

**AN ETHICAL ANALYSIS OF NICOTINE NON-HIRING PRACTICES:
SHOULD THIS POLICY BE SNUFFED OUT?**

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ABSTRACT

The deleterious health impacts of smoking are well established—but unemployment is bad for health too. In this article, I evaluate the ethics of nicotine non-hiring practices (NNPs) and use analogies to other health behaviors (obesity and alcohol use) to better examine the policy.

First, I considered arguments for NNPs. The most popular is that NNPs drive down smoking rates among employees and the general public. There are multiple plausible mechanisms to do so—however, I was unable to find any convincing empirical data supporting these hypotheses. I also argue that the reasons to avoid discrimination on the basis of protected classes (to promote societal cohesion, uphold equal individual moral worth and mitigate long-standing systemic harms) are insufficient to prevent NNPs. Finally, I discuss that for optimal functioning of a liberal democracy, organizations have the right to choose who they wish to hire. Hence, it requires a significant ethical harm to prevent hiring on the basis of nicotine use.

Therefore, I next consider arguments that critique NNPs. I highlight three harms by NNPs as particularly strong. NNPs erode personal autonomy by taking away choice for individuals. However, this paternalism may be warranted by the seriousness of smoking as a public health threat and the insufficiency of less restrictive interventions in helping smokers who want to quit to do so successfully. NNPs also violate the privacy of individuals, though this is less compelling as nicotine use is linked to inferior job performance (beyond merely increasing healthcare costs) and therefore nicotine use

seems relevant to the hiring process. Finally, NNPs concentrate their harms (or at least their paternalism) in disadvantaged groups which raises significant justice concerns.

Overall, I find nicotine non-hiring practices to be ethically permissible, though they are ethically fragile policies whose legitimacy depends on empirical justification, sensitive implementation, and continued scrutiny. I generalize this analysis to produce a set of criteria for when a hiring policy might ethically consider health-related behavior.

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TABLE OF CONTENTS

	Page
ABSTRACT.....	ii
ACKNOWLEDGMENTS.....	iv
CHAPTER	
1. INTRODUCTION.....	1
Overview.....	1
History of Nicotine Non-hiring Practices and Legal Challenges.....	1
Analysis Methods: Casuistry and Principialism.....	3
Argument Structure.....	4
2. CASE VIGNETTES.....	5
Obesity Non-hiring Policy at Citizens Medical Center.....	5
Private Alcohol Use Restrictions at a Nuclear Power Plant.....	5
3. ARGUMENTS FOR NICOTINE NON-HIRING PRACTICES.....	7
Nicotine Non-hiring Practices may Lead to Smoking Cessation.....	7
Institutions have a Right to Cultivate their Image and Culture through Hiring.....	9
Smokers are Less Profitable Workers than Non-smokers.....	10
Smokers Sufficiently Differ from Protected Groups to Permit Differences in Hiring.....	12
4. ARGUMENTS AGAINST NICOTINE NON-HIRING PRACTICES.....	14

Nicotine Non-hiring Practices Erode Personal Liberty and Invade Privacy.....14

Nicotine Non-hiring Practices Concentrate Harms in Disadvantaged Groups.....15

Practical Challenges Undermine Nicotine Non-hiring Policies..... 16

5. SUMMARY OF ARGUMENTS..... 18

6. CRITERIA FOR ETHICAL NON-HIRING PRACTICES IN CASES OF
HEALTH-RELATED BEHAVIOR21

REFERENCES.....22

CHAPTER 1 INTRODUCTION

Overview

Smoking is the most common preventable cause of death in the United States, killing around 490,000 people per year (United States. Public Health Service. Office Of The Surgeon General, 2014). However, smoking rates have declined precipitously over the past 50 years, from 42% in 1965 to 15% in 2015 (Drope et al., 2018). Much of this decline can be attributed to public health policies: empirical data suggests that the most effective tools include taxation, smoke-free policies, comprehensive advertising bans, and mass media campaigns (Cummings, 2002). However, like all public health interventions, there are trade-offs inherent to these policies with costs, directly financial or otherwise, for affected individuals.

