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WEIGHT DISCRIMINATION: THE NEXT WORKPLACE BROUHAHA?

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ABSTRACT

Just as it seemed impolite twenty years ago to question the financial efficacy of accommodating smokers in the workplace, it seems impolite today to suggest that obesity, or even lesser levels of excess weight, is a financial and productivity issue that must be addressed in employment policies. Yet that inevitable day is coming. Just as with smoking two decades ago, the effects of obesity on business cost functions are staggering. The soaring costs of medical care exacerbate this dilemma, as obesity-related diseases and infirmities are costing more and more to manage in the health care milieu.

This article presents a compelling case for looking at excess weight in much the same way that we have come to view smoking behavior: as the manifestation of lifestyle behaviors that are "achieved," rather than "ascribed," and not under the protective umbrella of our civil rights departures from "employment at will." As with smoking, once a clear and compelling case is made for avoiding unnecessary costs associated with a chosen lifestyle, businesses will become less tolerant of and less accommodating of excess weight, and take other selective actions to mitigate the financial burden of obesity in the workplace.

INTRODUCTION

Over 20 years ago I asked an indelicate question as the title of what would be the first of many articles that made smoking a business issue: "Can you afford to hire smokers?" (Weis, 1981, 1984, 1985, 1987). Today it's hard to imagine the workplace of 1980, where employees regarded smoking as a right to practice wherever and whenever they pleased. Young adults today, at least in America, would find the workplace conditions of that era incredulous, and absolutely intolerable. But at the time the suggestion that smoking be restricted at work was regarded as extreme and preposterous.

In the decade of writing and speaking and debating this issue during the 1980's and 1990's, I was often asked by tobacco industry antagonists if my bent for prohibition would also invade such other allegedly unhealthful behaviors like drinking coffee and alcohol, sky diving, and eating too much. It was a red herring question. Tobacco consumption was so far ahead of all other preventable risk factors that it was indefensible folly to compare it to other behaviors, no matter how deleterious in their own right. They were simply trivial, in every respect, in comparison to smoking.

Times have changed. Smoking rates have fallen below 20 percent in states like Washington, where I live, and the notion of smoking in the workplace is now regarded as absurd. Among the professional working class smoking is a relic of the past. In my MBA classes, comprised of working professionals, I often go several school terms before meeting a student who smokes, and that individual is invariably a foreign student (given the physical demands of my courses, which entail outdoor experiential activities, I require a detailed health information profile that includes one's smoking behavior).

And another thing has changed markedly over the past two decades. Today over 64 percent of the adult population is overweight, compared with 46 percent in 1980 (CDC, 2002), and the consequences of this infirmity to the public health – as well as to the health profile of the workforce – are staggering. The combination of soaring rates of excess weight and obesity, with the

correspondingly disproportionate surge in health-care costs, now renders the prevalence of overweight employees a major business issue for employers. At the same time we have become so inured to seeing overweight friends and colleagues that we rarely note, at least consciously, the abnormality of this spectacle. Today, in a typical heartland cafe in rural Midwest America, one could fully expect that well over half the customers will be overweight, at least several of them technically obese. One could expect a similar spectacle walking the streets of Chicago, Houston, or Atlanta. Only a minority would fit the *healthy weight* guidelines. Next to myopia, no infirmity has been more universally normalized than carrying excess weight (Weis, 2005).

ANATOMY OF AN EPIDEMIC: MAKING WEIGHT GAIN A MYSTERY

The American workforce mirrors the general population, where Americans of all ages are getting fatter. Television specials addressing the problem, both locally and nationally produced, are now a frequent and recurring viewing genre -- with each program concluding that the epidemic is, at least in part, a mystery. Some leave the viewer with nothing more substantive than the vague impression that this bout of fatness is utterly inexplicable. Most of the shows talk obliquely about such things as diet and exercise, but those never really come through as either cogent explanations for why people are becoming overweight, or as possible remedies for this growing plague. Most of the shows predict future break-through drugs that may one day eliminate the menace. Some even present graphic demonstrations of the effects of liposuction surgery. And most shows interview luminaries in the diet-book selling arena, especially the wildly successful advocates of doping on protein and saturated fat, combined with carbohydrate starving.

If viewers didn't know better – and maybe they don't and that is part of the problem – they could be led to believe that the past decade has seen Americans adopting en mass a regimen of regular exercise and sensible nutrition. But that would belie the reality that everyone must be seeing: Americans commuting to work in their cars, going to the grocery store in their cars, going to the mall in their cars, going to the cafe in their cars, going to spectator sports stadiums and arenas in their cars, going everywhere in their cars; fast-food *restaurants* sprout like weeds along multi-lane streets that are anything but clogged with runners and walkers; grocery store shelves filled with junk food; the average American consuming, on average, twice the grams of fat and protein as are recommended by main-stream, unaffiliated, nutritional experts.

