

# The legality, morality, and social responsibility

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The Patient Protection and Affordable Care Act was signed into law on March 23rd, 2010. The Act is a daring attempt by President Barack Obama to reform the healthcare system in the United States. The new healthcare reform act is historical because of its scope and size. Opponents to the healthcare act state it is an attempt to increase the size and power of the federal government and it is one of " the largest tax increase in the history of the world," despite it being almost equally in size to President Clinton 1993 tax increase ("' Obamacare' isn't the largest", 2012).

There is an abundance of questions surrounding the new healthcare act ranging from the constitutionality of Act to the ethical and moral ramifications of such wide sweeping legislation. This paper will attempt to answer some of these questions as they pertain to healthcare provider Florida Blue. We will also explore how Florida Blue is transitioning as a company under these new laws and their role as a socially responsible company in the community. On June 28, 2012, the Supreme Court rendered a final decision to uphold the Affordable Care Act.

According to (Cavico & Mujtaba, 2008) this was possible due President Lincoln's leadership, implementing the legal system; it was restored to be more liberal, justified, and democratic. The idea is that every law enables the government of the people, by the people, and for the people to make laws that benefit the people. The constitution was effectively written to allow for flexibility. The new provisions would allow families and small business owners the ability to make choices that work best for them. The power of the government is divided into three branches judicial, executive, and legislative.

In order for a bill to become law, all three branches of government must approve it. That separation of power is what does not allow one branch from becoming more powerful than any of the others. Under the law, the new "Patient's Bill of Rights" gives the American people the stability and flexibility they need to make informed choices about their health. (Obama, 2013) The main purpose of President Obama's bold healthcare reform was to address the affordability and quality of health care as well as to curb the growth of healthcare spending in the United States.

Many of the provisions in the Affordable Care Act are aimed at fixing these major issues facing the U. S health care and insurance industries. In the idea of not only helping the people to consider and obtain health insurance. The group agrees that the law is constitutional and should be addressed, in most countries there are laws stating that you must have health insurance and based on your income you get it for free or you pay a very small amount. The United States has waited a long time to enact this law and should be enforce.

Despite evidence to the contrary, explained in the joint dissent the Chief Justice named Roberts, along with 4 other Justices Breyer, Ginsberg, Kagan, and Sotomayor upheld Obamacare's "penalty imposed upon individuals' failure to purchase federally-approved health insurance (the Individual Mandate) as within Congress' taxing power." A majority of the Court held that the Constitution's Commerce Clause did not grant Congress the power to institute an individual mandate.

A significant portion of the law's Medicaid provision was partially overturned as an unconstitutional coercive federal spending condition imposed on the

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states. Instead of entirely striking down this provision, the Secretary of Health and Human Services is prevented from withholding current Medicaid federal spending to those states who decide not to participate in Obamacare's Medicaid expansion. (Teller, 2012). Whether Obamacare was upheld as a proper exercise of Congress' taxing power or through the commerce power is simply a distinction without a difference.

The law as it was before the Supreme Court decision is virtually the same as it was afterward. But, as a matter of legal precedent and technical legislating, such a determination is monumentally important in terms of how future cases of congressional power will be decided, as well as how bills are crafted for consideration. The Chief Justice's opinion recognized the long-standing history of Congress attaching conditions upon states in exchange for receiving federal funding under Congress' Article I, Section 8, Clause 1 spending power.

17 The legitimacy of this power "... rests on whether the State voluntarily and knowingly accepts the terms of the contract," since the " Constitution has never been understood to confer upon Congress the ability to require States to govern according to Congress's instructions. " 18 When " pressure turns into compulsion, the legislation runs contrary to our system of federalism," (Teller, 2012). Florida Blue, the largest health insurer in the state of Florida, had to reinstate 300, 000 policies in order to meet the new Affordable Healthcare Act requirements.

Florida Blue is attempting to offset many of these costly new healthcare requirements, which now include things such as maternity/newborn care, mental health services, substance abuse services, and emergency services.

