ELDER DISCRIMINATION IN HEALTH CARE

Julie Baker

Warner Pacific College

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Christine Tokonitz

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Abstract

In this paper, I will be discussing the topic of Elder Discrimination (Ageism) and the subtle ways it happens in the everyday world around us, most of which we don't notice. Ageism is a scientific and social science term used in research to discuss age discrimination in health care by healthcare professionals. The work place and healthcare system is full of ageism. Some is appropriate, but the vast majority of ageism should not be occurring. How can we reduce the amount of ageism committed by healthcare professionals and employers? I will go over the social issues that elder's experience due to ageism and ways that can be helpful in changing the view on age discrimination. I will introduce you to some of the different governmental policies that have been enacted to protect the vulnerable elder population, and if these policies have been successful.

ELDER DISCRIMINATION IN HEALTH CARE

A review of the healthcare system and working environment in the United States shows the challenges our elderly population faces due to ageism and age discrimination. The goal of this paper is to focus on how age discrimination and ageism is manifested within the work place and by healthcare professionals which leads to sub-standard medical treatment.

Ageism (Williams, 2009, p. 2) is a term that is used by scientific and social science researchers to refer to age discrimination by healthcare professionals. Ageism describes the demeaning age based references that are used by healthcare professionals when describing elderly patients. Also, it is stereotyping of elderly patients and inappropriate use of chronological age by the healthcare professionals when they are treating elderly patients. Robert N Butler, M.D. was the first to talk about ageism, in the early seventies he published a book that exposed the problem of ageism he had observed during medical school and then as a practicing physician of age discrimination against the elderly. The systemic stereotyping and discrimination of people in general and of the older population in particular, by health care providers is similar to racism and sexism (Williams, 2009, p. 8).

Studies have been done that demonstrate how the use of chronological age to determine the treatment options that are presented to an older person are not always the same treatment options that are presented to a younger person. Researchers for the National Cancer Data Base reviewed published studies for the past two decades and observed that physicians at times have used the age of older patients inappropriately to "limit adjuvant therapy"(Williams, 2009, p. 4) for those who have cancer. The researchers noted that "the use of surgery plus chemotherapy declined with age: 40% of patients under the age of 50 received both of these treatments, in contrast to 20% of those aged 70-79 years."(Williams, 2009, p. 4). The reasoning behind this is

that “older patients are more likely to experience chemotherapy-related toxicity” (Williams, 2009, p. 4). The researchers determined that this was an example of physicians using chronological age inappropriately when treating their older patients. Age discrimination is not limited to the United States; in The United Kingdom a study of general practitioners and cardiologists came to the conclusion that physicians in Britain discriminated against their older patients regularly by denying them tests and treatments they would offer their younger patients (Williams, 2009, p. 4). This study also analyzed the decision of eighty five physicians that “examined” seventy two fictional patients’ records who possibly had angina, and were between the ages of forty five and ninety two years of age. It was found that the physicians who were studied, were less likely to refer a patient to a cardiologist or give a angiogram or heart stress test if they were treating a patient over sixty five (Williams, 2009, p. 5). British physician, Dr. A.B. Shaw, stated that patients under the age of sixty five with a suspected heart attack are admitted to coronary care facilities, but patients who are over the age of sixty five are admitted to other wards and only transferred to the coronary care facility if there are clinical indications that it is necessary (Williams, 2009, p. 6).

In Canada, advocates for the elderly have provided examples of ageism such as, health care providers not properly setting the broken arm of a seventy nine year old Alzheimer patient. In long-term care facilities, there have been reports of elderly patients not being feed, not treating bed sores, and not providing appropriate tests. All of these are characterized as “passive euthanasia through omission” (Williams, 2009, p. 6).

