CASES

for the

EIGHTEENTH

INTERCOLLEGIATE ETHICS BOWL

NATIONAL CHAMPIONSHIP

HELD IN CONJUNCTION WITH

THE TWENTY-THIRD ANNUAL MEETING OF THE

ASSOCIATION FOR PRACTICAL AND PROFESSIONAL ETHICS

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1. OPEN EXCE$$ PUBLISHING

Peer-reviewed open access publishing gives end users free access to online peer-reviewed journals. Authors are responsible for the cost of publishing articles in open access journals, in contrast to the traditional model of scholarly publishing, where the cost of publishing is borne by the publisher. The traditional publisher offsets the cost of publishing through charges (such as subscriptions) to end users and libraries, and from advertising revenue.

Proponents claim open access publishing offers several advantages over traditional publishing:
- Publications reach a significantly wider audience more expeditiously than articles published in traditional print journals;
- Articles are cited more frequently, allowing researchers to establish their professional reputations more quickly;
- Researchers and the public have timelier access to scientific advances;
- Open access limits the control of publishing houses and editors, who sometimes wield their power to suppress unconventional ideas, or delay publication to allow another researcher to claim first use; and
- Open access allows equitable access to knowledge, which serves the greater good.

Opponents point out that open access publishing has disadvantages:
- Publication of an article may cost the author thousands of dollars;
- Departmental support or grant funding may favor senior scientists and scholars, whereas early career researchers and independent scholars may have to use personal resources; and
- The burden that falls on scholars who lack institutional financial support can impede their careers, which depend on peer-reviewed publication.

The number of open access journals has mushroomed since the first one went online in 1991. By mid 2013 the Directory of Open Access Journals listed over 9000. The academic community has expressed concern that some open access publishers engage in predatory practices: spamming email lists with calls for articles, charging authors hefty fees, and providing “peer reviews” of dubious quality, rigour, and substance. Beall’s List (http://scholarlyoa.com/publishers/), created by Jeffrey Beall, evaluates publications against an extensive list of criteria. Beall’s List names hundreds of questionable journals, but leaves final judgment to the author.
2. PATENTLY ABSURD?
Acacia Research Group, Inc., a publicly held corporation (Nasdaq: ACTG), represents small companies and independent inventors who don’t have the resources necessary to enforce their own patents. In the United States, a patent for an invention is a sort of monopoly, a limited property right granted by the federal government; like any other property right, its holder may sell it, license it, or even give it away. Acacia’s website contains a long string of testimonials from happy patent-holding inventors who have benefitted from Acacia's efforts on their behalf to collect licensing fees, which Acacia shares 50/50 with the patent holders. This service, the company claims, encourages creativity and research by protecting and rewarding inventors exactly as the patent system was designed to do.

A few decades ago, the largest patent holding companies were also manufacturers who stockpiled hundreds or thousands of patents to protect themselves against competing firms in the same industry. Acacia Research does not produce anything or do any research—at least not the sort of research that leads to inventions—nor does it own all the patents it licenses. It merely bundles the patents into portfolios of closely related items. A patent license grants permission to use a patented process or product, and, rather than separately licensing a number of related patents, Acacia licenses entire portfolios for a single fee. Acacia claims to manage 250 portfolios, covering such areas as database access, online ad tracking, catheter insertions, and gemstone grading. It exists solely to manage the collection of fees from licensees (large companies with deep pockets that use its clients’ patented technologies). Acacia’s website lists numerous licensees, including Exxon, Dell, General Electric, Microsoft, Intel, and Sony.

Other patent-holding companies purchase patent portfolios for themselves (instead of just managing them), and aggressively pursue licensing agreements. On its website, Intellectual Ventures, Inc. (IV), a privately held corporation, claims to hold 70,000 patents, from which 40,000 are generating revenue. Critics accuse IV of identifying and aggressively going after small startup companies that unwittingly use patented technologies in their products without proper licensing and do not have the money to engage in a lengthy court battle over licensing fees. This practice is controversial and is pejoratively referred to as “patent trolling”. Some call patent trolling a mafia-style shakedown.

Patent law has a long history of difficult interpretation, due to the complexity of reading, understanding, and applying patent claims, that is, the part of the patent that sets forth the scope of the monopoly granted to the patent holder. Patents may be granted either for a product or for a process, but modern technologies are so interconnected that separating out one process from another is not precise. Thus, patent disputes often must be resolved in court, and federal judges have nearly as much trouble making sense of patents as do laypersons. Because of this complexity in patent law, a patent troll needn’t have a legitimate claim in order to be able frighten a small businessperson into just paying a licensing fee to be done with the matter. The murkiness of patents, combined with the fact that almost anything one does impinges on some patented process or other, creates opportunities for unscrupulous companies to buy up cheap patents and use the threat of litigation to scam small companies into paying licensing fees.

