

The Advisor

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Updates and
Advice for
your Business
and Personnel

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From the President's Desk

In the immortal words of Yogi Berra, "The game isn't over until it's over."

As I watch and listen to the happenings in our nation and world today, I must conclude that the Game of Life continues into extra innings.

Oh how I long for the simpler days when Yogi's wisdom reigned supreme. He would admonish us with such great quotes as:

"You can observe a lot just by watching." Or

"When you come to a fork in the road, take it." Or my most favorite,

"We made too many wrong mistakes."

Sadly, as I have spent time observing, researching, and appraising the "state of our union" under its current national leadership (*both* parties), I am left to conclude that Yogi was a prophet without honor in his own country.

I have tried to shy away from, and avoid references to, one particular political party or another. I believe that if you turned out the lights and listened to the banter, you couldn't much tell them apart. Rallying cries like that of Senator Russell B. Long, the son of the infamous Huey

Long of Louisiana, when he spoke of tax reform, said "Don't tax you, don't tax me, tax that 'fellar' behind the tree!" ring in my ears like the pontifications of the fictional Elmer Gantry at a tent revival meeting.

We here at GPBG Employer Advisers have been researching the massive documents cumulatively known as the Patient Protection and Affordable Care Act (PPACA), and have concluded: that Bernie Madoff would have been embarrassed to have his name associated with this "wool pulling" instrument, and the manner by which it has

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Problems surface during FMLA leave? OK to fire

Sometimes, an employee's absence may show you that she isn't as good at her job as you thought. Maybe other employees easily picked up the slack. Perhaps you even discovered that the employee was causing morale problems. If that's the case for an employee out on FMLA leave, you can terminate her—as long as you carefully document the reasons and are prepared to show that you would have terminated her even if she hadn't taken leave.

It doesn't matter that you came to that realization because she wasn't around.

Recent case: June worked as a purchasing agent and had her own way of organizing the paperwork. That made it difficult for other employees to find work files quickly when they needed them. Plus, June frequently put in overtime hours even when her boss told her to only work a regular 40-hour week.

Then she took FMLA leave to have knee-replacement surgery. While June was out, her co-workers reorganized the filing system and got her work done in a fraction of the time June usually took. The co-workers attributed this to the new filing system, plus her absence; they told supervisors that June was an extraordinarily disruptive force who destroyed morale.

Management concluded it could do without June and, when she returned, fired her for poor performance.

She sued, alleging retaliation for taking FMLA leave.

But the court tossed out the case, reasoning that the employer had shown legitimate, work-related reasons for terminating June—namely that the work could easily be done without her. (*Brown v. City of Jacksonville*, No. 12-1730, 8th Cir., 2013)

Bottom line: The FMLA does not protect employees from legitimate discipline, even if the problems are largely discovered during FMLA leave.

Low Morale =
Lost Productivity,

Which Costs the
American Economy
\$350 Billion Annually



From the President's Desk Cont'd

been perpetrated on the public.

Was Konstantin Josef Jireček an optimist when he penned, “We the willing, led by the unknowing, are doing the impossible for the ungrateful. We have done so much, with so little, for so long, we are now qualified to do anything, with nothing.” on Dec 13, 1881?

Our President promised, “If you like your insurance, you can keep it! If you like your doctor you can keep him or her!” over 19 times, according to those who revel in keeping track of such things. But we now know that prior to the signing of this historical bill on March 13, 2010, that those “in the know,” or those who should have known, were aware that 95 million, that's six zeros, Americans with private individual health care plans would lose those plans because they failed to meet the standards of the PPACA!

Ah but you say, “I am ok, because if I have my coverage through an employer sponsored ‘GROUP INSURANCE’ I'm safe and sound.” Well Toto, “we ain't in Kansas anymore,” to quote Dorothy after the storm. Ladies and gentlemen: your group insurance coverage may not, NO let's be direct, WILL NOT survive due to the same affliction as the private insurance plans. The published government estimates right now are that 15% of the existing group insurance policies currently in effect will be cancelled by 2015. The number should range from 10 to 15 million employees who will see their plans cancelled for lack of compliance. That number (10 to 15 million employees) is referred to as, “statistically acceptable, but not significant.” That's just what they're acknowledging as of

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DISC Teambuilding Increases Employee Morale and Helps to Retain Top Performers

Target 'bans the box' asking about criminal backgrounds

Minneapolis-based retail giant Target has agreed to remove any questions concerning job applicants' criminal background from its applications nationwide.

