

Dr. Prabha Krishnan to Receive the QCDS Lentchner Distinguished Service Award



Dr. Prabha Krishnan.

Queens County Dental Society's highest honor—the Emil Lentchner Distinguished Service Award—will be presented to Dr. Prabha Krishnan next January. The presentation will be made at the QCDS annual installation of officers dinner dance, to be held at Leonards Palazo, Great Neck.

“We are proud to bestow this honor upon her in recognition of her many years of dedicated service to the dental profession,” said QCDS Executive Director Dr. Chad Gehani, a former ADA and NYSDA president. “We are excited for her continued leadership and know that Dr. Krishnan continues to represent all of us and the dental profession well, doing what is best for our profession and the public.

Dr. Krishnan, the current vice president of the New York State Dental Association, served as QCDS president in 2009. She has served QCDS, the New York State Dental Association and the American Dental Association in a variety of positions. In addition, during her term as QCDS president, she hosted the organization's first Women's Dentist Conference, which

received the prestigious Golden Apple Award from the ADA. From 2015 to 2019, she served as NYSDA trustee. She is also the chair of the ADA Council on Communications and previously served on the Diversity and Inclusion Committee of the ADA Board of Trustees.

Following her term as QCDS president, she went on to become a NYSDA delegate from 2010-2015, and again from 2020 to 2022. She was the first woman NYSDA trustee from Queens, serving for four years from 2015 to 2019.

Dr. Krishnan earned her Doctor of Dental Surgery from the New York University College of Dentistry in 1991, followed by the NYU Post Graduate Program in Periodontics in 1993. Dr. Krishnan has been in private practice in Forest Hills for more than 30 years. She has been the attending and chief of periodontics in the Department of Dentistry at Flushing Hospital Medical Center since 1995 and for five years had been an associate clinical professor in the Department of Periodontics at the New York University College of Dentistry.

She is a Diplomate of the American Board of Periodontology and a fellow of the American College of Dentists, the International College of Dentists and the Pierre Fauchard Academy. She is also an alumna of the ADA Institute for Diversity in Leadership.

Also active in the Indian Dental Association, Dr. Krishnan has been on its Board of Trustees for the past 11 years and has served as the organization's membership coordinator, continuing education coordinator and on its Executive Committee.

FROM THE PRESIDENT

The Resiliency of Dentistry

By Dr. Arthur Feigenbaum

I am so proud to be part of such a noble profession as dentistry. It is a tremendous credit to dentists that we endured despite so many obstacles over the years. The dental profession provides one of the most essential services contributing to public health and has met the needs of the public by maneuvering and modernizing over time.

Being a member of the tripartite—The American Dental Association, The New York State Dental Association

“
*I am so proud
to be part of such a
noble profession
as dentistry*
”

and the Queens County Dental Society—has offered us great opportunity. The camaraderie and sharing of our knowledge allows us to learn from each other, rather than working in a small practice in silos.

We have been meeting our CE education requirements, including the transcripts of our CE and many mandated educational requirements, at the Queens County Dental Society at no cost or at discounted prices. Low cost