The state of Vermont has taken on what it perceives to be one of the more unscrupulous patent trolls by charging MPHJ Technology Investments, LLC, with violating the state's consumer protection laws. The company allegedly threatened to sue small businesses that used any of several makes of email-capable scanners unless they paid a licensing fee of $1,000 per employee for the right to use such technology. MPHJ claimed to own patents for certain processes involved
in sending emails from any sort of scanning device, such as a home printer-scanner. Regardless of
the merits of Vermont’s case, MPHJ’s approach of going after end users is highly unusual.
Normally, the patent holder of a process would seek compensation from the maker of the
machinery that uses that process. Thus any licensing fees would be built into the purchase price of
the machine. MPHJ, instead of demanding large fees from scanner companies with legal
departments, demands smaller fees from small businesses without legal departments. The
Vermont case, therefore, while attacking illegal practices, does not get at the questionable aspects
at the heart of the legal practice of patent trolling: it only addresses what Vermont alleges to be the
deceptive claims MPHJ made in its threatening letters. Even if Vermont wins the case, the
outcome won’t affect companies that legally sell licenses to products they did not invent.
3. THROUGH A GLASS DARKLY

Ever since the invention of the sandal, we humans have artificially mediated our experience of reality, usually with the goal of altering that experience for the better. Shoes, jackets, armor, and the like protect us from rough ground, cold weather, and swords. We have not been content with protection but have sought to experience things in better ways than nature allows. For example, glasses sharpen our vision, but reading glasses magnify what we're trying to see while sunglasses filter out harmful rays. Glasses are a sort of primitive wearable technology for enhancing our visual experience, but they have gradually evolved from being merely wearable to being unobtrusive (contact lenses) to being implantable (phakic intraocular lenses).

Numerous devices exist to enhance raw experience. Auto-tuning hardware or software corrects our pitches as we sing karaoke off-key. Night-vision goggles enhance our sight in dim lighting.

At the forefront of this technology seems to be Google Glass, a new wearable technology that Google introduces on its website (http://www.google.com/glass/start/what-it-does/) with the words, “Welcome to a world through Glass.” Google Glass offers a voice-activated visual experience that allows wearers, inter alia, to take snapshots, share or record live video, see GPS overlays, message others, get answers to spoken questions, and perceive written translations of words spoken by the wearer. Google Glass promises to deliver a two-way visual adventure that blends the virtual and the real, but Google controls the virtual part of that experience.

A 1960s science fiction television series, “The Outer Limits,” opened every episode with the following announcement: “There is nothing wrong with your television set. Do not attempt to adjust the picture. We are controlling transmission. If we wish to make it louder, we will bring up the volume. If we wish to make it softer, we will tune it to a whisper…. For the next hour, sit quietly and we will control all that you see and hear…. You are about to participate in a great adventure. You are about to experience the awe and mystery which reaches from the inner mind to—The Outer Limits.”

In the not-too-distant future, technology that is now only wearable could become implantable, zooming us right up to the precipice of “the awe and mystery” of the outer limits. We may have implantable network-based devices such as lenses and cochlea which would mediate an enormous part of our experience by controlling “all that [we] see and hear.” Colors could be enhanced or muted, loud noises dampened, pitches corrected, obscenities bleeped, foreign phrases translated, “subversive” messages censored, unwanted opinions muted, unknown faces identified, searched text highlighted, street names spelled out during walks, context-sensitive ads inserted into our waking moments, sexual encounters shared with friends on social networks, and casual conversations monitored by employers or the Department of Homeland Security.
4. THE POWER BEHIND THE DRONE
The potential benefits of unmanned aerial vehicles (UAVs, or more commonly, drones) used in civilian life are countless—as are the potential threats. Drones are small, inexpensive, easy-to-use, agile, and technologically sophisticated. As tiny as insects and starting at about $75, drones can be controlled by cell phone to snake around obstacles and tunnel through small openings, making them ideal for surveilling, conveying, chemical monitoring, filming, and data recording. Drones can survey and spy, help and harm, monitor and menace. Uses and abuses are limited only by imagination.

First Street Research Group is a Washington DC organization that analyzes lobbying data and political influence. First Street data show that in 2011, six companies requesting licenses to operate drones domestically have alone spent over $25,000,000 lobbying Congress. These six are just a small part of the powerful drone lobby, which includes aerospace companies, defense contractors, technology manufacturers, software companies, security corporations, and universities. The drone lobby donates to campaign coffers of members of Congress, helps draft laws regulating and funding drones, and promotes the beneficial uses of drones.

Drones do perform many useful functions that save time, money, and lives. Farmers use drones to monitor crops, real estate agents to show far-flung properties, rescue crews to deliver emergency supplies to injured climbers, and safety engineers to assess hazardous conditions. Other beneficial uses include storm tracking, energy exploration, hostage assessment, wildfire management, infrastructure inspection, and criminal surveillance.