Earlier this year, Gov. Mark Dayton signed a bill into law applying "ban the box" to Minnesota's private employers. Target will now observe that policy throughout the U.S.

Under the new law, an employer may not ask about an applicant's criminal convictions until after it has made a conditional job offer. Employers may never consider as a hiring factor arrests that didn't result in a conviction.

Applicants may only be refused employment based on a past conviction if the employer has a sound business reason for doing so.

EEOC guidance advises employers to consider the seriousness of the offense, the time that has passed since it was committed and the relevance of the crime to the job being sought. According to the EEOC, 65 million Americans have some sort of criminal record.

President's Desk Cont'd

now. Sound familiar?

Referring back to the same research that found that it *wasn't* 5 million but *95 MILLION citizens* that lost their private insurance, we are now seeing projections of 153 to 155 *million* employees currently covered by group insurance plans, whose premiums are primarily paid with tax free dollars, who will get the infamous "pink" cancellation slip.

My dear friend Joe Novak used to say, "Roger: that's a good idea, but a nightmare of reality!" His words ring

in my ears as I try to vision the sustainability of the PPACA in light of the bungled and fumbled protocols we have witnesses so far.

I have tremendous respect for Columnist, Historian, and Scholar Clay Jenkinson; so when I read his November 17, 2013 column I immediately sought permission to reprint it here in our newsletter (page 4.)



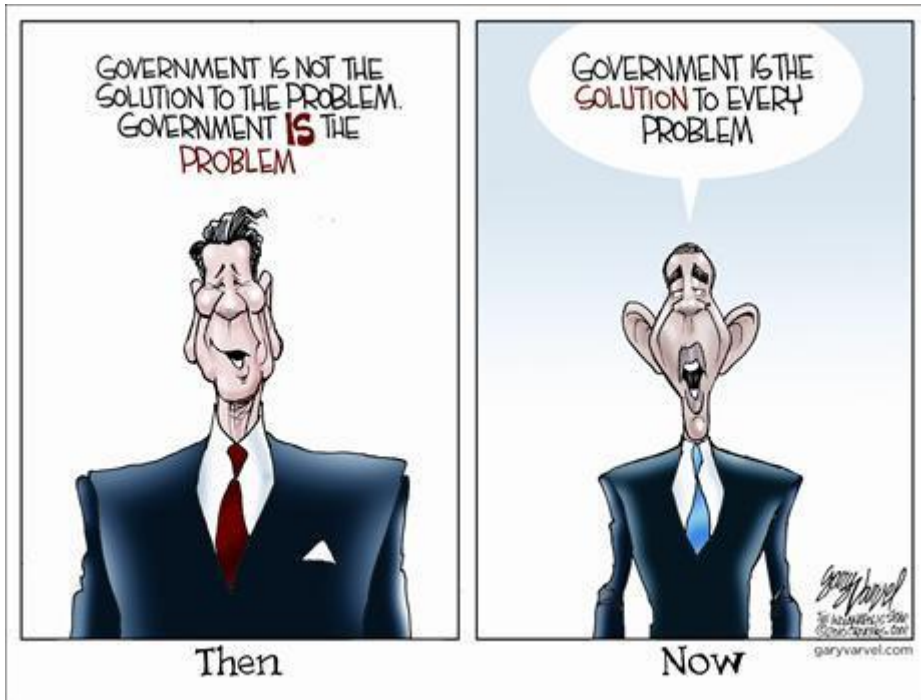
"You know, the idea of taxation *with* representation doesn't appeal to me very much, either."



"R. Sims, A Man of Conviction" sounds better than "R. Sims, Prison Parolee".

I urge you to read his words and ponder his perspective.

As GPBG Employer Advisers' 25th anniversary year comes to a close, we are reminded that our existence as a company is predicated on the trust and partnership we have with you. We wish you and yours the finest of blessings during this Christmas Season. And as ever: Thank you for the privilege of serving you.