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These services will now be covered by individual and small market plans. Under this new law anyone the government determines can afford healthcare, and does not purchase it by 2014, may have to pay a fine. This fee will be referred to as an individualresponsibilitypayment, individual mandate or penalty.

The Supreme Court of the United States has determined the Affordable Care Act, and its provisions, are constitutional and have upheld the legality of the act. Therefore a discussion regarding its legality would be mute. However, the ethical ramifications of the act are worthy of noting and discussing. Ethics is one of the five branches of philosophythat deals with human character and how humans conduct themselves in society. Humans have the freedom of doing various activities that may benefit them, ethics is essential because it defines their character and conduct.

In essence, ethics systematically assesses human activities in an attempt of establishing whether they are right or wrong. In a society where chaos and disorder prevails, ethics offers an appropriate solution because it provides moral values, principles, norms, and ideals, which humans should adhere to as standard practices of human conduct and behavior. According to (Cavico & Mujtaba, 2008), the goal of ethics is to understand the epistemology of human conduct and character so that it can define the best ways in which humans can co-exist and attain the real meaning of life.

In this view, ethics enables humans to regulate their conduct and character in order to be more in line with the moral values, norms, ideals, and principles that society cherishes and upholds amidst chaos and confusion. To define and expound ethics, diverse philosophers have come up with theories

and models such as utilitarianism, deontology, pragmatic ethics, and postmodern ethics. Hence, this term paper seeks to use utilitarian theory and model in assessing whether it is moral for Florida Blue to implement President Obama's health care reform act.

Utilitarian theory is the dominant ethical theory that philosophers and ethicists apply when analyzing human conduct and character. John Stuart Mill is one of the pioneers and proponents of utilitarian theory. Fundamentally, utilitarian theory belongs to the category of consequential theories that assess morality based on the consequences of an action. According to Mill (2010), rightness or wrongness of an action is dependent on its consequences rather than the nature of the action.

On this assertion, utilitarian theory rejects the assessment of morality based on the actions. Hence, utilitarian theory assumes that human actions have no morality in themselves unless assessed using their consequences. Cavico and Mujtaba (2009) argue that an action is morally right if its consequences are good, and it is morally wrong if its consequences are bad. Hence, the consequences of an action are central in determining if an action is right or wrong. The utilitarian theory also assesses the degree of morality or the extent to which an action is right or wrong.

According to the utilitarian theory, for an action to be morally right, it must generate greatest happiness or pleasure to most people and cause the least pain and harm (Mill, 2010). In this view, the theory does not only assess the degree of morality basing on the consequences, but also assesses morality basing on the number of people that gain happiness or experience pain. In the examination of utilitarian theory, (Cavico & Mujtaba, 2009) state that the <https://assignbuster.com/the-legality-morality-and-social-responsibility/>

consequence of an action should be good and beneficial to most people in the society.

In this view, utilitarian theory requires consideration of action's consequence and the number of people that experience happiness or pain. Thus, an action is morally right if its consequences are good and beneficial to most stakeholders, and it is morally wrong if its consequences are bad and harmful to most stakeholders. The use of the utilitarian model in the assessment of human actions provides a quantitative way of analyzing morality. The utilitarian model apportions numerical values to goodness and badness of an action's consequences.

The goodness of an action has a positive scale of 1 to 5 (1 to 5) while the badness of an action has a negative scale of 1 to 5 (-1 to -5). Zero is an intermediate value on the scale, which shows that actions' consequence is neither good nor bad to a specific stakeholder. The utilitarian model quantifies the degree of pleasure and pain, which are consequences of an action (Cavico & Mujtaba, 2009). Therefore, the term paper utilizes the utilitarian model in establishing if it is moral for Florida Blue to implement the Affordable Health Care plan. 1.