Some uses of drones, however, are both positive and negative. Hunters use drones to track wildlife, while animal rights groups use drones to track hunters. A group of South Carolina pigeon hunters being drone-tracked by SHARK (SHowing Animals Respect and Kindness) shot the drone from the sky. The celebrity photo agency, Splash News, is developing its own silent celebrity-tracking drone so paparazzi can get candid pictures of celebrities without resorting to dangerous car chases and undignified hiding in the bushes. Parents can track teenagers who sneak out at night, and record evidence of where they went, who they were with, and what they did. Of course, teenagers can do the same to their parents.

Other uses of drones are deleterious. Drones make crimes easier to commit, and to commit without detection. The civilian use of military assassin-bug drones that explode when they hit their targets presents opportunities for private vendettas. A small, silent drone could be given the capability to drop biochemical weapons on the Superbowl. A cell phone-operated camera drone that looks like a little bird, could be programmed to hover for hours outside a 37th floor bedroom window, and send back continuous video unsuspecting victims, which the voyeur could post online, sell, or use as blackmail.

Increasing the threat to privacy, Camero, a decade-old company specializing in radar-based imaging systems, sells equipment with technology that can “see” through ceilings and walls. The 3 April 2013 Congressional Research Service Report, Drones in Domestic Surveillance Operations: Fourth Amendment Implications and Legislative Responses, predicts that “Currently, UAVs carry high-megapixel cameras and thermal imaging, and will soon have the capacity to see through walls and ceilings.”

Drones pose physical dangers. In 2012, the Federal Aviation Administration predicted that as many as 30,000 drones will be licensed for domestic use in the US by 2020. However, just one
company, 3-D Robotics, had already sold over 30,000 drones for domestic use by spring of 2013. As more unmanned aerial vehicles crowd the skies, the likelihood of accidents increases, as many drones cannot avoid small flying objects. Some states and municipalities have banned them, even before they have been detected in the area.
5. WRITER WRONG?
In 1924, dying of tuberculosis in a Viennese sanitorium, Franz Kafka wrote to his lifelong friend, Max Brod, and instructed him that when he, Kafka, died, Brod should destroy all of Kafka's unpublished writings. Brod did not comply with Kafka's wishes. Instead he released the manuscripts for unpublished novels--The Trial, The Castle, and Amerika--works that firmly established Kafka as one of the foremost European writers of the twentieth century. Brod also retained about 40,000 pages of other writings, which he passed on to his secretary, Esther Hoffe. When she died, at the age of 101, her daughters inherited the unpublished writings, and kept their contents a deep secret. Recently, after a protracted court battle between the state of Israel and Hoffe’s daughters, Israel gained access to these writings. Israel plans to make the writings public.

Kafka's situation is not the first time great literature was rescued from oblivion by a disobedient executor. Virgil was still polishing the Aeneid at the time of his death in 19 BCE. Tradition has it that he became ill and left instructions that the manuscript be destroyed. Augustus Caesar ordered the instructions be ignored, and the Aeneid was published with minor editorial corrections. It became, and has remained, a central work in the Western canon. The Aeneid is often acclaimed as the pinnacle of Latin literature.

Some authors, of course, have succeeded in such end-of-life housecleaning. Willa Cather died before completing a novel, Hard Punishments. Her editor and friend of thirty years, Edith Lewis, destroyed the unfinished manuscript, as per Cather's instructions. Nicolai Gogol didn't trust the task to anyone else, but burned the manuscript of a sequel to Dead Souls. Many people feel the world to be worse off for these losses.

Vladimir Nabokov's last work, The Original of Laura, was unfinished when the author died in 1977. He left strict instructions to destroy the manuscript, rather than publish it in its imperfect state. After 30 years of wavering over what to do, his son, Dmitri, released it for publication. Pre-publication hype suggested the book might be “the literary event of 2009,” but the critics did not receive it well, finding it fragmentary and puzzling. While Nabokov scholarship has benefitted, the larger literary public may not have.
6. FAITH HEALERS


Many small, financially troubled hospitals in Washington have been taken over by Roman Catholic healthcare systems. By 2012, one third of Washington’s hospitals were controlled by Catholic systems. That portion was predicted to rise to almost one half by the end of 2013. Consequently, in over a quarter of the state’s counties, all of the hospital beds will be governed by healthcare policies required by Catholic doctrine.