The fallout of the Obamacare rollout will plague the US for decades

By Clay Jenkinson

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The bungled rollout of the Affordable Care Act is one of the worst political disasters of my lifetime. It may mean that Obamacare is doomed. Under a parliamentary system, it might mean that the administration of President Obama would fall in a “no confidence” vote. Before this mess ends, you can expect to hear relatively serious calls for President Obama’s impeachment. The colossal failure of Obamacare so far is a setback for the national government that will leave a toxic trail of political fallout on the United States for decades to come, long after Barack Obama has slipped away into his post-presidential career.

The debacle jeopardizes one of the progressive movement’s most cherished goals—universal, affordable health care for every American citizen—a dream that

goes back at least as far as Republican Theodore Roosevelt. It also jeopardizes the progressive movement more generally, at a time when America is falling behind in the world arena precisely because it has failed to address a range of serious challenges with all the tools that a modern society needs to thrive.

Just when we thought the national crisis of political hatred and unalloyed partisanship could not possibly get worse, the Obama administration has thrown kerosene on the anti-government fire, and given the fading Tea Party movement a new lease on life. It has permitted everyone who predicted that Obama would be a failed President to say (prematurely), “I told you so.”

In the month since Obamacare began to come into effect, two fundamental problems have emerged, and more are sure to come. The problems are (1) the immediate and continuing failure of the \$300 million website Healthcare.gov, and (2) the fact that the workings of the new system have made Obama’s endlessly repeated pledge—“if you like your current health care plan you can keep it”—seem like a filthy lie to the American people. The news that three San Francisco-based knuckleheads with no ties to the U.S. government were able to create a brilliant and efficient Obamacare support site (Help Sherpa) virtually overnight takes us into the arena of pure absurdity.

If the Affordable Care Act was ever going to win widespread affection and convince the skeptical American people that the time has come for a national health care system in the United States, it had to work. It had to exceed expectations from the moment it came out of the gate. It had to be a model of government efficiency. It had to look like something a twenty-first century internet savvy President would do. It had to create a national buzz of renewed optimism: the federal government is back after 30 years on the political robes. Instead, it has been a greater disaster than even its most vicious detractors could have dreamed. Listen to Rush and Sean: how they do crow in pure joy about the failure of an initiative designed by well-meaning people to address one of the principal problems of

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American life: the failure of the existing health care system to provide portability, absorb people with pre-existing conditions, and provide minimal positive health care to the 30-50 million people who have, until now, been subjected to our heartless “emergency room health care option.”

The Affordable Care Act was to be Obama’s signature accomplishment as President and it was to be the basis of his historical legacy. That and killing Osama bin Laden. Every American has a right to ask: if this is your signature achievement, and you had years to develop this website at virtually infinite public expense, why would you release it when virtually any serious beta testing would have shown you that it doesn’t work? If Obama cannot fix this thing ASAP, and apologize in a completely unguarded way to the American people, he is headed into the gulag of Jimmy Carter, whose administration will forever be symbolized by the failed raid (Operation Eagle Claw!) on Tehran on April 24, 1980.

Now everyone who has hated Obama since before he was even inaugurated (I know scores of

such people in my little circle alone), everyone who hates rule by Democrats, everyone who hates Obama’s style, his perspective on world affairs, his outsized political confidence, everyone who hates “the liberal agenda,” will feel vindicated and empowered. Such folks will be even more strident and obnoxious in the future, and “the failure of Obamacare” will be their rallying cry, like the Alamo or the Boston Tea Party or the sinking of the battleship Maine.

Since the election of Ronald Reagan in 1980, the central mantra of political conservatism has been “government always screws things up.” In his first inaugural address, delivered on Jan. 20, 1981, President Reagan famously said, “government is not the solution to our problem; government is the problem.” Think of the paradox of this! The new President of the United States, the elected head of the American government, begins his eight-year tenure by denouncing government. Every President since Reagan has had to operate under the shadow of Reagan’s cynicism—the paradoxical view that government is a disaster except when it is funding and operating the largest military behemoth the world has ever seen. At one of the lowest ebbs of his presidency, Bill Clinton was heard to say—a little pathetically—“government still matters.”