The act that the term paper seeks to evaluate using the utilitarian model is whether it is moral for Florida Blue to implement the Affordable Health Care plan. 2. The following are the stakeholders that the implementation of the health care reform affects, both directly and indirectly. a) The government  
The foreseeable good is that the government will improve general health of the population, and thus enhances the health of the nation. However, the

foreseeable bad consequence is that the cost necessary to sustain health care reforms may not be sustainable in the end.

b) Health care system The foreseeable good of the health care reforms is that the health care system will offer improved quality of healthcare services (Rosenbaum, 2011). Given that quality of healthcare services depend on many factors, the foreseeable bad is that the quality of care may deteriorate with time. c) Florida Blue The foreseeable good of the health care reform in Florida Blue is that it will increase the number of patients and thus improve its growth. However, Florida Blue may not be able to satisfy the demands of the patients.

d) Insurance companies If Florida Blue implements health reforms, the foreseeable good is that it will provide a competitive environment for insurance companies. The foreseeable bad consequence is that the insurance companies will increase insurance premiums. e) Healthcare providers and working environment The foreseeable good of the health reforms is that it will improve competence, remuneration packages, and the working environment of healthcare providers. Since the number of patients will increase in Florida Blue, the

foreseeable bad consequence is that healthcare providers will have to perform extra duties to serve all patients. f) Patients The foreseeable good among patients is that they will receive quality services that they have been unable to afford. Nevertheless, the foreseeable bad consequence is that the quality of healthcare services offered to patients may deteriorate with time.

g) Citizens and society Since health care reforms legally require citizens to



acquire health insurance coverage, the foreseeable good is improved health and lifep of the people.

However, the foreseeable bad consequence is that the cost of health insurance may increase and become unaffordable to many people.

Quantification of Good and Bad Consequences Stakeholders Foreseeable Good Foreseeable Bad a) The government +5 -2 b) Health care system +4 -3 c) Florida Blue +3 -3 d) Insurance companies +5 -1 h) Healthcare providers +3 -3 e) Environment +4 -2 f) Patients +5 -2 g) Citizens +3 -3 h) Society +4 -2 i) Total 37 -22 Conclusion The assessment of the act of implementing the affordable health care plan in Florida shows that it has more good than bad.

Since the good consequences of implementing Obama's health care reform outweigh the bad consequences, from the utilitarian perspective, it implies that the act is moral in the case of Florida Blue. The utilitarian analysis shows that Florida Blue should implement health reforms to improve healthcare services that it provides to all stakeholders. Another major ethical work exploring is the Kantian Ethical Principle. Kantian ethics originated from the German philosopher Immanuel Kant.

It revolves around his work—Groundwork (or Foundation) of the Metaphysics of Morals (Cavico & Mujtaba, 2009). The basis of Kant's work was reason. Kant deduced that reason is the source for morality. To Kant, morality relied only on human reason. His definition and elaboration on morality excluded conscience, law, and utility. According to Kant, to be moral is to be rational (Cavico & Mujtaba, 2009). Morality and rationality must coexist; therefore, morality consists of acting rationally. It must be noted, however, that rationality must be employed to arrive at a moral conclusion.

The intellectual use of reason, or “intellectualism”, is a form of egoism and does not serve a purpose toward morality (Cavico & Mujtaba, 2009). In comparison to the utilitarian approach, the Kantian approach does not take into account happiness when deciding morality. Kant deduced that dignity and worth were not fulfilled from a sense of happiness, but rather from the ability to reason. After all, it can be argued that the human ability to reason is the only differentiation from other species. Happiness, or the lack thereof, is not an appropriate measure for morality.

In summary of Kantian ethics, it is not arriving at a moral conclusion that is the challenge (any rational human can do that), it is possessing the self-control to follow through with what is right, regardless of consequences. The Categorical Imperative is the principle which Kant called the “supreme ethical principle” (Cavico & Mujtaba, 2009). A categorical imperative regards certain actions as absolutely vital, regardless of desires or end result. The rules that surround moral conduct are, according to Kant, absolute. Kant went on to create a “test” to discern between moral and immoral actions.

His categorical imperative must satisfy three conditions, without exception. The three conditions that an action must have to be moral are as follows: 1) the action must have the possibility to be made consistently universal, 2) it must respect rational beings as ends in themselves, and 3) the action must stem from and respect the autonomy of rational beings. Kant concluded that by satisfying the aforementioned conditions, the question of morality would be unaffected by consequences, personal gain, and compulsions. Instead, any rational human being would be able to rationalize the morality of actions by fulfillment of his three tests.