According to the U. S. Department of Agriculture (USDA), the United States is now producing about 3800 food calories per person per day, twice what humans need. Americans now consume the equivalent of 20 to 33 teaspoons of sugar per person per day, almost a third coming in soft drinks. Between 1984 and 2000 USDA food-supply data show a 500-calorie-per-person-per-day increase in food production (2002).

Despite these facts and figures, there remains this notion that Americans have been on a health kick -- that they have been eating well and exercising regularly over the past decade. And that notion is reinforced by the television specials that ultimately conclude that the real explanation behind the fatness epidemic is a mystery. Indeed, considering what has really been happening with Americans' dietary and exercise regimens, it would be very surprising if they weren't gaining weight and suffering from all the diseases and disabilities of excess that permeate contemporary American culture. And one crucial venue in that culture – the workplace – is not immune from this carnage.

OBESITY AS A COST OF BUSINESS

Enlightened employers seeking to mitigate the effects of skyrocketing health care costs are combining effective measures to improve the health of their employees with self-insurance programs for health coverage. By doing so they capture the full benefits of a more healthful workforce. These

businesses are especially cognizant of the effects of excess weight and obesity on their self-insurance outlays. Here is a sampling of annual costs related to obesity in America, summarized from several sources:

Source of Cost **Cost in $Billions**	
Type 2 Diabetes	$ 98.0
Heart Disease	8.8
High Blood Pressure	4.1
Workdays Lost (39.3 million days X $200)	7.9
Medically Supervised Diet Programs	2.4
Anti-Obesity Drugs	.9
Gastric bypass Surgery	2.5
Liposuction Surgery	1.4
Other Weight Loss Surgeries	3.5
Subtotal of Sample	$129.5
Note: These cost estimates are extrapolated from data generated by several sources, including: the National Institute of Health, Finkelstein et al, Marketdata Enterprises Inc., the American Society of Aesthetic Plastic Surgery, the American Society for Bariatric Surgery and the Center for Disease Control (CDC). Data are estimated for the year 2003.	

Other sources tend to corroborate these estimates. According to the National Institute of Health, between $75 and $125 billion is spent annually on direct and indirect costs due to obesity-related diseases. Finkelstein and colleagues estimated the direct costs of medical spending on obesity and weight-related infirmities to be $92.6 billion in 2002 dollars (2003). Virtually all these costs associated with obesity are internalized in the cost functions of business, directly and fully for those self-insuring for health coverage.

OBFUSCATION AND DENIAL

As discussed earlier, television and newspaper commentary on obesity is becoming more frequent, albeit not with the result of bringing clarity to the problem. One popular notion, repeated routinely, is that Americans have been on a bona fide health kick over the past couple decades, yet to no avail. This message says that, despite the most onerous and energetic efforts to control weight, the weight-gain monster prevails, leaving us with an even more pessimistic vision of the future – a future where we are rendered helpless (and hence not responsible) for the size of our girth. In fact, one particular message says that we followed all the official nutritional guidelines in the 1990's by consuming diets that were both high in complex carbohydrates and low in fats – and by doing so we all became fat. This is the message promoted by the low-carbohydrate diet pushers who have literally mesmerized the full-figured public by claiming that the magic bullet of weight loss is in binging on saturated fat and protein (Taubes, 2002; Atkins, 2002).

Have Americans really been overdosing on complex carbohydrates and starving from low fat intake? Maybe it's a good time to catch up on what was new at the 2002 Puyallup Fair in

Western Washington. This appetizing little story was written by Seattle Post-Intelligencer reporter Winda Benedetti and appeared on September 5, 2002:

> "We're starting to suspect that the Puyallup Fair might not be the wholesome family event it's billed as. In fact, we're starting to suspect that a diabolical plot is afoot under the thin veil of down-home innocence.
>
> "Consider the evidence: Every year fair vendors ply us with corn dogs and candied apples. They seduce us with cotton candy and elephant ears. They peddle lollipops the size of baby heads and caramel corn that is more caramel than corn.
>
> "As if just reading that list isn't enough to induce either a heart attack or a bad case of type II diabetes, the folks at the Puyallup Fair have decided to add two new treats to their food court of cardiac doom: **Deep-fried candy bars on a stick and deep-fried Twinkies. Yes, you read correctly – deep-fried TWINKIES.**
>
> "Fair organizers are hailing them as 'a culinary delight for all ages!' and predict they'll be 'big sellers.' (2002)

This little slice of Americana speaks far more accurately to the American nutritional protocol over the past decade than does the Atkins Diet fantasy that we've been overdosing on vegetables and starving for saturated fat and protein. And it speaks far more tellingly as to why everyone is becoming fat.