I remember hearing former Speaker of the House Newt Gingrich, at the height of his intellectual and political power,

deliver a lecture at an Inns of Court event. His theme was the inefficiency of government. Why, he asked, is it a hassle to mail a parcel in a U.S. Post Office, and so easy to send a package by Fedex or UPS? Why should a visit to a state’s Department of Transportation to renew a driver’s license or register a new car be a daylong nightmare? Why does private enterprise provide quick, efficient, reliable, and friendly service to its customers, while public services are typically slow and inefficient, and your transaction is usually handled by a rude, unsmiling, and bored functionary whose salary you are paying.

There is an answer to the Gingrich thesis, but in the last month I have wondered many times why Obama didn’t just ask Amazon.com to administer the health care program. After all you can buy books and refrigerators at Amazon.com, DVDs and snow tires. Indeed Google, Oracle, and other internet masters have offered to help fix the broken Healthcare.gov system. I say, turn them loose.

In the end, I predict, the problems with the Affordable Care Act will be fixed, and that some future version of it (Post-Obamacare 3.0) will come to be seen as a central and cherished benefit of American life, like Social Security and Medicare. In the meantime, I believe that Kathleen Sebelius should resign (on the principal of parliamentary accountability), that President Obama should shake up his administration at every level, that he should reach out in an unprecedented way to the Republicans to devise some kind of health care compromise that fulfills

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Help us GO GREEN!

To receive our newsletter electronically, please send an email to:

info@employeradvisers.com.

Place GO GREEN in the subject line.

Words of HR Wisdom: 21 Great Hiring Tips

1. Do not be desperate. “If you hire the only candidate because there is no other choice, it may be best to just wait. We hired the only ‘qualified’ applicant only to fire them a year later for making too many mistakes.”

2. Nice or qualified? “The nicest of people do not always

his promise that “if you like your health care plan you can keep it,” and he should deliver a nationally-televised address to the American people in which he acknowledges this catastrophe and never utters one defensive statement.

Even so, for decades to come, whenever a new government initiative, bureau, or program is announced, we can expect to hear—in the blogosphere and talk radio land—“Oh, yeah, remember the rollout of Obamacare?”

This is not just a setback for Obama and the Democrats. It is a setback for America. ●



(Clay Jenkinson is the Theodore Roosevelt Center scholar at Dickinson State University, as well as Distinguished Scholar of the Humanities at Bismarck State College and director of the Dakota Institute. Clay can be reached at Jeffysage@aol.com or through his website, Jeffersonhour.org.)

work out for your organization.”

3. No clones. “Hire people that are NOT like you. Diversity is needed in every field.”

4. Silence is golden. “For rookie interviewers, don’t ever let silence feel awkward—a candidate taking a few minutes to put together an answer is not a bad thing.”

5. Be resourceful with references. “The bank HR folks in my small city met informally for breakfast monthly so we could avoid passing ‘bad tellers’ around.”

6. Stand on salary. “Don’t cave in to salary demands that are not in your original plan.”

7. Show, don’t just tell. “I always brought candidates out to the manufacturing floor to show them what they would be doing. A picture is worth a thousand words.”

8. Speak up. “Don’t be afraid to question any ‘bad feelings’ you have about a new hire even if the hiring manager really wants the person!”

9. Maturity matters. “When hiring for a management position, ensure that your candidate is mature enough to handle the responsibility of the position. Just because someone is book smart doesn’t necessarily mean they are mature enough to handle everyday job stressors. You don’t want someone crying in your office daily!”

10. Follow up with hiring manager. “A great résumé, great interview and great references do not necessarily add up to a great hire. Follow-up as often as possible with the employee and hiring manager in the first few months to make certain things are going well.”

11. The eyes have it. “When a potential applicant has a distant gaze when answering your interview questions, don’t hire them!”

12. Don’t wait too long to make a correction. “Work closely with the (new hire) at first to identify whether or not they are a good fit. If not, offer to help them find the right position,

either within or outside the company.”

13. Talk with former co-workers. “Always do background checks and ask for former co-workers names and numbers to get a more real response. Many managers give a glowing review because they just want a former bad employee to get a job, any job, that is not back at their company!”

14. Rationalizing = regret. “Make no excuses for your selection. If you have to justify the hire to yourself, you’re missing red flags.”

15. Family matters. “Have a policy that states you don’t hire relatives (if you are a small company).”

16. Stay focused on skill level. “Learn what it is you’re looking for. Do not settle, no matter how personable or friendly a candidate.”