When Dr. Butler was attending medical school, he became aware of the prejudice toward elderly patients for the first time. Words like “crock” were used to refer to middle-age women. Also Dr. Butler observed discrimination against elderly patients in the form of older patients who

were considered problematic were transferred from the university hospital to the city hospital as quickly as they could get rid of them. In the four decades since Dr. Butler first termed ageism, there are still demeaning terms used to describe elderly patients (Williams, 2009, p. 14). The International Longevity Center is the home of an anti-ageism task force, who have identified a list of terms that are age-biased that are considered to be unique to the medical profession and used consistently enough that they are considered to be examples of ageism. Some of the terms are: GOMER-Get Out of my Emergency Room, SPOS-Semi-human Piece of Shit, fossil, train wrecks, nightmare on a stretcher, disaster waiting to happen, dotty old guy in bed three, gramps down the hall, sweet old lady, GORK-God Only Really Knows, bed blocker-used for "extremely disabled, hospitalized patients with long-term needs who await transfer to nursing homes" (Williams, 2009, p. 15). Most of the time these terms may not be said out loud, or are said in humor, but they are still discriminatory labels applied to elders that should not occur (Currey, 2008, p. 1).

A clear case of health care providers engaging in ageism is attributing a patient's symptoms to aging instead of a heath related problem. This is shown when a provider responds to patients complaints as "What do you expect of someone 72, 82, 92?"(Williams, 2009, p. 19). Dr. Steven L. Phillips says that "it's not fair to anyone to write the problem off or define the problem as just age. There has to be something underlying it" (Williams, 2009, p. 19). "Health-care professionals are likely to categorize older people's health complaints as "normal" concomitants of ageing rather than signs of illness" (Williams, 2009, p. 19). "As a result, problems that would be routinely addressed in younger patients are left untreated by some physicians serving older patients" (Williams, 2009, p. 19).

Stereotyping is another way that older people are exposed to ageism. Some of the stereotyping that occurs in the healthcare setting is physicians assuming that an older patient would not benefit from certain treatments, or that elderly patients would not want certain treatments. Due to the empirical (doctor knows best) attitudes of physicians over the past decades, the decisions they make in the treatment of their patient's may be based on the use of the *mortality table comparisons of outcomes*. When this table is used, it is comparing the appropriateness of various medical procedures between different age groups. However, it would be more appropriate to use comparisons between similar age groups instead of comparing outcomes between young patient's verses older patients (Williams, 2009, p. 17). What physicians are missing in their older patients regarding different treatments is; "an older person does not want or need to know whether they will do worse, or better than a younger person when they have an angioplasty, but simply whether will do better or worse with an angioplasty than drug treatment alone" (Williams, 2009, p. 17). When it comes to deciding what treatment course is best for a patient, the use of chronological age alone is an unreliable predictor of what a patient might want to pursue in their course of treatment and that treatment course should be decided on an individual case by case manner.

Disparities in the ways that "over sixty-five" people are compared to "under sixty-five" people can be divided into different segments; access to health care in general, insurance coverage (whether it is provided by an employer or Medicare), as well as access to certain treatments, specialists, surgeries, and diagnostic testing. An example of this might be that "people over a certain age might be advised against treatments for certain cancers, including prostate, and breast cancer because data suggest that they will not outlive these asymptomatic diseases" (Kane & Kane, 2005, p. 50).

Some disparities can be linked to the technical aspects of care, such as the amount of time the physician spends on a diagnosis, or the how much time the physician spends interacting directly with the older patient rather than a younger patient. Even the time it takes to perform a thorough primary care evaluation might be different based on the age of the patient. Disparity reflects ageism only if the reason for disparity is age, if a health professional believes that a 90 year old person's life is not of particular value to him/her or their family to undertake intensive rehabilitation then that would be an ageist assumption.

Ageism is not limited to health care, it is also found in the work place. The lump of labor theory and other stereotypes have contributed to the misconceptions that effect older individuals and contribute to the total cost of age discrimination in America, in both monetary and non-monetary ways (Knapp, 2007, p. 2). The lump of labor theory rests on the notion that the economy has a fixed number of jobs available and that employment of one group (the older worker) means unemployment of another group (Knapp, 2007, p. 1). Economists acknowledge that the lump theory is a fallacy, and that the fundamental flaw underlying the theory is that it ignores long-run labor market adjustments.