The Ethical and Religious Directives, created by the United States Council of Catholic Bishops, requires all healthcare providers in Catholic facilities to conform to Catholic dogma in providing healthcare services as a condition of employment. In Part Three, the Directives states that, “When the health care professional and the patient use institutional Catholic health care, they also accept its public commitment to the Church’s understanding of and witness to the dignity of the human person.” That is, patients who use Catholic healthcare facilities cannot expect access even to healthcare services guaranteed by Washington law, if they are inconsistent with the church’s moral teachings. Ironically, a 2012 Gallup Poll showed that Washington is tied with Nevada and Oregon as the sixth least religious state in the country.

Supporters of mergers point out that without some such rescue, financially struggling hospitals could close, and area residents would lose access to local healthcare. Supporters note that retaining a local hospital outweighs the loss of some healthcare services: if only Catholic institutions have the means to provide healthcare in a community, they shouldn’t be vilified for omitting services they find morally impermissible.

Opponents charge that these mergers remove the choice to receive healthcare in a secular institution, where services are not limited by a single religious perspective. In particular, Washington voters granted residents reproductive choice, end-of-life autonomy, and recognition of civil unions. These options are not supported by Catholic hospitals. This lack of support is particularly burdensome for residents of communities in remote areas.

The choice for many Washington residents seems to be Catholic healthcare or no healthcare.
7. DRUG HABIT
Antipsychotic medications have been prescribed since the mid-1950s. These drugs improved the lives of people with debilitating psychiatric disorders like schizophrenia and bipolar disorder, even though most had some serious side effects. Several decades later, the Food and Drug Administration (FDA) approved a second generation of antipsychotic drugs with fewer side effects called “atypical antipsychotics.” Very shortly, over 90% of antipsychotics prescribed belonged to this second generation. The remainder of this case deals with this second generation of drugs.

Prescription of antipsychotics has skyrocketed in the last two decades, despite the fact that the percentage of the US population afflicted with the conditions for which the drugs are approved (schizophrenia, bipolar disorder, and major depressive disorder) has continued to hover around 3%. The increase is attributed to “off-label” prescribing, which allows doctors to prescribe an FDA-approved drug for other purposes, when sufficient evidence supports efficacy, comparative effectiveness, and safety. Off-label prescription of antipsychotics accounts for the vast majority of prescriptions for this class of drugs.

Experts question the dramatic increase in use of these powerful drugs to treat off-label conditions, such as anxiety, attention deficit disorder, disorder, some autism spectrum disorders, insomnia, combat-induced post-traumatic stress disorder, obsessive compulsive disorder, substance abuse, behavioral issues in children, and dementia in the elderly. A few uses are supported by evidence, while many are unsupported by sufficient study. Safety, dosage, duration, method of action, differential age effects, and many more variables have simply not been controlled in rigorous studies.

Of particular concern is the use of antipsychotics in children and the elderly. Many studies document the dramatic increase in off-label antipsychotic prescriptions for children, especially children on Medicaid. Most frequently doctors prescribe these drugs to control disruptive behavior in children. Among the elderly, doctors use the drugs to moderate the behavior of dementia patients and to treat generalized anxiety.

Although demonstrating fewer side effects than the original class of antipsychotics, atypical antipsychotics still have serious side effects, especially with long term use. Extreme and rapid weight gain, irreversible motor conditions like spasms and drug-induced Parkinsonism, sedative effects, and fatigue are among other common side effects. Despite a 2005 FDA warning that these drugs are associated with premature death in the elderly, prescription continues to this population.

Drug treatment for many psychological disorders, including off-label use of antipsychotics, has increased for a number of reasons. Primary care physicians often lack the training, time, or comfort level to deal with psychosocial problems, and prescribing a drug is an easy solution. Many health insurance plans favor drug treatment, which is usually less expensive than more labor intensive counseling alternatives. Perverse incentives also influence prescribing behavior. For example, a child taking antipsychotics may be eligible for Social Security Insurance Disability funding, and for increased social and educational services. Although the FDA prohibits advertising off label uses of drugs, drug companies find loopholes to promote the products and create demand with the public and with healthcare providers.
8. GONE TODAY, HERE TOMORROW
In Jurassic Park-like fashion, scientists have been attempting to bring recently-extincted species back from the dead, so to speak. The 5 April 2013 journal Science reported that the first live product of de-extinction, a Pyrenean ibex, lasted only a few minutes before extincting again. The ibex, which was produced by a process similar to that used for Dolly, the infamous cloned sheep, was driven to extinction in the first place with the help of humans. Some scientists think it only fitting that humans play a part in the de-extinction of those species that we helped to extinct in the first place.