In this paper, I examine the ethics and trade-offs of a newer anti-smoking tool: nicotine non-hiring practices (I will use NNPs henceforth for simplicity). This policy entails that organizations do not hire tobacco users. The practice has also been referred to as a no-nicotine hiring policy, nonsmokers-only hiring policy, and “tobacco free” hiring policy. NNPs are controversial as they raise concerns about privacy, injustice, and stigma. An ethical analysis of NNPs prompts the question: in the battle to decrease smoking rates and save lives, when is the cost too high?

History of Nicotine Non-hiring Practices and Legal Challenges

Company-wide bans on hiring smokers has been present for at least a century with Thomas Edison and Henry Ford, for example, each refusing to hire smokers at some

factories (Smoot, 2011, p. 128). More modern companies that refused to hire smokers include Alaska Airlines (mid-1980s), Union Pacific (2004), and Scotts Miracle-Gro (2006). In the past 20 years, academic medical centers began to follow suit including the Cleveland Clinic (2007), Geisenger (2012), Baylor (2012), University Hospitals (2012), and the University of Pennsylvania Health System (2013). Internationally, the World Health Organization has also stopped hiring smokers (*Recruitment and Appointment*, 2020).

American organizations generally have wide latitude in choosing who to hire. They are restricted primarily by federal and state law that prohibits discrimination on the basis of narrowly defined groups, often called protected classes, such as race, color, national origin, sex, religion, and veteran status (U.S. Equal Employment Opportunity Commission, n.d.). Nicotine addiction has not been legally considered a disability or other protected class, so there are no federal protections in hiring decisions for smokers.

Consequently, several states—mainly in the late-1980s and early 1990s—have passed laws prohibiting employers from making hiring or firing decisions based on nicotine use. Currently 29 states and the District of Columbia have these smoker protection laws (*State Legislated Actions on Tobacco Issues (SLATI)*, 2024). Four states, California, Colorado, New York, and North Carolina, have passed broader laws which prevent employers from discriminating on the basis of any lawful activity. This leaves 21 states in which NNPs may be legally enacted.

Analysis Methods: Casuistry and Principlism

In attempting to reason through the ethics of NNPs, I found myself naturally turning to the old ethical tool of casuistry. Casuistry entails reasoning on ethical issues through analogy or similar cases. This reasoning instrument dates to Aristotle, though historically it has been used most prolifically by Jesuits in developing case-law (Franklin, 2001). The method has seen renewed interest in applied ethics in the twentieth century.

One generally accepted methodology is that of Jonsen and Toulmin in *The Abuse of Casuistry* in which they put forward basic steps in the process (Jonsen & Stephen Edelston Toulmin, 1988). It entails first identifying paradigm cases which are similar to the current dilemma and can serve as objects of reference for the moral argument. Ideally these real cases should be rich in detail and unambiguous—most observers should be in agreement about what the ethical action is in the case. The current case should then be compared to the paradigm cases and, in case of conflict, facts compared to find the most similar paradigm case. Finally, a cumulative argument is developed, and a final decision can be made (Freeman & Francis, 2006).

In complement to arguments by analogy, I also rely on arguments based on principlism. This method of moral reasoning was elaborated by Thomas Beauchamp and James Childress through six editions of *Principals of Biomedical Ethics* and has likely been the most influential modern frame for studying bioethical questions. Principlism offers four core principles—respect for autonomy, beneficence, nonmaleficence and justice—to provide a framework for the identification, analysis and resolution of ethical problems.

Argument Structure

In this article, I first describe two paradigm cases of health-related hiring restrictions. Then, I present and evaluate arguments both supportive and critical of NNPs. Next, I provide a summary of the overall arguments for NNPs, using the paradigm cases as tools to augment and contrast with the discussion of NNPs. Finally, I generalize this ethical analysis by proposing a set of criteria by which to judge any proposed non-hiring policy that relies on individual's health-related behavior.

Specific NNPs will vary by institution and may involve different subsets of individuals (e.g. individuals that use e-cigarettes or that are prescribed nicotine-replacement therapy). In general, unless otherwise specified in this article, I will consider a generic NNP as follows. Companies will not hire individuals who either self-report that they use nicotine products or test positive to nicotine products on pre-employment screening. I consider policies by which existing smokers at an institution are fired to be a more ethically fraught policy, which are also more rare in practice, so this is not part of my assumed NNP.

Also for simplicity, in this article I will use the term "smoker" generally to capture individuals who are affected by NNPs, understanding that this term may not be strictly accurate for all people affected by the policies (e.g. users of chewing tobacco or e-cigarettes).