The theory only looks at the short-term, and is argued loudest when the economy is down and unemployment is high. By inducing one group to vacate jobs so that others may find work is a questionable practice in the short run, and comes at the expense of long-term economic growth (Knapp, 2007, p. 1). "It is important that Americans develop an understanding that the theory of the lump of labor is unsupported by empirical evidence or by widely accepted economic theory, and that policy based on this theory will likely result in short-run labor market inefficiencies, that long-run economic growth will suffer, and that it will help to perpetuate ageism at great cost to society" (Knapp, 2007, p. 4).

Another problem companies are facing is the fact that they have broken the implied long-term contract they used to have with their workers. It used to be workers would stay at one company for their entire career because they had an understanding that if they accepted a lower wage when starting out with that company they would receive a higher wage when they were older. Dr. Honig, chairwoman of the economics department at Hunter College and co-director of research for the Longevity Center stated "This was good for the company because that lure of higher wages later kept worker's job performance high" (Brock, 2001, p. 1). "Now that's all gone out the window, but as a result, younger workers are ruthless in demanding higher wages. And they are right, because they don't expect to be with one company more than five or ten years. So now a company has to pay through the nose to attract younger workers, because there's no expectation the company will keep them, as was the case under the old implicit contract. (Brock, 2001, p. 2)"

Dr. Honig has stated "Many employers are using the current downturn as an excuse to get rid of older workers. Under the guise of restructuring they are usually able to get around age-discrimination laws (Brock, 2001, p. 2). Since 2001, companies have been warned that they will face dire consequences if they discriminate against older workers. The reason for this is that as vast numbers of baby boomers begin to retire in a decade or so, there will not be enough younger workers to replace them (Brock, 2001, p. 1). According to Dr. Honig, this downturn is temporary but that the looming labor shortage will not be. "Companies are going to need those older workers; they're going to need that experience (Brock, 2001, p. 1)."

Older employees not only have the problem of being pushed out of the workforce by restructuring, but also their perceived deficiency in technology. Lauryn Franzoni, a director at ExecuNet, a firm that specializes in executive-level recruitment, says these stereotypes are a

myth and that older workers are just as likely to be technically proficient as their younger counterparts (Looper, p. 2). Education, particularly in today's automated, digital workplaces, can be a significant obstacle for older workers. Older workers are seen as being less tech-savvy, and in today's highly automated, ultra digital work environment, this is a big disadvantage (Looper, p.2)

Older employees if given the opportunity of education and training can be just as technically proficient as younger workers. However, younger workers and current teens have grown up with computers and social media their entire lives making it second nature for them to be tech savvy. It is time for companies to stop being short-sighted and utilize the vast experience and dependability of their older workforce by investing in their education and training of technology so that they can help the younger workers gain the experience that is needed to benefit the company's financial position in the long run.

Older workers are often labeled and characterized as being weak or incompetent (Knapp, 2007, p. 3). Derogatory labeling leads to a reduction of job opportunities for older workers, promotes early retirement, which then leads to economic deprivation. This loss of income has a high impact on a individuals health care options if they are not eligible for Social Security benefits. Work is an important part of personal value, both through society's opinion of an individual and an individual's self-image (Knapp, 2007, p. 3). Older individuals are looked at as a burden to society if they do not work: if they do work, they are looked at as preventing younger workers from getting jobs. Whichever way it is looked at older individuals are considered liabilities.

With all of this focus on individuals becoming older and the discrimination that occurs because of it, what exactly happens when we age? Our physical bodies begin to show the signs

of age, more aches and pains, graying hair, poor eye sight, memory issues. Memory is probably the one that affects our ability to work the most, “If you don't use the brain, it wastes away (Hodgekiss, 2014, p. 1)," "So it's important to undertake activities that stimulate it. The more new things you do the better. Neurons make new connections when we do something new (Hodgekiss, 2014, p. 1)." This is great news for older individuals and the work place because it means that older individuals can learn the new technology and be just as tech-savvy as younger workers are.