An environmental argument for de-extinction arises from the case of the woolly mammoth, a species whose de-extinction would likely have beneficial consequences, such as the restoration of a more diverse ecology in the Arctic. Unfortunately for dinosaur enthusiasts, species of dinosaurs are not contenders for de-extinction at the moment, as the processes for de-extinction that are currently available require “fresher” DNA. And some notable environmental scientists are concerned about the unforeseen effects of reintroducing a de-extincted species into an environment, much like the unforeseen effects of introducing non-native species of plants or animals into novel environments. One might also wonder whether de-extincted creatures fall under endangered species laws and whether it is appropriate to use the term ‘extinct’ for species from this time forward, given that de-extinction is an imminent possibility.
9. LURE

John, an 18-year-old college freshman, tackled a history assignment that required research about people who affected change through civil disobedience. Sitting at his computer in his dorm room, John trolled through websites of rights, advocacy, radical, and militant groups. He followed a winding path that led him to groups like Greenpeace, Human Rights Watch, the National Urban League, the Black Panthers, and Students for a Democratic Society. He went on to sites of radical religious and nationalist groups and organizations like Lashkar-e-Taiba, RSS, National Liberation Front of Tripura, Hindutva, and Bodu Bala Sena. John eventually ended up on the website of the radical group, FundoAuctorita.org.

John’s family is only slightly religious and does not attend services regularly, nor do they discuss religious beliefs or moral values at home. John, a typical angst-ridden and confused teenager, feels the pull towards a belief system—any belief system—that can make sense of the world for him. As John made his way through posts on FundoAuctoritas.org, he was excited to find a local group that claimed to meet clandestinely twice a month to plan “events”.

John went to the website every night for the next few weeks. The site, however, was actually constructed and maintained by the FBI to find people with terrorist-leanings. He eventually started blogging about the perceived injustices in his school, his family, and his community. An FBI agent, posing as a local member of Fundo Auctoritas, started discussing upcoming “events” with John. The agent fed John fictional but convincing-looking news stories that noted the exploits of Fundo Auctoritas.

It took a few more weeks for the agent to convince John that Fundo Auctoritas’s causes were just, and that he should participate in the next planned “event”: a bathroom bomb to be detonated in a local Dallas mall. The agent told John that the explosive device would rupture pipes and flood the mall on a busy Saturday afternoon. As people fled, they would be showered at the exits with propaganda for Fundo Auctoritas, dispensed from containers concealed on the mall’s roof. The containers were triggered to deliver their payloads 30 seconds after the bathroom bomb. The agent told John that the bomb might hurt people, even though that wasn’t the primary intent. John knew (as did the FBI agent with whom he had been conversing) that the mall in question was the hangout for the popular clique from his old school: a group of teenagers he hated for bullying and embarrassing him most of his school days. He assured the agent that he was OK with some collateral damage to further the just causes of Fundo Auctoritas.

When John arrived at the pre-arranged meeting place outside the mall to assist in Fundo Auctoritas’s event, he was met by FBI agents and charged with felonies under the Patriot Act.
**10. DON’T GLOW AWAY RAD, JUST GLOW AWAY**

Oral administration of 131I, a radioactive isotope of iodine, has been a commonly accepted procedure for treating thyroid cancer since the 1940s. Patients who have undergone this treatment, known commonly as radioiodine therapy, are potential radiation hazards for up to a week or more, depending upon dosage. After treatment, radiation is emitted from the patient and radioiodine is secreted in bodily fluids such as sweat, saliva, and urine.

In 1997, the US Nuclear Regulatory Commission (NRC) changed its rules on the management of post-treatment radioiodine patients. The NRC eliminated its requirement for quarantine, and now allows physicians to conduct radioiodine therapy on an outpatient basis, provided they give patients detailed post-treatment instructions for protecting others from radiation. In contrast, Germany continues to require hospital isolation of such patients to protect public health. Some have long suspected that the NRC changed its rule in response to the health insurance lobby’s efforts to reduce costs by limiting the length of hospital stays.

In 2007, a patient caused widespread contamination in an Illinois hotel when the used linens were washed with other sheets and towels. The contamination was discovered only because workers from a nearby nuclear facility who stayed at the hotel set off radiation detectors when they returned to work.

Prior to its October 2010 meeting on medical isotopes, US Representative Edward Markey of Massachusetts formally requested the NRC to review and revise its rules surrounding radioiodine therapy patients, after he concluded that patients were exposing their families and the public to unacceptable levels of radiation. Seven percent of the patients from Rep. Markey’s Congressional investigation checked into hotels after treatment, where they contaminated linens and room surfaces, and potentially exposed hotel workers and guests to radiation.

Responding to Rep. Markey in January 2011 on behalf of the NRC, Gregory B. Jaczko reported that current rules requiring post-treatment instruction to patients were adequate. He refused to revisit the NRC’s 1997 decision, concluding that the current patient release limits did not pose a threat to public health. Nevertheless, radioiodine therapy patients continue to set off radiation alarms at airports and other locations, calling into question the NRCs assessment of risks in nuclear medicine.
11. FEEL THE BURN
Feeling the pinch of paying ever-increasing health insurance premiums, employers are seeking ways to manage their fiscal pain. Recognizing the business sense of saving money on premiums and of having a healthier and more productive workforce, employers are looking with new appreciation at different options offered by the Affordable Care Act of 2010 (ACA). One provision of ACA that goes into effect in 2014 allows employers a more lenient approach to use of financial incentives and penalties. That is, more of the health care premium can be devoted to incentives and penalties for employee health behaviors and health status.