—Continued on page 9

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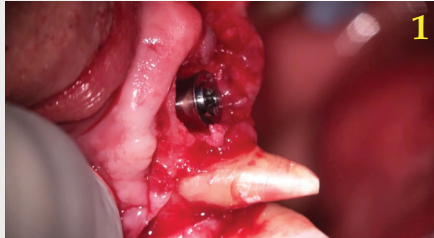
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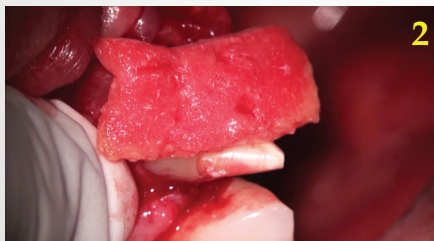
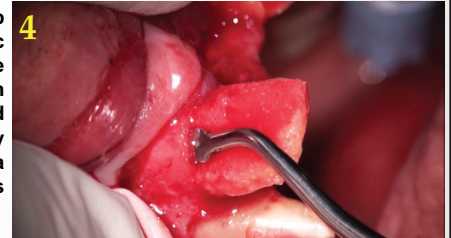
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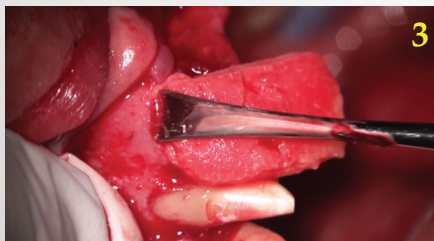
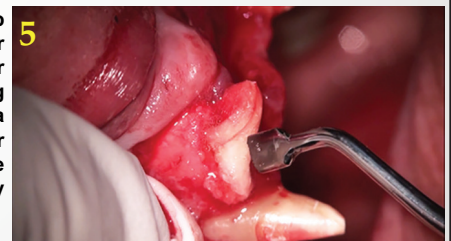
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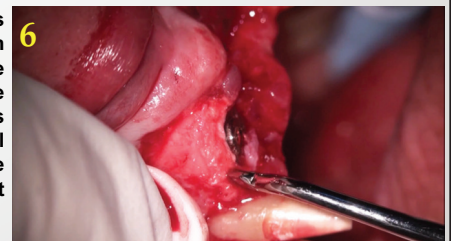
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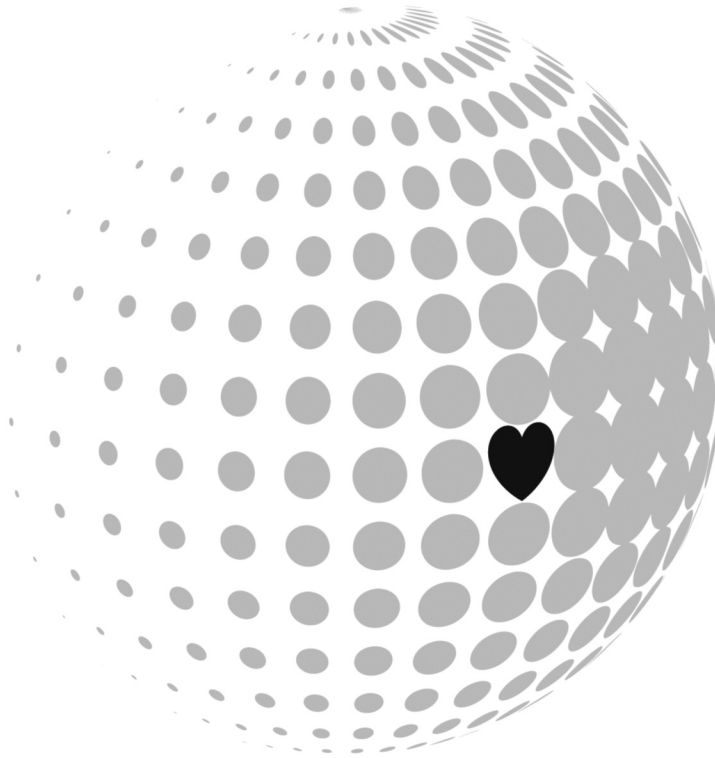
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Deadlines for manuscripts is six weeks prior to the date of publication. For example, the deadline for March/April issue is January 10th. All Submissions must be typed as a word document and emailed to QCDSBulletin@gmail.com.

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ADA Report

drrendowd@gmail.com

Reporting from the Recent ADA Meeting

By Dr. Brendan Dowd, Trustee, ADA Second District

As everyone already knows, there is not a person out there who is enjoying the spring weather better than a citizen of Western New York. After a very difficult and at times dangerous winter, we are happy to experience the annual change of season. I hope all our members have had a successful first part of the year and wish for continued blessings to you and your family.

I want to begin this segment of my message to you with the issue of membership. Unfortunately, membership in the ADA, and concurrently in our constituents and components, has been dropping for a number of years. At the present time, 57 percent of the ADA membership is composed of active and retired dentists. There has been a steady decline since 2007, with some up and down years before then.