Older workers have more chronic disease processes than younger workers; but “research has shown that poor health does not have to be an inevitable consequence of aging. Older adults who practice healthy behaviors, take advantage of clinical preventive services, and continue to engage with family and friends are more likely to remain healthy, live independently, and incur fewer health-related costs. An essential component to keeping older adults healthy is preventing chronic diseases and reducing associated complications. About 80% of older adults have one chronic condition, and 50% have at least two. Infectious diseases (such as influenza and pneumococcal disease) and injuries also take a disproportionate toll on older adults. Efforts to identify strategies to prevent or reduce the risk of disease and injury and to widely apply effective interventions must be pursued” ("Centers for Disease Control and Prevention," 2011, p. 1).

Another way to keep older adults healthy is to change the negative stereotype society has of older individuals. The current message is that being old is bad, perhaps our society should take note of the treatment of the elderly in other societies, especially those where the elderly are idolized and held in high esteem for their wisdom, knowledge, and experience (Smith-Ruiz, 1985, p. 1). The current direction of the media is attempting to convey the necessity to stay

youthful, and it dominates magazines, television and the internet. This direction will not support our economy in the long-run and we will have to change our focus to a more positive message of what it means to be old.

Over the years, there has been a number of age discrimination legislation enacted in the attempt to help decrease age discrimination in the work place. In 1967, the Age Discrimination and Employment Act (ADEA) was passed. The Act protects individuals who are 40 years of age or older from employment discrimination based on age. The ADEA's protections apply to both employees and job applicants. Under the ADEA, it is unlawful to discriminate against a person because of his/her age with respect to any term, condition, or privilege of employment, including hiring, firing, promotion, layoff, compensation, benefits, job assignments, and training. The ADEA permits employers to favor older workers based on age even when doing so adversely affects a younger worker who is 40 or older ("The U.S. Equal Employment Opportunity Commission," 2008, p. 1).

It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on age or for filing an age discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under the ADEA. The ADEA applies to employers with 20 or more employees, including state and local governments. It also applies to employment agencies and labor organizations, as well as to the federal government ("The U.S. Equal Employment Opportunity Commission," 2008, p. 1). The ADEA protections include: Apprenticeship Programs, Job Notices and Advertisements, Pre-employment Inquires, and Benefits ("The U.S. Equal Employment Opportunity Commission," 2008, p. 1).

Legislation aimed at potentially reducing age discrimination in the health care industry is the Age Discrimination Act of 1975, which "prohibits discrimination on the basis of age in

programs and activities receiving federal financial assistance. The Act, which applies to all ages, permits the use of certain age distinctions and factors other than age that meet the Act's requirements. The Age Discrimination Act is enforced by the Civil Rights Center" ("US Department of Labor," p. 1). This Act's effective date was deferred by Congress until the Department of Health, Education, and Welfare was able to make known the regulations. The Act became effective in 1979 at which time the DHEW known now as DHHS issued the interpretation of the law (Williams, 2009, 27).

The way this Act is written there is no minimum age limit that says which individuals are protected by the Act. It is clear however that Congress was concerned about discrimination by federal grant recipients against older citizens. The way the Act is written it covers "all of the operations" (Williams, 2009, p. 28) of federal funding recipients who include: a) State and local governments, agencies, or instrumentalities; b) a college, university, other post secondary institutions, or a public system of higher education, or a local education agency or other school system; c) a corporation, partnership, or other private organization or sole partnership, or part thereof depending on receipt of Federal financial assistance (Williams, 2009, p. 28).

This means that most health care providers are working in institutions which potentially receive "federal funding assistance" for such programs as Medicare and Medicaid. Therefore are subject to this Age Act's provisions and regulations. The Act also has a broad scope of exceptions which allows, in a number of situations recipients of federal funding assistance to use age criteria. Unfortunately due to how broad these exceptions are the Age Act actually does very little to prohibit age discrimination.