The ACA allows employers to offer stronger outright financial incentives to employees for participation in wellness initiatives. Employers had already been experimenting with different options for encouraging healthy behavior among employees, using both incentives and punishments. Some companies have had wellness programs with on-site fitness facilities and wellness directors, while others have offered employees memberships in health clubs. It also allows imposition of financial penalties for employees’ lack of participation in proffered options intended to mitigate ‘bad’ health indicators like smoking, high cholesterol, or extra pounds. It even seems to allow penalties for not meeting certain ‘good health’ targets.

CVS Caremark, a large drugstore chain and pharmacy benefit manager, brought this issue to the public eye when it received adverse publicity about an impending change in its benefits package. The media reported that CVS Caremark would require its 200,000 employees to report their weight, blood sugar and cholesterol or be forced to pay an annual penalty of $600. The publicity CVS Caremark got was somewhat unfair because the media implied that the personal health data would be reported directly to the employer (which is prohibited by the Health Insurance Portability and Accountability Act – HIPAA). In truth, the employee health records would be kept by a third party wellness vendor, hired by CVS Caremark to monitor employee health and adjust benefits to encourage health improvement.

Recent surveys indicate that CVS Caremark is not the only company that uses incentives and penalties to affect health behaviors. Some other major employers, including PepsiCo and Wal-Mart, have also adopted such policies. An Aon Hewitt survey found that 79% of large and midsize companies incentivize employee use of wellness opportunities, while 45% go a step further by using financial rewards or penalties (like adjusting employee share of insurance premiums) to incentivize certain behaviors. An alternative adopted by some companies, like Regal Cinema, is to cut employee hours to avoid providing insurance benefits.

Now that wellness programs have been around awhile, sufficient studies have been done to show that the efforts do not consistently save money or result in healthier employees. In fact, the rewards may go to already healthy employees, and penalties may fall on those with the greatest need for health care cost relief.

Thoughtful critics recognize the need for resolution of the increasing cost of healthcare and its burden on employers, employees, and society. They note that because our understanding of the causes of many chronic conditions (like obesity) and of health behavior motivation is imperfect; our use of incentives and penalties may be misdirected. In addition, analysts caution that the interests of the employer versus those of the employee must be carefully weighed. The U.S. Equal Employment Opportunity Commission is exploring the possibility that employer plans violate anti-discrimination laws. Some states are also looking at prohibiting the link of a worker’s health status to financial reward or punishment.
12. RENTING A WOMB

Medical tourism is big business in India. Foreigners from many countries are flocking to India for services from hip replacements to reproductive technologies: medical procedures they can get more quickly and more inexpensively than at home. India is an appealing medical tourism destination because of its relatively advanced health care and the widespread use of the English language.

A rapidly growing segment of this market is surrogacy. In just a few years, this service has grown from one clinic in Anand to others in Gujarat and around the country. Parents wanting a child visit these clinics in India to be connected with a woman who will carry a baby to term for them. Many prospective parents are infertile, some are gay couples, and some simply don’t want to be inconvenienced by pregnancy. Experts estimate that the market generates between one half billion and two billion US dollars annually in India, and that as many as 25,000 children are born through surrogates, with over half of those destined to overseas parents.

Surrogacy services include implantation of fertilized eggs, prenatal care, and a fee to the surrogates for carrying the fetus to term and then releasing it to the contracted parents. Sometimes the implanted eggs are the biological mother’s eggs fertilized by the biological father’s sperm, while in other cases the eggs or sperm may be from other sources.

Most women who serve as surrogates are very poor and often illiterate. Critics worry that the women are being exploited. Sama, a non-governmental, Indian organization dedicated to protecting women’s health, points out that surrogacy was legalized in India in 2002. Although a few protections have been put into law in recent years, the surrogacy market is still largely unregulated. Sama claims the existing law does more to protect the parents than to protect the surrogate women. They point out that Indian law does not address protection of women from maltreatment, from unscrupulous clinics that value the baby’s life over the mother’s, and from other exploitations. Sama also asserts that women may be coerced into surrogacy by husbands or in-laws or even “pimps” who benefit from the business. In addition, many surrogates suffer stigma attached to their unexplained pregnancy, feel compelled to lie to their families and friends, and must stay at the clinic and away from their villages for the duration of the pregnancy. Critics of Indian surrogacy raise the concern that, to assure one viable fetus, clinics often implant too many fertilized eggs into a surrogate, a practice that endangers both the fetuses and the woman. Critics may also be troubled by the selective abortions of extra fetuses and of fetuses with characteristics undesirable to the contractual parents.