CHAPTER 2

CASE VIGNETTES

Obesity Non-hiring policy at Citizens Medical Center

In 2012, the Texas based hospital Citizens Medical Center ignited a significant controversy when it established a hiring policy that required potential employees to have a body-mass-index (BMI) under 35 (Ramshaw, 2012). Thus, the policy barred the hiring of significantly obese individuals. There was a quick backlash and lawsuit, and the hospital quickly changed course, dropping the policy (*Texas-Based Hospital “Citizens Medical Center” Suspends Body Mass Index Employment Requirement*, 2012).

Private Alcohol Use Restrictions at a Nuclear Power Plant

In 2014, a union worker who represented employees working at a nuclear power plant wrote to the U.S. Equal Employment Opportunities Commission (EEOC) to describe a policy restricting employee alcohol use (Kuczynski, 2014). Per regulations by the U.S. Nuclear Regulatory Commission, the power plants must ensure that employees who have unescorted access to the site are “trustworthy and reliable” so that they do not constitute “an unreasonable risk to public health and safety.” The plant reportedly has a procedure by which employees are referred (or are self-referred) to an Employee Assistance Program for potentially unhealthy alcohol use. A counselor screens individuals, and those with heavy use are issued a letter recommending permanent abstinence, both on and off the job. Individuals who have been given such a letter and drink even off-duty may be fired—even without evidence of poor job performance.

The EEOC wrote an informal discussion letter to discuss this case. They describe that alcoholism has been considered a disability by several courts and would likely therefore be a protected condition under the Americans with Disabilities Act (ADA). Employers would therefore only be able to restrict hiring of individuals with alcoholism if the condition interferes with effective job performance or poses a direct threat to themselves or others. The EEOC speculates that this described policy would likely violate the ADA, though this informal discussion is not an official investigation of the EEOC. The analysis for the direct threat assessment hinges on the existence of a blanket policy for all individuals who receive the abstinence letter. It is therefore plausible that the EEOC would find that a similar policy not be a violation of the ADA and therefore be likely legally permissible, if it replaces the blanket policy with individualized abstinence recommendations.

CHAPTER 3

ARGUMENTS FOR NICOTINE NON-HIRING PRACTICES

I will first present and analyze arguments supportive of NNPs.

Nicotine Non-hiring Practices may Lead to Smoking Cessation

Most organizations with NNPs publically state their main goal is to lead to smoking cessation. For example, the Cleveland Clinic in 2007 announced their NNP was established “to take further steps in preserving and improving the health of all its employees and patients” (“Conditions of Employment/Requirements,” 2007). U-Haul argued in 2019 their goal was to enable a “healthier workplace” with the Chief of Staff stating that “this policy is a responsible step in fostering a culture of wellness at U-Haul, with the goal of helping our Team Members on their health journey” (*U-Haul to Implement Nicotine-Free Hiring Policy for Healthier Workforce*, 2019).

The most direct method by which NNPs might lead to smoking cessation is by imposing an economic incentive for employees to stop smoking so that they can find employment (or in the strongest version of the policy, to maintain their jobs). In general, we find that it is permissible to impose other economic burdens such as cigarette taxes on individuals in the name of public health. Also, smoking cessation programs with direct economic impacts tend to be the most successful (Cummings 2002). This supports the case for NNPs for current employees—needing to quit smoking to avoid firing is a strong impetus to quit nicotine. The effect is likely less strong in terms of a hiring ban unless bans are widespread, and individuals cannot easily find employment elsewhere.

However, it is not empirically clear that NNPs have the effect of helping smokers quit (Voigt, 2012). Advocates of NNPs point to Cuyahoga County (where the Cleveland Clinic is located) as evidence of policy efficacy (Asch et al., 2013). In Ohio from 2005 to 2009, overall smoking rates declined from 22.4% to 20.3%, while the rate of smoking in Cuyahoga County fell from 20.7% to 15%. The Cleveland Clinic NNP was enacted in 2007. However, subsequently the gap between Cuyahoga County and Ohio overall has closed with age-adjusted smoking rates being nearly identical from 2021-2025 (*How Healthy Is Your County? | County Health Rankings*, n.d.). As there has been no nicotine policy change in the interim, this evidence therefore cannot be used to support the effectiveness of this NNP long-term.