In determining the morality of the Affordable Care Act using Kant's Categorical Imperative, the main point of focus will be the morality to the intended benefactors (United States citizens and legal residents) from the law. The first test forces one to ask oneself: can the Affordable Care Act be applied universally? For argument's sake, "universally" implies throughout the United States for this analysis. Furthermore, satisfaction of the first test eliminates any individuals from regarding themselves as "special." Rather, nobody is exempt from the moral "law."

"The Affordable Care Act will require U. S. citizens and legal residents to obtain healthcare. Healthcare for all U. S. citizens and legal residents can be consistently universal. Furthermore, with proper planning, the idea behind the Affordable Care Act can be sustained. Currently, the U. S. has many uninsured pockets of people that are unable to get a routine medical exam without a hefty fee. Although there are caveats in the Affordable Care Act, it can be applied overall to the majority of the population. The Kantian tests for determining morality disregard "privilege."

"Instead, by applying universal healthcare, a rational person can deduce that everyone obtaining healthcare is logical and consistent. The first test is satisfied. Kant's second test is called the "Kingdom of Ends" test. This test works to further eliminate the possibility of immorality by taking into account the human condition. Kant states that, "each person must be treated by every other person as an end" (Cavico & Mujtaba, 2009). Again, we are forced to reexamine whether the Affordable Care Act treats each person with "dignity and respect and as a valuable and worthwhile entity."

" The current state of healthcare denies various groups of people the ability to obtain medical care. Through his second test, Kant holds the intrinsic worth of human beings as an undeniable truth. Thus, by existing as a human, one has an unconditional value. Because a rational human would be able to identify their own intrinsic value, so would they be able to identify that value in others. The Affordable Care Act extends healthcare coverage to individuals that would previously have no viable options. In addition, it minimizes discrimination by encompassing groups of people that have consistently gone without healthcare coverage.

By expanding Medicaid to 133% of the federal poverty level, alone, the government is extending its recognition of intrinsic worth to those that have been previously disregarded. The " Kingdom of Ends" test is centered on human dignity; by extending healthcare coverage, the U. S. government has empowered more individuals to be free to make a choice of what medical services to pursue. Although the implementation of the Affordable Care Act may result in higher costs to the public, the self-interest of individuals is not a basis for determining morality.

Rather, the freedom, empowerment, and recognition of intrinsic worth provided by the activation of the Affordable Care Act satisfies the second test. The final test is deemed the " Agent-Receiver Test". This third test allows for further dissection of an act. The use of the " Agent-Receiver Test" in relation to the Affordable Care Act is extremely relevant and allows for a more black-and-white approach by further stripping any vested self-interest. A rational person must be able to accept the action or rule, regardless if they

are the agent (giver) or receiver of the action or rule (Cavico & Mujtaba, 2009).

Would an individual accept the Affordable Care Act whether they were supplying or receiving the benefits? In this case, there are stereotypically many white collar, upper middle-class U. S. citizens that oppose the act because of the implied rise in costs for themselves. However, a rational person would be able to remove their selfish motive by analyzing it from the point of view of the receivers. Say the individual was, instead, an uninsured, 20-something pregnant woman barely living above the federal poverty line, would they still oppose the act?

The Affordable Care Act allows healthcare to become more impartial to people using it. The “ Agent-Receiver” test, thus, proves the act moral. Analyzing such a complex act, such as the Affordable Care Act, does present exceptions and caveats as it is currently written. The overall basis behind the creation and implementation of the act aims to value more humans and increase dignity and self-worth. By removing individual motive and self-interest, the Kantian model for determining morality strives to decide morality based on impartial tests.

