his claim that due to its inaccessibility to the visually impaired, Winn-Dixie's site is functionally an intangible barrier, denying him equal access to the chain's goods and services that he is entitled to under the Act. The Court disagreed with Gil's position and in doing so, pointed out several crucial differences between the facts in the instant case and those in *Rendon*.

First, *Rendon* involved a suit filed by several disabled persons who were unable to qualify for the game show *Who Wants to be a Millionaire?* The suit was brought by plaintiffs who were unable to qualify for the game show because the sole avenue in which one could qualify was through an automated telephone hotline. The hotline presented callers (would-be contestants) with a series of questions to be answered via the touchpads on their phones. Disabled individuals such as the plaintiffs could not answer the questions by pressing the correct number on their phones due to upper body mobility issues or because they could not hear the questions due to hearing impairments. The Court held that because the only way a person could qualify for *Who Wants to Be a Millionaire?* Was through the hotline system, that

its inaccessibility to the disabled acted as an intangible barrier. In contrast, the Court pointed out that Winn-Dixie's website is not the sole means of accessing the products and services available at its physical locations. Further, the majority stated:

[m]ost importantly, it is not a point of sale; all purchases must occur at the store. Further, all interactions with Winn-Dixie which can be (although need not be) initiated on the website must be completed in-store: prescription pickups and redemption of coupons. And nothing prevents Gil from shopping at a physical store.

The majority also pointed out that just because it was less convenient for Mr. Gil personally to shop at a physical Winn-Dixie store and stand in line to refill his prescriptions or redeem paper coupons, there was no obstacle or barrier preventing him from doing so. Further, they went on to address both the key points raised by the dissent, as well as *Robles v. Domino's*.

Regarding the dissent filed by Judge Jill Pryor, the majority pointed out what they believed was the incongruity of her position, namely that while acknowledging "that the ADA does not require that places of public accommodation provide identical experiences for disabled and non-disabled patrons," she simultaneously argues that Winn-Dixie's site violates Title III because it does not offer comparable experiences to visually disabled and non-disabled customers. The majority also pointed out that under the dissent's sweeping definition of what constitutes a good, service, advantage, or privilege under the Act, anything, regardless of tangibility, would fall under the Act, even things like convenience and time savings.

Then, the majority isolated what they believed to be the true difference between *Robles* and the case before them. They pointed out that Domino's Pizza's website and app allowed customers to purchase food and drink from its physical locations, while Winn-Dixie's website did not allow a customer to purchase anything. As a final rejection of the 9th Circuit's reasoning, the majority explicitly rejected the "nexus requirement" in favor of its own "intangible barrier" precedent.

In closing, before vacating the district court's judgment and remanding the case, the majority acknowledged the frustrations of Mr. Gil and other disabled individuals and how problematic a lack of accessible websites can be for them. However, they also noted that our system of government does not allow courts to rewrite statutes to read the way the court would like them to, and absent legislative action changing the definition of "public accommodation," this was the only ruling they could make.

BECAUSE OF WINN DIXIE: WHAT DOES IT MEAN FOR BUSINESSES?

After the Supreme Court declined to hear Domino's Pizza's appeal, it was hailed as a victory for the disabled and accessibility advocates.

At first glance, people like Guillermo Robles appear to be the clear winners because even if his suit ultimately proves unsuccessful, the 9th Circuit has made it abundantly clear that any public accommodation with a physical location and any internet-based means of accessing the offering of that location must comply with Title III regarding its web presence. Additionally, with the population of California sitting just south of 40 million people, it would seem a market too large to ignore and if the price of doing business in that market is having an accessible website, then logically it would seem that most businesses would do so.

Then the other shoe dropped on April 7, 2021, with the 11th Circuit's *Winn-Dixie* opinion. Now, on the opposite coast, you have Georgia, Alabama, and Florida and their approximately 37 million residents operating under binding precedent that a website can never be a public accommodation.

This uncertainty is destined to continue until either Congress or the DOJ engages in the process and provides the clarity that our legislative and rulemaking processes were intended to provide, or unless the 11th Circuit's decision in *Gil v. Winn Dixie* leads to a grant of certiorari by the Supreme Court. However, the apparent reluctance of the Supreme Court is understandable in that either the legislative branch or the executive branch could easily resolve the issue once and for all by taking action. At this time, the circuit split is so vast that Supreme Court action may be unavoidable.

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