Often accustomed to working for less than $2 per day, Indian women welcome the surrogacy fee ranging from $5,000 to $7,000 (more than ten times their annual possible income). Some women repeatedly serve as surrogates. Defenders of surrogacy point out that the women are able to make money in a way that is often safer than their usual occupations and that they get good food and good healthcare during the pregnancy. Dr. Nayna Patel, who began the first surrogacy clinic, defends surrogacy against claims of exploitation by pointing to all the safeguards she established to assure that the women know exactly the terms of their contract, at least at her clinic. She cites case after case of women who have made a better life for their nuclear families with the extraordinary money they make. In interviews, surrogates say that they welcome the money to buy their families houses, to fund dowries, and to secure a better life for their own daughters. Finally, Dr. Patel points out that surrogacy is a uniquely female occupation and is empowering for some women.
Foreign advocates of surrogacy in India point out that it is relatively inexpensive and is quickly arranged. Surrogacy services in the US can cost up to $70,000, while in India the same services cost about $12,000. In addition, prospective parents observe that the surrogacy contract signed in India provides better protection of their interests than those in the US, because only a few US states uphold surrogacy contracts as legally binding on the surrogate, thus allowing a US surrogate to change her mind and keep the child. Western parents also assume that most Indian women would not welcome another mouth to feed, and they feel reassured that an Indian surrogate will be more likely to relinquish the baby without resistance.
13. HERESY OR HERITAGE?
Memphis, Tennessee bears deep scars of the American civil rights movement. Images of the Lorraine Hotel and sanitation workers picketing with placards declaring “I Am a Man” remain vivid in the memories of many here. Now the city is embroiled in a dispute that pits those who seek to honor the struggle of African Americans against others who champion less recent history.

In February 2013, the Memphis City Council voted to rename three parks that honored the city’s Confederate past. Confederate, Jefferson Davis, and Nathan Bedford Forrest parks now bear generic names, i.e. not military, whilst the Council considers permanent ones recommended by an ad hoc Council committee in April 2013.

Most observers considered the Council’s action a preemptive move to circumvent in part the intent of the Tennessee Heritage Protection Act of 2013, a bill that was moving through the Tennessee Statehouse at the time. This act, signed by the Governor on 1 April 2013, prohibits changing the name of parks, inter alia, currently named for “any historical military figure, historical military event, military organization, or military unit.” Had the City Council of Memphis not acted when it did, the city would have been stuck with the original park names in perpetuity.

Those who support the City Council measure contend the former park names evoke a racist past and were offensive in a city of largely black residents. Others simply worry that confederate-themed names make it more difficult to attract new businesses to the city by sending the wrong message about its values.

Southern heritage groups, on the other hand, believe the renaming threatens historical knowledge, even though the parks in question do not mark battlefields and are not located on sites of historic events. Chris Barker, a local Ku Klux Klan leader goes further. Quoted in the 28 March 2013 New York Times, he claims that “[t]he Memphis City Council is basically trying to eradicate white people out the history books across America.”

Both Confederate and Forrest Parks were dedicated in the early 20th Century. The former was a memorial to the Civil War. In 1904 the bodies of Nathan Bedford Forrest, a Confederate general and the first Grand Wizard of the Ku Klux Klan, and his wife were re-interred in Forrest Park. Jefferson Davis Park was opened in the 1930s and named for the Confederate President who lived and worked in Memphis from 1869 until his death.

Seeking a compromise, some in Memphis suggest adding history to the city rather than taking it away. For instance, the same New York Times article reported that Doug Cupples, a history professor from Memphis, called for reinstating the original names of the parks and also building more monuments to honor African American leaders. Illustrating just how intractable the issue has become, the newspaper subsequently quoted Baptist minister Keith Norman as equating the restoration of the park names as akin to honoring Nazis in modern Germany.
**14. TO BEE OR NOT TO BEE**

Honeybee populations have declined worldwide. In the US, the annual mortality rate for honeybees has been double to triple the expected rate each year for about a decade. Scientists estimate that there are now only about one-fourth as many honeybee colonies in the US now as there were 60 years ago. Agricultural pollination, mainly by honeybees, is essential to crop production. Diminished availability of these pollinators endangers agriculture and the food supply.

Colony Collapse Disorder (CCD), a set of symptoms related to a variety of factors, was described in 2006 after beekeepers noticed that honeybees would leave their hives and die elsewhere. Since its identification, researchers all over the world have been trying to save the honeybees.