Another mechanism by which NNPs might decrease smoking rates is unique to health-care settings: health practitioners (physicians in particular) act as role models for the population. Theoretically, a culture in which many physicians smoke detracts from the public image of smoking as a dangerous public health threat. Additionally, some data suggests that providers who smoke are less likely to appropriately provide tobacco cessation counseling to patients (Meshefedjian et al., 2010).

Also, health care providers that preach the virtues of smoking cessation while smoking themselves may seem hypocritical, and this also could undercut smoking cessation counseling. A pack of cigarettes in a pocket, the smell of smoke or nicotine stains on fingers could clue in patients to provider use of nicotine. However, it is not empirically obvious that patients prefer healthcare providers who do not smoke. For example, some smokers have found that they prefer the advice of individuals who have previously quit smoking themselves to those who have never smoked (Bull et al., 2008).

Eliminating providers who currently smoke might deplete the pool of providers in the future who have successfully quit smoking.

Institutions have a Right to Cultivate their Image and Culture through Hiring

In general, when private organizations have broad discretion over whom they hire, they can best serve their mission, protect their reputation, and manage risk. Employers bear the costs and consequences of employee behavior—not the government or general public. Therefore, it is fair and rational that organizations retain the maximum right to choose employees whose values, behaviors, and lifestyles align with their institutional goals. This is the basis by which an employer might refuse to hire an individual with unprofessional posts on social media or even who runs a local chapter of the Ku Klux Klan, which are both decisions that an individual might make about their private life that may not overtly affect their job performance.

In medical organizations and other health-conscious groups, seeing an employee smoke could undercut the credibility of the employer. Organizations may also wish to foster a specific health-conscious organizational culture which benefits from hiring non-smokers. Similarly, a NNP might be a symbolic decision that communicates a company's values. For example, when the World Health Organization in 2005 announced it would no longer hire smokers, their justification was that the group “has a responsibility to ensure that this is reflected in all its work, including recruitment practices” and that this policy was a “practical demonstration of the Organization's commitment to ‘denormalizing’ tobacco use” (*Recruitment and Appointment*, 2020).

Smokers are Less Profitable Workers than Non-smokers

In hiring, companies should have a salient and compelling reason for discrimination between applicants. Discriminating between applicants on the basis of personal traits is inherently unequal treatment. Therefore, doing so without a reasonable cause or potential benefit would be capricious and harmful. (While it would currently be legal in many states, we might rightfully criticize a company which decides to avoid hiring people with last names that begin with the letter 'J,' on the basis that this policy is harmful for no clear benefit.) Profit is one such compelling reason.

There is considerable evidence that smoking leads to increased costs for employers. Multiple mechanisms are involved including, for example, higher costs of employer health benefits (ultimately by raising premiums), decreased productivity at work, and the costs of maintaining separate areas for smoking. A meta-analysis of 29 studies found that current smokers are absent 2.74 more days per year compared to non-smokers (Weng et al., 2012).

An analysis of private-sector US employees looked at costs associated with excess absenteeism, presenteeism (lower on the job productivity), lost productivity due to smoking breaks, excess healthcare costs and pension benefits. It also considers, grimly, a potential death benefit: smokers have a shorter lifespan and therefore cost their employer less overall in pensions. Overall, the analysis estimates an annual excess cost of approximately \$5,800 for each employee who smokes (Berman et al., 2013). About \$2,000 of this cost was due to excess healthcare costs. This analysis was based on an annual wage in 2010 of \$29.71 with the wage portion of the amount (\$20.71) discounted by 15.6% to account for the finding that smokers are, on average, paid that percent less

than non-smokers. In 2025, the average wage for private industry workers rose to \$45.38 per hour worked in March 2025, so the cost to employer would be higher now (Bureau of Labor Statistics, 2024).

Even if the smoking is done at home, the impacts are clearly felt by the employer. Therefore, interfering with hiring decisions that incorporate smoking status impacts the bottom line for companies. It may require a higher ethical standard to impose restrictions on organizations if said restrictions might threaten their success or even existence overall and thereby lead to new harms.