In 2007, Judge Barbara Crabb of Western District Court in Wisconsin stated that "the Age Act of 1975 had been "rarely litigated" (Williams, 2009, p. 29)". It appears that of the "few

cases concerning health care issues were dismissed because of procedural questions or because the plaintiffs failed to provide convincing evidence of age discrimination" (Williams, 2009, p. 29). Also none of the cases that have been filed were based on ageism that is found in the health care industry. One case, "*Cannon v. University of Health Sciences/Chicago Medical School*" involved a plaintiff who claimed several schools denied her admission because of her advanced age. The claim was dismissed by the court and the reason given was her denial for admission occurred before the Age Act of 1975 went in to effect in 1979. Thus she could not use the Age Act in her claim.

The case of *Lannak v. Biden,* reviewed the claim of a medical researcher who alleged that due to his age members of Congress were unwilling to direct the DHHS to analyze and prove his research results (Williams, 2009, p. 30). This was taken to court and "it was found that the Age Act did not require members of Congress to assist constituents in response to their requests" (Williams, 2009, p. 30).

The case of *Wheat v. Mass* dealt with a "claim of age discrimination that was brought by the survivors of a patient who didn't receive a liver transplant" (Williams, 2009, p. 30). In this case, the plaintiffs had considerable procedural issues that stood in the way of going to court and these issues would have to be resolved before the case could even establish that their relative had been denied a liver transplant due to her age. Unfortunately, the court wouldn't address these procedural issues and possibly wanting to expedite the process simply dismissed the action saying there was no evidence showing the hospital denied the deceased the transplant due to her advanced age (Williams, 2009, p. 30).

The case regarding Medical Center, Inc. pertained to the hospitals relocation and how the plaintiffs felt that this had affected a large number of older individuals in the community and

disadvantaged them from the use of the hospital facility. Using the *disparate impact theory*, the plaintiffs had the responsibility of initially identifying the policies that disadvantaged these elderly individuals. The district court found that the relocation did not adversely impact the elderly, minors, and visitors due to the longer travel time. It then went to the circuit court who upheld the district court's ruling on the grounds that impact on the elderly, minors, and visitors would be "de minims," "insignificant" and "minor." There was not enough evidence to support the plaintiff's case.

The procedural requirements that are required under the Age Act of 1975 to file a claim are; 1) it must be a timely complaint filed with the relevant federal funding agency. The form to do this can be found on-line but unfortunately the "form doesn't offer much guidance to assist in filing it out correctly, or even what constitutes health care related age discrimination (Williams, 2009, p. 33)." DHHS will not consider a complaint which has been filed until there is enough basic information to process the claim. Also if DHHS decides that the complaint falls into their jurisdiction and does not involve one of the many statutory exceptions, they will require mediation of both parties. After mediation, DHHS will do an informal investigation of any unresolved complaints. 2) "If the complaint is not resolved within 180 days or DHHS issues a finding to the recipient", then DHHS is required to advise the complainant of his/her rights to bring action to the federal court for injunctive relief and reasonable attorney's fees" (Williams, 2009, p. 34). At least 30 days before bringing action to federal court the complainant must notify by registered mail the Secretary, the Attorney General of the United States, and the recipient. This notice must include a statement that says what the violation of the Age Act is, and what relief the claimant is requesting, the location of the court where the action is to take place and if the complainant will demand attorneys' fees paid if they win. The court will dismiss actions if all

the procedural requirements and pre-litigation notice requirements are not met (Williams, 2009, p. 34).

There is new legislation being championed at this time to protect older individuals from age discrimination. The Protecting Older Workers Against Discrimination Act (POWADA), which is being sponsored by Senators Tom Harkin (D-IA), Chuck Grassley (R-IA), and Patrick Leahy (D-VT), is designed to remedy a 2009 Supreme Court decision (Gross v. FBL Financial Services, Inc.) that made it far more difficult for older workers to prove claims of illegal bias based on age. Representative George Miller (D-CA) has introduced a companion bill in the House ("AARP," 2013, p. 1).