In May 2013, the US Department of Agriculture (USDA) and the US Environmental Protection Agency issued an extensive report detailing the outcomes of a national meeting of stakeholders concerned with the disturbing decline of honeybee colonies. The report summarized the complex forces that have diminished the honeybee population: loss of wild bee habitat, loss of genetic diversity, parasites, disease, poor nutrition, and exposure to pesticides.

Experts agree that pesticide exposure is one factor in CCD. Some of the research on CCD has focused on the effects of the nerve poisons: neonicotinoids, or neonics. Introduced in 1991, neonics are coated onto agricultural seeds. As the plant grows, the pesticide distributes into the pollen and nectar. Neonics are aimed at other pests, but their impact on honeybees has been noted and studied since the 1990s. Several recent studies confirm that honeybees exposed to neonics show effects consistent with symptoms observed in CCD. In particular, the pesticide is blamed for interfering with the bee’s ability to gather pollen and return to the hive.

The European Union has determined that the evidence linking neonics to CCD is sufficient to warrant issuing a two-year ban on the use of this class of pesticides. The USDA has continued to withhold judgment, asking for more research.

Monsanto is a major global company and a significant player in agriculture worldwide. It supplies pesticides and other agricultural chemicals, and it genetically engineers seed for sale. It is a major source of seed-dusting neonics worldwide. Experts point out that honeybees may also be affected by pollen from another of the company’s products, a corn variety (Roundup Ready) whose genetic makeup Monsanto engineered to include a pesticide effect.

Cynics ask why Monsanto purchased a small company in 2011 called Beeologics. Founded in 2007 in response to the honeybee decline, Beeologics’ mission, according to its website ([http://www.beeologics.com/about-us](http://www.beeologics.com/about-us), accessed 11/24/13), “…is to become the guardian of bee health worldwide. Through continuous research, scientific innovation and a focus on applicable solutions, Beeologics is developing…products to specifically address the long-term well being of honeybees…” Though Monsanto claims it is committed to having Beeologics continue its work, environmental journalist Richard Schiffman, for one, is skeptical. In his blog in the 5/3/13 Huffington Post, *The Fox (Monsanto) Buys the Chicken Coop (Beeologics)*, Schiffman wonders if the purchase of a company dedicated to saving honeybees might in reality be a means to cover up, rather than solve the problem.
15. VEILED THREATS?
The niqab and burka, covering the head and face, are worn by some Muslim women. Some Muslims believe that the face coverings not only protect women from the gaze of men, but also separate women from the world so they may draw closer to God. The niqab leaves the eyes uncovered; the burka has a screen over the eyes.

In April 2011, France’s laws banning the wearing in public of niqabs, masks, balaclava, helmets and other face coverings went into effect. The law makes some exceptions for purposeful face coverings such as safety helmets and carnival masks. The law also makes exceptions for women who wear niqabs and burkas in private cars and places of worship. Belgium and the Netherlands have also banned the niqab and burka in most public places.

To ensure that all students could be identified while on campus, in 2005 Birmingham Metropolitan College banned all headcoverings, including hoodies, caps, hats, and veils. In September 2013, the college lifted the ban on women wearing the niqab, following organized protests against the ban. Administrators justified the reversal of the ban, saying protests interfered with the school’s educational mission.

Britain’s Blackfriars Crown Court allowed a defendant to wear the niqab during her trial for intimidating a witness, but ordered her to remove it to give testimony. A Michigan judge threw out the small claims court case of Ginnah Muhammad, because she refused to uncover her face in court. In 2009, the Michigan Supreme Court upheld the judge’s decision. Supporters of the right to wear the niqab in court argue that prohibition of the face covering is a denial of religious freedom and individual rights. Opponents argue that judges and juries must be able to see the face of witnesses and defendants, as well as hear their words to adequately assess their testimony. Uncovering the face is necessary for proper identification. Further, assert proponents, a victim has the right to see the face of the accused.

Some question the motives of those who choose to live in a democratic society, then demand the right to change the culture. This tension has prompted discussion on whether it is essential or discriminatory to ban niqabs and burkas in some public places such as schools and courtrooms, and for some professionals, such as legislators and hospital healthcare workers. Some predict that restrictions on religious freedom will increase the divide between groups, leading to more violence.

Those who favor a ban on face coverings in public offer several reasons. They say that such a ban prevents women from being coerced into wearing a veil. They also assert that communication of veiled girls and women is restrictive, create segregation, and prevents full membership in society. Further, those supporting bans claim that face coverings pose a security threat, as the true identity of the person cannot be discerned.

Opponents to bans on religious and cultural clothing cite the preservation of individual rights, self expression, and personal liberty as well as the protection of religious freedom. Many, including women who choose to keep their faces covered in public say that the burka and niqab are empowering. They remove the concern of sexual harassment, and force others, particularly men, to judge them on their intellect and behavior, rather than their appearance.