To be clear, I do not wish to conflate profitability with ethics. Broad swaths of routine unhealthy and even healthy private decisions may impact the bottom line for employers, and all would likely agree on some hiring restrictions despite profit incentives. We mandate that, for example, that companies do not discriminate on the basis of gender, even if it were to impose some additional costs on employers on average (such as in hiring women of childbearing age). I am arguing simply that profit (or some other broadly beneficial interest) is a necessary but not sufficient criteria for any hiring-based discrimination.

When considering the hiring of individuals, I also believe it is useful to separate out health-care associated and other non-medically relevant costs. As a society, we have ethically and practically rejected the notion that individuals are responsible for their own healthcare costs (Schmidt et al., 2013). We provide emergency care regardless of insurance status, provide free or discounted healthcare to the disabled and poor, and mandate that large organizations provide risk-pooled insurance. These policies reflect our ethical values that all individuals should have the ability to access health-care and that

providing this support is part of shared social responsibility. Therefore, I find it more ethically permissible to consider costs related to job performance (e.g. presenteeism or absenteeism) than those related to healthcare costs.

Smokers Sufficiently Differ from Protected Groups to Permit Differences in Hiring

Next, I consider the following questions. What characteristics of protected groups ethically mandate protection from discrimination in hiring? Does smoking status meet those characteristics and, therefore, should receive the same protection?

Making hiring choices on the basis of protected class status, such as race, is clearly ethically problematic when it harms disenfranchised groups. I argue that the reasons for this are that banning such hiring choices promotes societal investment, upholds the equal moral worth of individuals, and mitigates long-standing systemic harms.

Let us examine smoking status under these criteria, starting with societal investment. Society benefits when we allow for the equal hiring of individuals with disabilities or women of child-bearing age, for example, by allowing all individuals to contribute towards and participate in society fully according to their abilities. Even if there is marginal increased cost to the employer (e.g. reasonable accommodations for disabilities), this is worth it for the societal benefits of according these individuals equal treatment. Hiring based on smoking status is different from these protected groups on these grounds in that the non-hiring is itself the mechanism that is being proposed as an investment in society towards public health.

Next, perhaps the largest harm from discriminating against individuals of protected classes is that it dehumanizes individuals by reducing them to a single dimension and

ignores their personal characteristics. Overall, this is an attack on an individual's equal moral worth. This argument relies on the assumption that the relevant trait being discriminated against is either involuntary or voluntary but a trait (such as religion) that would be unreasonable or harmful for the individual to change. Intuitively, discriminating against individuals on the basis of immutable characteristics is more problematic than on the basis of their choices. Smoking status occupies a murky position here. There are clearly both voluntary and involuntary aspects to continuing to smoke. Among adult smokers, 88% began smoking before the age of 18 years old, and thus starting to smoke is a decision made at a time of diminished decision-making capacity (United States. Public Health Service. Office Of The Surgeon General, 2014). Nicotine addiction itself is defined as a recurring desire to continuing taking a drug despite harmful consequences which undermines an individual's ability to overcome the addiction. However, it is still plausible (and in fact the goal of the NNP) that affected individuals can change their smoking status and thereby both improve their health and receive the job. Therefore, these grounds are not sufficient alone to prevent NNPs.

Finally, while nicotine use is correlated with identities in some protected groups such as with sexual and gender minority status, the use itself does not have the long-standing history of discrimination and oppression that would ethically restrict NNPs.

Overall, I find smoking status does not meet the ethical criteria which mandate that we prevent hiring discrimination for protected classes, so we cannot preclude NNPs on these grounds.

CHAPTER 4

ARGUMENTS AGAINST NICOTINE NON-HIRING PRACTICES

Now I examine ethical arguments that are critical of NNPs.

Nicotine Non-hiring Policies Erode Personal Liberty and Invade Privacy

Many states have now enshrined into state law legal protections for discriminating against employees on the basis of tobacco use (Patel & Schmidt, 2017b). Rationales for these laws often include privacy as a basis—namely the idea that citizens have a right to privacy in their homes and organizations require a sufficiently strong rationale to interfere with this right. However, we have established above that nicotine has deleterious impacts on job performance. Therefore, it is more difficult to argue from a privacy position alone that jobs should not be able to consider otherwise private matters that economically impact them in hiring.

Also, at the heart of a liberal democracy is the principle that individuals have the right to make personal lifestyle decisions. Smoking represents an individual form of self-expression and personal autonomy that therefore should not be lightly infringed upon.