I firmly believe this is a multi-factorial problem which requires a variety of solutions. I also believe there are component, state and national answers. Many of our local components in New York are hard at work on initiatives tailored for their unique district needs or that can be shared with other components. Our New York constituent has developed a mentoring program under the leadership of our president, Dr. Jim Galati. The ADA is working on a variety of programs with dental schools (Signing Day, Lunch and Learns) and New Dentists (ADAPT, career path and wellness support) to promote membership with the latest generation of our profession. A culture of inclusion is being fostered at all levels of the Tri-partite to help make prospective members of all backgrounds feel welcomed in our organization. It's going to take all of us to promote the advantages and benefits of membership to keep our organization and voice strong in the future. Membership is critical to the success and relevance of the American Dental Association. At the same time, I would like to thank each and every one of you for your many years of membership and your contributions to organized dentistry.

I attended the ADA Board of Trustee meeting from April 2-4 in Chicago. The beginning of the meeting was an evening social gathering with the New Dentist Committee, followed by a collaborative meeting the next morning. Discussions involved the tough issues confronting dentistry today, including the membership question. Many of the new dentists pointed out some of the strengths and weaknesses they see in the American Dental Association. Strengths include advocacy at the federal and state level, continuing education and the Strategic Forecasting Committee. Areas of improvement begin with communication to members, especially pursuant to social media. They also believe the ADA is

taking steps to improve with key hiring of experts in this area. The ADA believes members will see better results in the very near future.

Also on the agenda, a group of DSO executives and the executive director of the ADSO organization met with the Board of Trustees for an open discussion on the current landscape of delivery of dental care. Each of the attendees discussed their background and history, delineated areas of agreement with the ADA, as well as offering examples of future opportunities for cooperation. Such opportunities could include the sharing of analytical data, solutions to workforce shortages, and collaborating on inter-professional education. A good discussion ensued on different modalities of patient care in dentistry and how there are many viable avenues for the future. It was agreed by all parties that it is in the best interest of dentistry to keep this conversation going, continue to find areas of common ground and attempt to resolve disagreements.

As many of you know, the ADA is a membership organization that has a dental research entity, the American Dental Association Science Research Institute (ADASRI). The ADA Board recently approved switching ADASRI to operate as a 501(c)(3), a change from its former status as a 501(c)(6) LLC. Under the ADASRI Operating Agreement, ADASRI has a ten-member Board of Directors, the appointment of each of whom is approved by the ADA. Currently, it has 44 employees, with labs located in Maryland as well as the ADA building in Chicago. Much of the testing of the products to be considered for the ADA Seal of Acceptance takes place in the ADASRI labs in the ADA building. The ADA is the only dental membership organization in the world that has a scientific research arm directly affiliated with it. It has been very successful since its inception in 2018. In 2022, it had 753 citations, 25 peer-reviewed published manuscripts, and 27 abstracts presented. It is involved in applied research, evidence synthesis and translational research, as well as innovation and technology research. You will see many scientific articles in JADA and many other distinguished journals originating from ADASRI.

It's going to take all of us to promote the advantages and benefits of membership to keep our organization and voice strong in the future.

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Receiving Counsel for Physicians in Criminal, Civil and Regulatory Actions

By Alex J. Keoskey and Amy Kulb

It is vitally important that lawyers negotiating settlement agreements for physician clients become fully aware of the complex reporting structure which alerts every health care entity in the United States that a physician has been sanctioned.

Like all professionals, physicians can become the target of civil, criminal, regulatory or administrative actions by law enforcement, prosecutorial and regulatory authorities. Unlike many other professionals, however, physicians are subject to an adverse action reporting system at both the state and federal level. A physician in New York who enters into a guilty plea, signs a consent order with the New York Office of Professional Medical Conduct (OPMC), settles a civil suit brought by a state or federal government regulatory authority, or resigns from a hospital's medical staff while under investigation, can face significant and often wholly unexpected additional penalties.

Depending on the nature and severity of the adverse action being reported, physicians can potentially suffer the restriction, suspension or revocation of their professional credentials, hospital admitting privileges, medical licensure, CDS registration, third-party payer provider status or specialty board certification. It is vitally important that lawyers negotiating settlement agreements for physician clients become fully aware of the complex reporting structure which alerts every health care entity in the United States that a physician has been sanctioned.

The Age of Full Disclosure

Fifty years ago, a physician in New York whose licensure was suspended or revoked could transfer his or her medical practice to another state jurisdiction or seek employment at a federal health care facility. There were very few available means for a health care entity hiring that sanctioned professional to conduct any meaningful research or investigation to determine if there were issues with that physician's prior practice.

