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## Positive parentalism

Jeremy A. Blumenthal & Peter H. Huang / Special to The National Law Journal January 26, 2009

Paternalism is a dirty word. The "nanny state," "Big Brother" and similar terms invoke the dire specter of government intruding on individuals' thoughts, behavior and choices. It elicits visceral opposition; consider the public outcry when a state legislature introduces mandatory seat-belt or motorcycle helmet laws, or the federal government bails out banks or corporations that made bad financial decisions.

Yet policymakers and academics are flocking to such ideas. President Barack Obama is considering such approaches to address insurance problems in the United States. Professor Cass Sunstein, informal Obama campaign adviser and expected new head of the Office of Information and Regulatory Affairs, recently published (with economist Richard Thaler) *Nudge: Improving Decisions About Health, Wealth, and Happiness*, advocating such policies. Peter Orszag, the new director of the Office of Management and Budget, is interested in behavioral economics, the field that prompted some of these interventions. David Cameron, leader of the United Kingdom's Conservative Party, wants to use such ideas to help reduce energy costs by looking to social norms to encourage Britons to recycle.

Variously called "light paternalism," "asymmetric paternalism" or "libertarian paternalism," policies incorporating empirical insights from psychology, economics and decision-making studies are touted as viable means of protecting people from their own unhealthy, risky, financially unsound or just plain flawed decision-making. All these approaches, however, still involve intervention into individual decision-making and behavior to improve people's welfare. Such intervention tends to elicit both suspicion as to the motives behind it and feelings of being insulted by perceived infringement on personal freedom and autonomy.

Public suspicion of paternalistic interventions is a formidable hurdle, and there are a variety of other social costs from such interventions. Nonetheless, we have ourselves suggested elsewhere that some of these policies may help people save money, live safer, be healthier and make better decisions for themselves.

However, private or governmental programming to promote beneficial outcomes might be more palatable to the public. Drawing on emerging research in positive psychology and in behavioral economics, we suggest considering what we call "positive parentalism" — developing institutions that can help enable individuals and communities to flourish and thrive. Positive parentalism supplements traditional paternalism by helping to elevate individuals' and society's well-being from some existing baseline. Rather than focusing on people's poor decision-making, it emphasizes government's potential to foster people's flourishing. Rather than working to stop individuals from making mistakes, it seeks to build on their strengths. And rather than all the negative connotations that come with "paternalism," we invoke more positive notions of "parentalism," with positive suggestions of care, assistance and guiding citizens to make better health, safety and financial decisions for themselves.

For instance, recent financial crises are salient reminders that financial decision-making is daunting for most. Today's many financial alternatives often bewilder us. We face a paradoxical wealth of financial choices. And even if we succeed at financial planning, we can be impatient and myopic, and lack perfect self-control. We find it hard to stick to financial plans, especially in uncertain times. A traditional paternalistic intervention would ban complicated mortgages or teaser rates on credit cards. A lightly paternalistic intervention would have simple mortgages or noteaser-rate credit cards as defaults people must actively opt out of. A positively parentalistic intervention would subsidize user-friendly financial and tax-planning software.

Or consider governmental response to the problem of poor physical health, including obesity or heart disease. A remedial paternalistic intervention might prevent fatty and other unhealthy foods from being sold. In contrast, government providing an exercise program — perhaps even just for those at risk for heart disease — might be seen

as less intrusive. More speculatively (and, unfortunately, easier to caricature), consider growing evidence that meditation can lead to a number of benefits, including increased happiness, improved concentration and better health, such as stress-reduction and improvements in blood pressure and immune function. Traditional policy responses to such studies are to advocate and support further such research or to publicize them, hoping that knowledge will help "nudge" individuals in a self-improving direction.

But positive parentalism suggests additional interventions: providing financial incentives, such as tax credits or deductions, to employers, health insurance providers and individuals for engaging in meditation training. More interventionist might be a policy requiring that employers, health insurance providers and public schools offer optional meditation training programs. At the most extreme, we might require that students or employees enroll in such programs.

Again, public suspicion of any such positive parentalism is a matter for further empirical research, as is evaluation of how effective any such program will be. Nevertheless, we hope to encourage this research and more discussion about normative aspects of these policies. A "nudge" — which implies force — can easily turn to a "shove." And someone who is "nudged" may easily nudge — or shove — back. We prefer helping governments and private institutions develop policies that can inspire and lead people to make better decisions, and transform their lives for the better.

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