Complicating the question of whether NNPs intrude upon autonomy is that most smokers want to quit the habit. In 2022, 68% of adults who smoke reported wanting to quit smoking and 53% reported trying to quit in the past year (VanFrank et al., 2024). However, just 8.8% were able to successfully quit smoking in the past year (VanFrank et al., 2024). If NNPs help the majority of smokers do what they want to do, this somewhat weakens concerns about intrusions into autonomy. Still, for those individuals who want

to quit smoking, the policy remains paternalistic and may set up an adversarial relationship between employees and their employer.

Nicotine Non-hiring Practices Concentrate Harms in Disadvantaged Groups

Smoking certainly has social and economic dimensions. For example, in the United States less than 20% of those at or above the poverty level smoke, but more than 30% of those below the poverty level smoke. (Hiscock et al., 2012). Smokers with low socioeconomic status are less likely to actually quit smoking even though they are equally likely to try to quit (Hiscock et al., 2012). Smoking rates vary widely among racial groups as well: in 2008, 42% of American Indian or Alaska Native adults smoked compared to 27% of non-Hispanic Black adults, 27% of non-Hispanic Black adults, and 14% of Asian adults (Frieden et al., 2011). Smoking among sexual and gender minority adults is also much higher than their cisgender and heterosexual counterparts (Cornelius et al., 2023).

NNP policies seem ethically problematic in that they concentrate effects in disadvantaged groups. Affected individuals lose jobs or career opportunities. The policy also increases stigma against smokers which lead to multiple potential harms. As the stigma associated with smoking increases, smokers in general may be more likely to conceal their smoking status and less likely to seek help with cessation. One study of 811 New York smokers found that 33% of current smokers kept secrets about their smoking status, 44% perceived devaluation due to smoking, and 17% reported experiencing differential treatment due to smoking (Stuber et al., 2009).

Stigma can lead to moralization which can lead to group dislike. For example, one study on media attitudes towards vaping found a significant contribution of moralistic judgment, with concerns about purity and disgust more than about harm, in a group of Romanian never-vapers prior to a vote to restrict vaping (Arhiri et al., 2022).

Moralization of smoking may lead to worsening social disparity for disadvantaged groups. Stigma may also directly cause negative health impacts directly such as through increased blood pressure reactivity or cortisol responses (Hatzenbuehler et al., 2013).

One potential response to this justice oriented critique of NNPs is to argue that just as the harms of NNPs are concentrated in disadvantaged groups, so are the benefits. The individual who experiences the greatest benefits from NNPs is the individual who quits smoking after the NNP is put into effect. They, their families, and their communities will benefit from the salubrious impact of their tobacco cessation. However, in this case we are imposing a paternalistic trade-off of autonomy for beneficence which is concentrated in the disadvantaged. Thus, we do not escape justice concerns.

Finally, NNPs risk distorting the goals of health-care institutions to be punitive instead of healing. By using employment as a tool of control, healthcare systems risk transforming their ethical mandate—from care and inclusion—into exclusion and moral judgment.

Practical Challenges Undermine Nicotine Non-hiring Policies

In the above discussion, I assumed that nicotine tests can perfectly distinguish between tobacco product users and non-users. However, reality is more complex and will vary with the policy of each institution. Many institutions such as the Cleveland Clinic

use a urine drug test at the time of hiring to determine smoking status. Setting the serum or urine cut-off to determine employment must be somewhat arbitrary as there is overlap between non-smokers who are highly exposed to tobacco smoke and occasional smokers (Rebagliato, 2002). Therefore, any plausible policy that involves testing for nicotine (or its biomarkers) will have some false positives which has significant negative implications for someone whose job is now in jeopardy.

We also note that the most effective medication treatment for tobacco cessation is the combination of bupropion or varenicline with nicotine replacement therapy (e.g. nicotine gum, patch or lozenge) (Reid et al., 2016). This means that most NNPs would exclude individuals from hiring who are undergoing the gold standard of smoking cessation, which seems to oppose the intent of the policies. It would be counterproductive for a policy to push a smoker to stop an effective cessation medication to obtain a job (or keep one) and therefore increase their risk of tobacco recidivism.