"Passage of this reintroduced legislation has taken on new urgency because this year the Supreme Court (in University of Texas Southwestern Medical Center v. Nassar) erected the same kind of legal barriers in cases in which employers retaliate against workers who challenge discrimination based on race, sex, or other grounds. POWADA would rectify this decision too ("AARP," 2013, p. 1). , AARP Executive Vice President. "Until Congress passes this bill, too many older workers who have been victims of age discrimination will be denied a fair shake in our justice system ("AARP," 2013, p. 1)." (For the official wording of POWADA, see the PEST analysis under Possible Solution.)

In 2014, the last of the baby boomers will turn 50, and by 2016 one-third of the U.S. workforce will be over the age of 50. Also for the last three decades workers have been staying in the workforce longer, and their ability to continue working is especially critical since the 2008 recession. During that time, older workers lost jobs, retirement savings and housing wealth.

AARP surveys have consistently shown that at least one-third of those interviewed say they have either personally faced or observed age discrimination in the workplace ("AARP," 2013, p. 1).

Theodore Roszak, the author of "Longevity Revolution: As the Boomers Become Elders stated "as the population grows older, age discrimination will be addressed more seriously and the nation will develop firm rules that will allow older workers to keep their jobs." Dr Robert N. Butler, president of the International Longevity Center, said that "under current law, the age at which workers can retire and collect full Social Security benefits was raised to 67 from 65. In addition, there are proposals to raise it further, even to 70." He also stated, "So here we are, facing a delay in Social Security benefits because of age, and at the same time facing age discrimination at work, this is a problem (Brock, 2001, p. 2)."

A PEST analysis was done to better understand the problem of age discrimination and ageism that our older population faces. Four key problem areas were identified and possible solutions were presented on the following pages.

PEST Analysis (Problems)

POLITICAL

Problem

Age Discrimination Act of 1975, this act allows a number of ways that recipients of federal financial assistance can use age criteria. The process to file a claim is very complicated with very little instruction and with short deadlines. The claimant carries the burden of proof and the defendant doesn't have to do anything in the process. Because of the exceptions being so broad, the Act actually prohibits very little age discrimination. This law has no teeth, and when individuals have attempted to use the Act most cases have been dismissed on procedural questions or because plaintiffs have failed to produce convincing evidence of age discrimination.

ECONOMICAL

Problem

The recession of 2008 and the economies slow recovery has raised unemployment, this has also allowed companies to push the older workers out through restructuring and incentives for early retirement. Restructuring allows companies to maneuver around anti-age discrimination laws for their benefit. This is short-sighted financially for companies who want to look good in the short-term but end up costing the economy in the long-run.

With the last of the baby boomers turning 50 in 2014 and the first wave of the baby boomers retiring, there are not enough young workers to support social security and put money into the economy. According the Gallup's annual Economy and Personal Finance survey

conducted 4/14/13. Average retirement age has crept up by four years over the past two decades. Currently, 37 % of non-retired Americans expect to retire after age 65, 26% before 65.

According to a report by the U.S. Census Bureau (Holder & Clark, 2008, p. 26), the number of older adults over the age of 65 in the year 2000 was 35.0 %, by 2020 the population of 65 and over will have reached 54.6 % and by 2050 it will be 86.7 % of the population. The percent of age 65 and over compared to the total population in 2000 was 12.4 %, by the year 2020 the percent of 65 and over will be 16.3%, and by 2050 it is estimated 20.6 % of the total population. The Bureau of Labor Statistics (Holder & Clark, 2008, p. 3) has projected that in 2014 workers 65 to 74 years of age will be 26.9 % of the population, and 75 years and older will be 9.6 % of the population.

High school graduates between ages 17 and 20 who weren't enrolled in further schooling were unemployed and actively seeking employment between March 2012 and February of 2013 was 29.9 %. That is up from 17.5 % in 2007. The unemployment rate for recent college graduates who weren't furthering their education between March 2012 and February 2013 was 8.8 %, which is down from the average of 10.4 % in 2010 but still much higher than the 5.7% in 2007. Both groups have seen wages fall, high school graduates make on average $9.48 per hour and young college graduates make $16.60 per hour.