In addition, medical staff leadership at hospitals were generally reluctant to punish staff physicians for misconduct, quality of care or impairment issues due to fear of a retaliatory lawsuit. This environment of fear and caution changed markedly in the mid-1980s, after an Oregon surgeon successfully sued his hospital medical staff for antitrust violations following a peer review hearing. *Patrick v. Burget*, 486 U.S. 94 (1988), became a landmark peer review case holding physicians liable under federal antitrust law for substantial damages caused by a bad faith peer review.

The case had the U.S. Congress take note of "Patrick," along with a growing number of medical malpractice suits, and a complete lack of interstate reporting mechanisms for disciplined physicians. Pressure from Congress and the American Medical Association (AMA) finally prompted the enactment of the Health Care Quality Improvement Act of 1986 (HCQIA), (U.S.C. 42 §11101-11152). The HCQIA drastically altered the health care landscape by providing incentives for disciplinary reporting and providing immunity for hospitals, medical boards and other agencies that bring adverse actions against physicians

The National Practitioner Data Bank

The HCQIA created a national clearinghouse for the reporting of any and all discipline against licensed physicians from any source. This clearinghouse, now a website, is known as the National Practitioner Data Bank (NPDB). Through the NPDB, Congress sought to eliminate incompetent physicians moving from one jurisdiction to another without full disclosure of disciplinary history to the new entities from which the physicians were requesting licensure, privileges, credentialing, certification or employment.

Unlike many state reporting systems, the general public does not have access to the NPDB, which can only be accessed by registered health care organizations that meet certain federal requirements and handle physician privileging, employment or professional review. Such entities include state licensing authorities, hospital or health care entity credentialing staff, professional societies, specialty boards and all third-party payers who contract with providers, including Medicare and Medicaid.

Those entities permitted to report adverse actions to the NPDB include organizations that process medical malpractice payments, the DEA, the OIG, criminal prosecutors and private accreditation organizations. In sum, whenever a physician is the subject of a formal peer review process that results in reportable discipline or sanction, an NPDB report will be generated. Thus, the NPDB has become an essential tool for medical credentialing, hiring and firing.

Through the HCQIA, Congress created an added incentive for health care organizations to engage in thorough peer review without fear of retaliation from the subject of the peer review inquiry. In exchange for the timely reporting of physician discipline by those peer review organizations, Congress enacted blanket statutory immunity to all such reporting organizations for decisions made relating to physician discipline. The HCQIA thus provided peer review organizations, licensing boards and hospital medical staff unfettered discretion to reprimand, suspend, revoke or restrict licensing and medical staff privileges of physicians.

New York State's Reporting System

Analogous to the reporting requirements of the NPDB is the mandate, set forth in New York Public Health Law §2803-E*2, for reporting by hospitals and health care facilities of incidents involving possible professional misconduct, incompetence or impairment. Specifically, such facilities must report, within 30 days, any "suspension, restriction, termination or curtailment of the training, employment, association or professional privileges or the denial of the certification of completion of training of" a physician or medical resident practicing at their facility "for reasons related in any way to alleged mental or physical impairment, incompetence, malpractice or misconduct or impairment of patient safety or welfare; the voluntary or involuntary resignation or withdrawal of association or of privileges with such facility to avoid the imposition

—Continued on page 8

Representing Physicians in Criminal and Civil Actions

Continued from page 8

of disciplinary measures; or the receipt of information which indicates that any professional licensee or medical resident has been convicted of a crime.”

These facilities must also report any denial of staff privileges to a physician if the reasons are in any way related to “alleged mental or physical impairment, incompetence, malpractice, misconduct or impairment of patient safety or welfare.” These reports are made to the State Department of Health, which refers the matters to the NYDOH for investigation.

Physician Self-Reporting Requirements

There are “self-reporting” requirements for physicians licensed in New York. All health professionals are required to answer a series of questions on their medical licensure renewal registration every three years. The questions inquire as to any adjudicated or pending criminal charges, disciplinary proceedings in other states in which the physician is licensed, termination for cause or resignation in lieu thereof of hospital employment, privileges or training. There is also a required physician self-certification that all mandatory continuing education has been completed, and the physician is in compliance with any ordered child support. Any “yes” responses to these questions are reported to the OPMC, which then commences an investigation.