Another challenge is that smokers tend to relapse when trying to quit—one study estimates that it will take on average between 6 to 30 quit attempts for the average smoker to successfully quit smoking (Chaiton et al., 2016). If the expectation is that the majority of people who successfully quit smoking when starting a new job have a relapse, a NNP seems ill-suited as a blanket policy to address this expected outcome. Hiring former smokers with an expectation to later fire them when they relapse does not benefit the employer or the employee.

CHAPTER 5

SUMMARY OF ARGUMENTS

The deleterious health impacts of smoking are well established—but unemployment is bad for health too. Here I summarize the arguments supporting and criticizing NNPs and discuss the two paradigm cases previously introduced.

First, I considered arguments for NNPs. The most touted is that NNPs drive down smoking rates. There are multiple plausible mechanisms by which NNPs might decrease tobacco use among employees and the general public. However, I was unable to find any convincing empirical data supporting these hypotheses. I also argue that the reasons to avoid discrimination on the basis of protected classes (to promote societal cohesion, uphold equal individual moral worth and mitigate long-standing systemic harms) are insufficient to prevent NNPs. Finally, I discuss that for optimal functioning of a liberal democracy, individuals and organizations have the right to choose who they wish to hire—both on the basis of who is a good culture fit and who is most productive. Hence, it requires a significant ethical harm to prevent hiring on the basis of nicotine use.

Therefore, I next consider arguments that critique NNPs. I highlight three harms by NNPs as particularly strong. NNPs erode personal autonomy by taking away choice for individuals. Asch and colleagues argue that this paternalism may be warranted by the seriousness of smoking as a public health threat and the insufficiency of less restrictive interventions in helping smokers who want to quit to do so successfully (2013). NNPs also violate the privacy of individuals—though this is less compelling as nicotine use is linked to inferior job performance and therefore seems relevant to the hiring process.

Finally, the critique I find strongest is that NNPs concentrate their harms (or at least their paternalism) in disadvantaged groups which raises significant justice concerns.

Overall, I find nicotine non-hiring practices to be ethically permissible under specific conditions, though the balance is very close. This is largely due to the fact that I find the arguments that NNPs can decrease smoking rates to be ethically plausible. This helps alleviate justice concerns if disadvantaged groups are also benefiting (albeit paternalistically) from the policy. If new empirical research was produced that demonstrated that NNPs did not have positive public health effects, this would be sufficient to change my view, and I would consider the costs to be too great to be ethically tenable. NNPs are ethically fragile policies whose legitimacy depends on empirical justification, sensitive implementation, and continued scrutiny.

Now, I consider my paradigm cases starting with the obesity non-hiring policy at Citizens Medical Center. For this case, restricting employment based on body weight (and especially an imprecise metric such as BMI) differs in some key ways from smoking. Obesity is a chronic disease with a strong genetic component, and in some cases is a nearly immutable consequence of a genetic syndrome such as Prader-Willi syndrome (Grannell et al., 2021). There is also a well documented history of discrimination towards individuals with obesity that this policy may exacerbate. Therefore, unlike smoking status, the reasons to protect individuals with obesity are similar to that of protected groups and ethically should result in similar protections in hiring.

The alcohol case at the nuclear power-plant is much more similar to the NNPs. The key difference is that the main justification for this policy is not for the improvement of

public health through alcohol cessation but through avoiding potential harms from an impaired employee causing a nuclear reactor crisis. My main concern is the practicalities and enforcement of the policies in the complaint letter. The location is not named so the precise process by which individuals are identified to be mandated to have complete sobriety is unknown. It is also unclear whether a reasonable onlooker would agree with the employers assessment of the individual's risk of causing direct harm. However, if the process is equally applied and reasonable, I believe it could be ethically permissible for analogous reasoning to NNPs.

CHAPTER 6

CRITERIA FOR ETHICAL NON-HIRING PRACTICES IN CASES OF

HEALTH-RELATED BEHAVIOR

I propose the following ethical standards for consideration in non-hiring practices that discriminate against individuals for a health-related behavior:

1. The mission, values, or sustainability of the organization must be served in the discrimination.
2. Alternative, less restrictive and cooperative policies must be impractical or insufficient to meet the policy goals.
3. The behavior must be mutable and beneficial to the individual to change.
4. The non-hiring policy must not cause unavoidable disenfranchisement of individuals from participating as productive members of society.
5. The policy must not disproportionately harm disadvantaged groups or exacerbate long-standing systemic injustice.

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