Another issue is Social Security; the earliest you can receive benefits is age 62, however that is only partial benefits ("Social Security Official Website," 2014, p. 1). When full retirement benefits start depends on what year you were born. If you were born in 1955, full benefits will not start till you are age 66 and two months. In contrast, if you were born in 1960 or later, full benefits will not start till you are age 67. If the older population happens to find themselves unemployed before they can obtain their full Social Security Benefits, they will need to

supplement their income in order to pay for health care, housing and all the other basic essentials for living. A large portion of the elder population is finding this very difficult to do.

SOCIAL

Problem

When older adults are ignored, experience insensitivity, impatience, condescension, and loss of income due to losing a job, their self-esteem and self-confidence is impacted. This can lead to isolation, depression and embarrassment, which can significantly increase their health issues.

Due to loss of income older adults may have to move in with their adult children, this can lead to situations where adult children are too involved in their parent's life and decisions. The older adult doesn't want to hurt anyone's feelings, or say the wrong thing so they end up saying nothing or becoming angry.

These same adults may not feel they can talk to their doctor because he is too busy, so they don't ask the questions they need to. The older adults are less likely to receive preventive screening for health issues such as bone density, colorectal, prostate cancer and glaucoma testing. Forty percent of older individuals don't receive flu or pneumonia vaccinations (Vann, 2006); all of this increases the cost of health care.

TECHNOLOGY

Problem

For the sixty-five and over population there can be significant barriers in regards to technology. In today's world almost everything that you do requires the use of technology. Providers offer on-line services (i.e. Providence's "Mychart") that let you make appointments,

request refills of prescriptions and even leave a message for your doctor. For tech-savvy adults this is a useful tool, but older adults, especially age 70 and over have difficulty using these programs. Many older adults don't have access to computers or the internet and need would assistance to use them.

PEST ANALYSIS (SOLUTIONS)

POLITICAL

Solution

At the federal level, there needs to be legislation put into place that actually is usable to fight age discrimination. Also, the claimant should not have to be the only party to prove or disprove age discrimination or ageism has happened. The procedural process the claimant has to navigate to file a claim, should be required to have clear and complete instructions with adequate time frames to file a claim. There should be help available to the claimant to navigate the filing process.

Current legislation "The Protecting Older Workers Against Discrimination Act (POWADA)" is a reform of the ADEA Act for age discrimination in the work place, but this legislation does not address age discrimination that a older adult experiences as a patient in health care.

LIBRARY OF CONGRESS SUMMARY

“The summary below was written by the Congressional Research Service, which is a nonpartisan division of the Library of Congress.

7/30/2013--Introduced.

Protecting Older Workers Against Discrimination Act (POWADA) - Amends the Age Discrimination in Employment Act of 1967 to specify that an unlawful employment practice is established when the complaining party demonstrates that age or participation in investigations, proceedings, or litigation under such Act was a motivating factor for any practice, even though other factors also motivated the practice (thereby allowing what are commonly known as "mixed motive" claims).

Permits a complaining party to rely on any type or form of admissible evidence, which need only be sufficient for a reasonable trier of fact to find that an unlawful practice occurred.

Declares that a complaining party shall not be required to demonstrate that age or retaliation was the sole cause of a practice (thereby rejecting the Supreme Court decision in Gross v. FBL Financial Services, Inc., which requires a complainant to prove that age was the "but-for" cause for the employer's decision).

Authorizes the court, on a claim in which an individual demonstrates that age was a motivating factor for any employment practice and in which a respondent demonstrates that the same action would have been taken in the absence of the impermissible motivating factor, to grant declaratory relief, injunctive relief, and attorney's fees and costs directly attributable only to the pursuit of a claim. Prohibits the court in such an instance from awarding damages or issuing an order requiring any admission, reinstatement, hiring, promotion, or payment.

Applies the same standard of proof to other employment discrimination and retaliation claims, including claims under the Civil Rights Act of 1964, the Americans With Disabilities Act

of 1990, the Rehabilitation Act of 1973, and similar laws concerning federal employees (Congressional Research Service, 2013, p. 1)."