After reviewing and applying the three tests to the Affordable Care Act, we have found it is moral. The theory of ethical emotism is centered on feelings and emotions (Cavico & Mujtaba, 2009). David Hume is credited as one of the most important contributors to the idea of the emotist theory. The theory of ethical emotism lies on the other side of the ethical theory spectrum from the Kantian model. In the Kantian model, reason is the basis for morality, but in

ethical emotism, reason is merely a tool employed to help one judge morality.

In ethical emotism, the act itself is not used to decide morality, rather the feelings from the act are what is important. Morality is viewed as a purely emotional response and is, therefore, extremely subjective under this theory. Although ethical emotism is, on the surface, a rather simple measure of morality, it often overlaps with ethical relativism and utilitarianism. The concepts behind ethical emotism can be laid out simply. If one has positive emotions towards an act, the act is deemed moral and good. If one has negative emotions toward an act, that act would be deemed immoral or bad.

In terms of the morality surrounding the Affordable Care Act, ethical emotism can present some consequences that will not allow for a sound moral conclusion. First and foremost, this theory relies heavily (entirely) on emotions and emotions may be very subjective. When employing the emotist theory, the Affordable Care Act must be analyzed from the perspective of each group affected and/or involved. Because of the subjectivity of emotions, different groups of people will feel different ways, thus, creating the large possibility of different moral conclusions.

As an example, a 24 year old, recent college graduate, in an entry level, minimal salary position may feel positively about the act because they can be under their parents' insurance for an additional two years. The implementation of Affordable Care Act is moral in this instance because of the positive feelings felt by the receiver. However, five years later, this same individual may be earning a higher income, invested in real estate, and covering their own health insurance with no assistance—their feelings may

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have changed. The aforementioned individual likely has negative feelings regarding the Affordable Care Act because of higher taxes.

In this sense, the implementation of the Affordable Care Act is immoral. The changing of one's feeling is a big consequence of the ethical emotism theory. Since individuals will deem the Affordable Care Act moral or immoral based on their own individual feelings, reaching a general and standardized consensus is impossible. From the prospective of those becoming eligible for obtaining healthcare, the act is likely moral. Those individuals have not had or have lost the opportunity to make decisions about their health and are feeling extremely positive about the act.

On the other hand, individuals who have had no problem covering their healthcare insurance costs could have feelings of disapproval towards the Affordable Care Act. In their case, the act is seen as simply a probable increase in their own taxes. Moral conclusions are subjective under the ethical emotism theory and must be addressed individually. Many different theories can be used to help decipher morality, especially on large-scale issues like the Affordable Care Act. However, each theory must be maximized, while taking into account the consequences that accompany each train of thought.

The above theories discussed use various criteria to determine morality. However, ethics and morality become an even greater point of focus when applied to real world scenarios. Ethics and morality must transcend their place as theories of study and come into play in our current world. In the case of Florida Blue, it is certain they will have to embrace the Affordable Care Act if they want to continue as a functioning healthcare provider. As the <https://assignbuster.com/the-legality-morality-and-social-responsibility/>

company will likely continue to grow in size and influence, they will likely take a closer look at their role within American society.

It is becoming a common trend among many high stature corporations to integrate a humane tactic into their company's strategic plans. Companies are beginning to give back to the community, while in return noticing the positive reaction consumers are developing towards their product especially when they see the company's brand is perceived in a positive and philanthropic light. Now more than ever before, corporations have taken notice of the increased benefits being perceive as a positive, giving company can bring such as an increased rate of profitable.

This sincere act of kindness, which no company is legally liable to fulfill, is what we call social responsibility. Social responsibility is the act of an entity to provide a need for the community. When a corporation takes the initiative to create a solution for society, they are deemed as a socially responsible firm. The organization is not necessarily the last resort or the only solution to the problem, however the corporation takes ownership of the need and the responsibility for creating a solution for a particular problem their consumers face.