Often, the common thread underlying reported misconduct or negligence cases is an alleged impairment resulting from alcohol, drugs or mental illness. In representing a physician reported for this reason, it is crucial to understand the available resources and assist the physician, especially in instances in which patient harm is not alleged, to achieve a non-disciplinary resolution that is remedial, rather than punitive. The Committee for Physician’s Health, operated by the Medical

Society of the State of New York, provides non-disciplinary, confidential assistance to impaired physicians. New Jersey and Connecticut have similar programs, known as the Physician Assistant Program of New Jersey and Health Assistance Intervention Education Network, respectively.

Physicians depend not only upon their professional license, but a wide array of other professional privileges, certifications and credentials to maintain their livelihood. It is essential that all attorneys representing physicians in criminal, civil and regulatory actions be thoroughly informed about the impact that these actions can have upon a physician’s professional status in this current age of instantaneous, mandated reporting.

Counsel must ensure that, to the extent possible, any settlement, resolution, plea agreement or consent order that their physician client enters into is carefully considered. Whichever civil, administrative, criminal, regulatory or law enforcement authority you are negotiating with may not even be aware of the reporting mechanisms in place that were triggered upon entry of an order, agreement, decree or jury verdict. If reporting cannot be avoided due to a statutory or regulatory mandate, working with the reporting entity to attempt to limit or ameliorate the content of that report is the next best step.

This article first appeared in the New York Law Journal, February 3, 2023. Alex J. Keoskey is a partner at Mandelbaum Barrett PC in Roseland, N.J. and a former deputy attorney general with the New Jersey Division of Law’s Professional Boards Prosecution Section. He can be reached at akeoskey@mblawfirm.com. Amy Kulb served as a prosecuting attorney for the New York Office of Professional Discipline until 1986, when she joined the firm of Jacobson Goldberg & Kulb in Garden City, N.Y. concentrating her practice on the defense of professional discipline matters and resulting collateral issues. She can be reached at akulb@jngllp.com.

The Resiliency of Dentistry

Continued from page 1

Life insurance, disability insurance through the American Dental Association, being able to call our society for quick advice on multiple situations, and the Peer Review Committee to solve our patient disputes in a confidential manner are very advantageous. I remember March 2020 very clearly, when we thought that we were lost in the global pandemic situation. The American Dental Association did everything to guide our profession, and all of us pulled through those tough times.

We were given free PPE at the Queens County Dental Society and the ADA mailed us some PPE guidelines on how to practice dentistry safely for our patients, our support staff and for us.

Dentistry is so different from when I graduated dental school over 40 years ago. Techniques and dental materials have improved exponentially.

The occupation has survived recessions, a stock market crash, the HIV epidemic, and most recently the Coronavirus pandemic. Every time we got knocked down in the ring, we got up and won the battle.

The coronavirus pandemic, COVID-19, was probably the most serious blow to our occupation, requiring us to close our

offices. This had never happened before in my lifetime and I hope it never happens again, but we did survive. This is a tribute to us all! We have met every catastrophe—and the future of dentistry remains strong.

We are doctors of the mouth and will continue to help the public in any potential crisis. I congratulate you all for your fortitude in every situation.

Be proud of your accomplishments! Be proud to be a dentist! Dentistry will survive and thrive!

***If you have not yet renewed
your QCDS membership,
please do so as soon as possible.***

*Call the Executive Director at
718-454-1020*

Nominating Committee Being Formed, Seeking Candidates for Board, Officers

By Dr. Savitha Reddy

At the May 2023 General Membership meeting, nominations and election of three members and alternates of the Nominating Committee will be made. The members of the Nominating Committee will be:

- The last two immediate past presidents
- Two members to be elected by the Board of Trustees at its April 2023 meeting
- Three members to be elected by the membership at the May 2023 membership meeting
- Three alternates to be elected by the membership at the May 2023 membership meeting
- The president acts as chairman without the right to vote.

Elections to office, including members of the Board of Trustees, are scheduled for the November 7, 2023 membership meeting. The Nominating Committee will report its recommendations at the October 3, 2023 membership meeting.

Additional nominees will be added for any elective position upon the receipt of a petition signed by 20 members and received by the executive director within ten days of the report of the Nominating Committee.