At the state level, our community leaders and business leaders must work together to appropriately apply the new legislation to the actual process of conducting business. One way to do this is the Coordinated Care Organization, this brings the state and local levels together in partnership to better serve our aging population.

Coordinated Care Organizations

"CCOs are local health entities that will deliver health care and coverage for people eligible for the Oregon Health Plan (Medicaid), including those also covered by Medicare. CCOs must be accountable for health outcomes of the population they serve. They will have one budget that grows at a fixed rate for mental, physical and ultimately dental care. CCOs will bring forward new models of care that are patient-centered and team-focused. They will have flexibility within the budget to deliver defined outcomes. They will be governed by a partnership among health care providers, community members, and stakeholders in the health systems that have financial responsibility and risk" ("Coordinated Care Organizations," 2012, p. 1).

ECONOMIC

Solution

One solution would be for the lump labor theory to be dispelled and businesses stop being short-sighted about their financial position, and looking at the long-term economic survival of the economy. Yes, it is important to be in a good financial position in the short-term, but business has to stop ignoring the impact that the baby boomer generation is having on the economy as they are starting to retire.

Another solution would be for all workers young and old to be "actively investing in their retirement savings. Companies have done away with pension plans, and now have 401k plans instead. 401k plans have not existed for the full careers of currently retiring workers, so their impact is moderate now, but will become more significant with each wave of new retirees. It is projected that if equity returns between 2006 and 2040 are comparable to those observed historically, then by 2040 average projected 401k assets of all persons age 65 will be over six times larger than the maximum level ever achieved by traditional defined-benefit pension plans"(Wise, 2007)

SOCIAL

Solution

One solution is to empower our older population by offering assertiveness training workshops at community centers, churches, hospitals, retirement centers, senior living communities, and community colleges non-credit classes. "These workshops offer tips and techniques to help our seniors handle difficult situations in a positive manner" (Vann, 2006). The key to assertiveness training is to help people feel more in control, to not be afraid to speak up or feel guilty for speaking up and to be able to ask questions and express their opinion(Vann, 2006).

With more and more older individuals requiring help from their adult children, either living with them and/or needing their assistance with important health and financial decisions these assertiveness trainings would be extremely beneficial to them still having control over their lives. These workshops also address their isolation and depression issues because they are interacting with others and potentially making friendships that will last.

How do we address the issue of negative stereotypes of older adults? Becca Levy, Ph.D, of Yale University School of Public Health, "observed that medical students who interact with older adults earlier in their education maintained better attitudes about aging and were less likely to be purveyors of the negative stereotypes" (Currey, 2008). Through the research of Levy and her partnership with Vital Visionaries, it was found that when medical students were partnered with older adults outside of hospitals, in settings like museums, it helped enhance wellness and these medical students were exposed to seniors in a setting that wasn't focused on illness and frailty. This helped them see older adults more like themselves.

TECHNOLOGY

Solution

Technology is a big issue today in the 70 and over age group, due to not having access to computers and the internet, and not understanding how it all works. Liaisons would be helpful in giving these adults the support they need to access their health care through a provider's on-line services such as "MyChart". In the future, this problem will be alleviated for the most part because most of the baby boomers heading toward retirement are already tech-savvy enough to know how to communicate by utilizing computers, internet and smart phones. It doesn't appear that this will be as big an issue in the future as it is now.

Age discrimination and ageism are still highly prevalent in our society. We need to be proactive with good legislation that provides the opportunity of fair resolution of disputes regarding age discrimination. Business practices need to embrace the skill and expertise of our older workforce. This will be important in promoting positive change in our business culture. "Dr. Robert N. Butler who was a leading advocate for the dignified treatment and care of the elderly, challenged lawmakers, scientists and medical students to consider how to create a health-care system in which Americans could grow old gracefully" (Brown, 2010). Let us do Dr Butler proud, and rise to this challenge. We are all going to be part of this older population at some point in our lives, the negative stereotypes need to be changed into positive images in order to prevent ourselves from being in the same position as our elders are now.

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