Americans have never come close to meeting recommended dietary guidelines for caloric intake from complex carbohydrates, estimated at from 60 to 70 percent of total calories, depending upon which credible source one is using ("credible sources" exclude recommendations from food industry sources, and from government sources edited and censored by food industry lobbying efforts). Today less than half of calories consumed by Americans come from carbohydrates, most of these from simple carbohydrates that are not subsumed in recommendation guidelines. Rather than overdosing on complex carbohydrates, Americans are consuming well under half of the calories recommended by creditable nutritionists.

BEING NAUGHTY AT SCHOOL

The imprimatur of public school cafeterias may be the most culpable suspect in the search for the causes of the weight-gain epidemic. Children generally assume that what they are being taught at school, overtly and covertly, is true and good for them (at least that would be congruent with public policy toward pubic education). As it turns out, however, the average public school lunchroom is a den for fat and protein doping, and a safe-haven from over-exposure to complex carbohydrates. With school systems increasingly desperate for operating budgets, school cafeterias and vending-machine venues are being sold to the highest outside bidders who promise to supplement waning educational budgets in exchange for exclusive privileges in the lunch room. This is tantamount to selling "naming rights" for sports stadiums and arenas, except that the implied message to children is much more convincing, and damaging, when it is delivered in the hallways and lunchrooms of the public school. Children assume that the school wouldn't be sporting Coke machines if their contents weren't safe, perhaps even healthful; nor would the school promote milk consumption if it weren't healthful; nor would it accept visible financial sponsorship from the Dairy Farmers for state basketball tournaments if it weren't a healthful relationship for all concerned. Children assume that the options awaiting them in the cafeteria line must be good for them -- why else would they be offered by the school?

Soft drink giants have been especially pernicious in their use of the public schools to dope children on sugar-laden sodas. About half of the school districts in America now sign "pouring rights" contracts permitting soda companies to sell in their schools. Schools and school districts receive a percentage of sales; at 37 percent of schools payments are tied to a quota of drink sales. One Colorado school official wrote a memo encouraging teachers to "allow students to purchase and consume vended products throughout the days" in order to enhance school district operating revenues. And lest one thinks Colorado is out of step with the accepted ethic of using schools to prostitute for junk food, note the conduct of former U.S. Education Secretary Roderick Paige, who negotiated a $5 million exclusive contract with Coca-Cola in 2000 when he headed the Houston school district (Spake and Marcus, 2002).

Are these public school encroachments commercially successful? The USDA reports "56 percent to 85 percent of children drink sodas every day. Adolescent boys drink, on average, three sugared soft drinks a day; even toddlers drink 7 ounces." The Center for Disease Control and Prevention (CDC) found in a recent study that 73.9 percent of middle and junior high schools and 98.2 percent of high schools sell junk food in either vending machines or snack bars ("junk food" = soft drinks and high, empty calorie snacks). More than 23 percent of schools promote junk food consumption by distributing coupons for free or reduced-cost "foods." More than 20 percent sell brand-name junk food, often as part of the USDA-funded National School Lunch Program (Spake and Marcus, 2002).

RESEARCH INTERLUDE

In the spirit of pure science, I decided to conduct a little original research to validate through personal observation the data coming from established sources like the CDC and the Surgeon General's report. Are 61 percent of the adults in American really overweight, or is this just a scare statistic proffered by the Surgeon General to get people off their butts and out of their refrigerators? The research population for this simple study consisted of the fans attending the September 15, 2002, NFL game between the Seattle Seahawks and the Arizona Cardinals – specifically those sitting in the cheap seats. The sample selected for evaluation comprised every person passing by in the aisle steps next to my seat during the second quarter of play. That seat was located in Section 319, Row L, Seat 4, of Quest Field in Seattle.

The sample excluded only children and young adults (under the age of 18 by appearance) so that the observations would be testing the "adult overweight" incidence of 61 percent. Needless to say, fans of professional football are not necessarily a reliable cross-section of the adult American population, since an affinity for professional football (which I do not share) self-selects for certain attributes that may or may not be related to diet and exercise, and hence for one's propensity to be overweight.