The Nominating Committee will meet this June. The date of this meeting will be determined by the QCDS president.

This may happen via Zoom or be postponed to July or August.

Any member may request his or her candidacy. Such a request should be sent to the Nominating Committee, Queens County Dental Society, 86-90 188 Street, Jamaica, NY 11423 or emailed to QueensCountyDentalSociety1@gmail.com. Include a letter of intent indicating the position of interest and a current CV. This request must be received before June 1, 2023.

Contacting QCDS?

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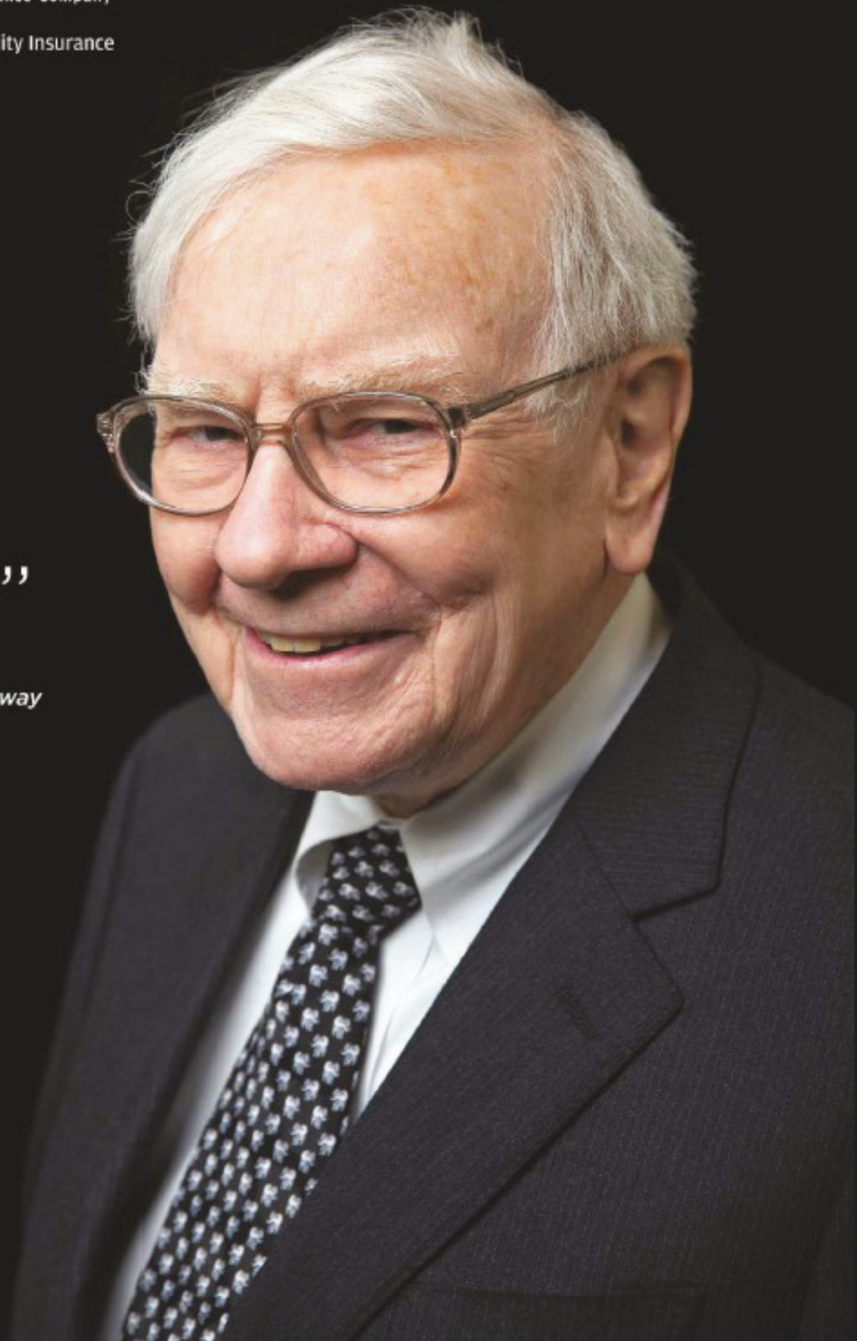
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