17. Be suspicious of personal referrals. “Sometimes internal candidates will send you referrals from people they know personally. However, they have no interaction with the person on the professional level.”

18. Punctuality’s purpose. “If someone shows up more than 15 minutes late to the interview, think twice. If they are slipshod on what will be their most important day to impress, they will probably not be a hard worker later.”

19. Beware outside influences. “Do not cave to pressure to hire (or the recommendations of others) if you do not trust them to be more accurate than your own instincts.”

20. Trust but verify. “Never just take what a candidate says at face value. People will say anything to get a job; it is how they really are that matters. Check and double-check past employers. Personal references will tell you the person is a fabulous person.”

21. Hire for character, potential. “Hire the people who have good character, basic skill to perform the job and ability to learn. The rest of the qualities to be a successful professional will follow. But don’t think you can train professionalism or you can make someone to be nice.” ●

UPDATES

We continue to remind our Clients that any Policy Manual which has not been reviewed or up-dated within the last three (3) years may be out dated. We provide the up-dating service as part of your Service Agreement.

RECOMMENDED POLICY UP-DATES:

We are recommending to those of you who are subject to complying with the **Family and Medical Leave Act** and **Mandatory Drug and Alcohol Testing** for compliance with the Department Of Transportation and the Federal Highway Administration that you contact us for substantial revisions of both of those two policies. The Administrative and Judicial interpretations of both of these items are continually evolving. This requires periodic editing and up-dating the language in your policies. The sheer length of both of these policies prohibits their being published here, but we will forward, upon your request, the language and policies appropriate to your circumstances.

Please feel free to contact us for this service at:

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This Month's Contributors:

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TTI Success Insights®

Management-Staff Version

Leveraging Talent in the Workplace

Talent is a combination of many factors, one of which is behavior. The TTI Success Insights® Management-Staff is a report that not only defines unique behavior, but guides the employee and manager in leveraging behavior for success. With this capability, this versatile management tool can be used to hire the right person, get employees off to a fast start, revitalize current employees, improve communication and build sound employee-manager relationships.

Computers Have Manuals—Why Not People?

The key to successful talent management and personal growth is knowledge of each person's unique behaviors. With this knowledge, people can be effectively coached by maximizing strengths to achieve the organization's goals. Apply the results of the Management-Staff report to create improved morale, increased productivity, personal development plans and win-win situations for everyone.

Easy Application in the Workplace

The Management-Staff report is an extremely valuable contribution to talent management. It takes only 10 minutes to complete the 24-question online assessment and its insights and versatility make it an ideal tool for:

- New Employee Orientation and Performance Plans
- Retention Strategies for Key Employees
- Coaching, Mentoring and Leadership Development
- Conflict Resolution

Personalized Report Delivers Unique Information

The highly validated DISC assessment immediately produces a personalized report with valuable information unique to the respondent's behavior including:

- **General Characteristics** - The individual's preferred work style based on natural behavior
- **Value to the Organization** - The individual's contributing behaviors
- **Checklist for Communicating** - How others can effectively communicate with the individual
- **Don'ts on Communicating** - What others should avoid when communicating with the individual
- **Communication Tips** - How the individual can adapt his/her own communication to other styles

- **Ideal Environment** - The individual's preferred work atmosphere
- **Perceptions** - How the individual views his/her self and how others view the individual
- **Descriptors** - Words that portray the individual based on each of the four quadrants of behavior
- **Natural & Adapted Style** - A four-quadrant comparison of the natural and adapted style
- **Adapted Style** - Characteristics of the individual's current adapted style
- **Keys to Motivating** - The individual's wants provide the means for motivation in the workplace
- **Keys to Managing** - The individual's needs provide the essential areas managers must address
- **Areas for Improvement** - The individual's possible limitations identify areas for development
- **Action Plan** - The individual creates a customized plan based on the results of the report and discussion
- **Behavioral Hierarchy** - The individual's behavior style ranked within eight common areas in the workplace
- **Style Insights® Graphs** - An easy visual of the individual's natural and adapted styles
- **The Success Insights® Wheel** - A visual illustration of the individual's behavioral adaptation

What is Your Strategy for Success?

Make the TTI Success Insights Management-Staff report part of your organization's strategy to create a positive employee-manager relationship that directly affects productivity and goal achievement!

PREPARED BY:

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