All disclaimers aside, a total of 266 football fans either climbed or descended the steps next to Seat 319 during the second quarter. An eyeball assessment placed 179, or 67.3 percent, in the overweight group, and 87, or 32.7 percent, in the "not overweight" group. That result seems to support the Surgeon General's estimate. It was a nice day in Seattle, and choosing to watch a football game rather than participate in a physical activity like hiking or playing sports, probably would bias the population toward the upside end of the overweight scale. To my credit, I walked a total of eight miles getting to and from the stadium – and regarded it as misfortune that someone had a really cheap ticket to sell me once I reached the stadium.

A NATIONAL DISGRACE

As tempting as it is to make light of the increasing normalization of fatness, the gruesome truth is humiliating to the country. It's worth restating the Surgeon General's gritty statistics: 61

percent of the American adult population is overweight, 27 percent is morbidly obese (2001). The CDC puts the overweight population at over 64 percent (2002). Given the risk factors associated with excess weight, these statistics depict a tragic national health profile. Poor diet and sedentary lifestyle, the two controllable contributing factors in obesity, are responsible for between 300,000 and 587,000 deaths per year, making this combo the second leading cause of preventable death after smoking (American Obesity Association, 2005).

But knowing the extent of the health risk factors associated with diet and sedentary living would be the exception in America. In a Harvard "survey released in May 2002, more than half of those surveyed said they were overweight**.** But 77 percent did not think their weight was a problem. Though the vast majority regarded cancer, AIDS, and heart disease as serious health problems, only a third thought obesity was (Spake & Marcus, 2002)." That level of naiveté is shortening the lives and curtailing the quality of life for countless victims who are oblivious to the risk factors associated with excess weight.

Ignorance about obesity and its causes and cures feeds a conventional wisdom that threatens the public health, while it adds to the personnel costs of every business in America. Such a wisdom encourages dangerous pretending: pretending that weight gain is a mysterious phenomenon that defies explanation, pretending that the answer does not lie in sound nutrition, pretending that fat and protein doping is the solution, pretending that people are gaining weight despite eating less and exercising more, pretending that being a little overweight is innocuous, pretending that there's nothing substantive and effective that can be done. By pretending, Americans are unconsciously condemning their next generation to all the weight-related infirmities that have become "normal" at the dawn of the 21 Century. It's one thing to waddle around in a state of oblivion and confusion as overweight adults; it's quite another to inflict this carnage on children and grandchildren.

Obesity has been normalized by our culture, thereby feeding our acceptance of becoming overweight as a natural and largely unavoidable result of growing to adulthood. We're not likely to see its demise until the culture changes in ways that are wholly unpredictable, and unlikely, in the near future. In the meantime, individuals and businesses will begin to take steps to mitigate the deleterious effects of obesity in their workplaces and in their private lives.

IS OBESITY THE NEXT SMOKING?

Much like when this question was posed to me at countless workplace smoking policy seminars, the question is still a red herring. To be sure, the aggregate personnel costs of overweight employees is greater than for healthy weight employees, and the effects on productivity eclipse the simple measurement of dollars lost to excess medical care, sick days, long-term disability, and working-age mortality. But there are huge differences that divide workplace smoking from workplace obesity:

1. Smoking at work produces toxic air contamination that simply cannot be tolerated under our health and safety standards, not to mention under the common law. Obesity produces no such ambient health and safety risk to coworkers.
2. Despite the irrefutable health consequences of being obese, or even being moderately overweight, these do not compare to the ravages of smoking, still the number one preventable risk factor in developed countries.
3. Smoking in workplaces adversely affected maintenance and depreciation schedules due to property damage to interior furnishings and accelerated cleaning and repainting schedules for interior walls and glass surfaces. No similar ambient workplace costs attach to obesity.

Restrictive obesity measures will not and should not follow the pattern that evolved for smoking control. However, substantive steps, albeit far less proscriptive, will be taken to mitigate the business consequences of excess weight in the workforce. These will include:

1. Self-insuring for medical coverage, combined with selective coverage exclusions for employees who are outside of established healthy weight guidelines. Such exclusionary policies will be controversial, but they will be upheld as legal and appropriate for both accommodating the rights of overweight employees and for taking sensible steps to control insurance expenses.
2. Implementing effective incentive programs to help employees achieve and maintain healthy weight levels. These kinds of programs are already in place in many workplaces, and range from providing health club memberships to offering on-site recreational opportunities, along with offering nutritionally sound choices at employee food service facilities.

To expect employers to ignore the implications of a fattening workforce, especially in the face of soaring health care costs, is naive. We will certainly see substantive steps taken to countervail the adverse productivity effects of excess weight, and these steps may bring back some of the old, and unwelcome, stigmas that once attached to obesity – before it became the rule rather than the exception. And in a twisted sense, that stigmatization may have a positive effect on a culture that has come to accept a debilitating infirmity as normal.

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