The success factors and formulation of fulfilling the act of a socially responsible entity, quoted by (Cavico & Mujtaba, 2008), according to Banks, a few reasons for being a socially responsible firm is by " 1) obtaining a " social license" to operate from key stakeholders, 2) ensuring " sustainable competitiveness," 3) creating new business opportunities, 4) attracting and retaining quality investors and business partners, 5) securing cooperation



from local communities, 6) avoiding difficulties due to socially irresponsible behavior, 7) obtaining government

support, and 8) building “ political capital. ” Florida Blue, formerly known as Blue Cross Blue Shield of Florida, is a not-for-profit health insurance company that strives on social responsibility. In preparation for the Affordable Care Act, Florida Blue has prepared several different tools for consumers to utilize to educate themselves about the new law that will eventually have an effect on everyone in the U. S. Florida Blue has created a Health Care Reform eBook that can be downloaded on any tablet. This eBook is constantly being updated as changes are continuously being made to the law.

Also, to ensure they are doing their due diligence as an educational source for the community, the app is available in English, Spanish and Creole. According to Florida Blue CEO, Pat Geraghty, between the 16, soon to be 18, Retail Centers across the state the company will have organized over 3, 000 Health Care Reform seminars by the end of the year. As a socially responsible company, these tools Florida Blue has put tremendous amounts of effort into creating, are not only available to Florida Blue members, but they are available to the general public.

Whether you are insured with another company, not insured at all, or insured with Florida Blue, the organization prides on being a tool for Floridians to turn to in reaction to this new law that has many consumers dumfounded. In addition to being accessible by any member of our community, all of these tools are complimentary available to the consumer market. Florida Blue has been in preparation for Health Care Reform since 2006 when they opened their first Retail Center.

With the Affordable Care Act implementing a new focus gearing towards individual plans, and steering away from the well-known and accustomed group plan, Florida Blue has built these Retail Centers to accommodate selling to the individual rather than selling to the employer (“ Health Insurance Companies”, 2013). These Retail Centers offer the face-to-face experience that consumers need and allow health care shoppers and customers to build a relationship with one individual agent that they can rely on and come back to time and time again with any questions and concerns.

In addition to face-to-face Retail Centers, there is a FloridaBlueHealthCareReform.com website that anyone can visit, a Health Care Reform hotline facilitated by employees trained to specialize in the Affordable Care Act, and customers can also call into any Retail Center and talk to any sales or service consultant over the phone just as you would meet with them in person. In any recommendation of social responsibility it would be a wise business decision for a company to partake in socially responsible acts.

As (Cavico & Mujtaba, 2008), state, “ business also gains an improved public image by being socially responsible. An enhanced social image should attract more customers and investors and thus provide positive benefit for the firm. ” For a company to engage in community affairs in order to enhance the level of success it would be somewhat foolish not to participate in socially responsible acts in an effort in improve your company’s prosperity, while achieving greater good for consumers.

Overall, is it a legal requirement for companies to be socially responsible? No. Is it implied that companies should partake in some type of social

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responsibility to enhance the well-being of the community in order for them to be considered a moral organization? Yes. It is solely up to the discretion of a corporation and their shareholders whether they determine to provide a socially responsible contribution for their consumers, but more than likely it is in their benefit to give back to the community they operate in and engage in socially responsible acts.

To be perceived in a positive manner, generally has a positive return on investment for the company and their shareholders. It is simple to determine that being socially responsible has a positive impact on all parties involved in the act. As mentioned earlier in this paper, the legality of the Affordable Care Act, and its implementation by Florida Blue, has been deemed legal by the Supreme Court.

Ethical analysis of the Affordable Care Act and Florida Blue using the Utilitarian and Kantian ethical theories have all proven both the Act, and the implementation of the Act by Florida Blue, to be ethical. It was also shown that using the Ethical Emotism theory for such a complex matter would provide mixed results and no definitive answer would likely ever be reached. Florida Blue continues to develop tools that help explain and guide the average consumer through the new healthcare process.

By providing information to all consumers-not just their clients, holding fairs and encouraging face-to-face contact, they are continually shaping the public's perception of their company and attempting to show the public they are committed to assisting them regardless of whether or not they are members. It would be in Florida Blue's benefit to continue to show good will and become further engaged in the neighborhoods where they operate. It is

our opinion that Florida Blue will continue to grow as they now have access to new groups of people seeking insurance.